



**MONTVERDE TOWN COUNCIL  
SPECIAL MEETING/WORKSHOP AGENDA  
APRIL 18, 2023 AT 6:30 P.M.**

The Montverde Staff and Council invite you to join the Town Hall meeting in person, on your computer, or by dialing in to listen. You can watch and listen to the meeting from home by following the directions below. **(Note: you will not be able to ask any questions during the meeting if you attend by zoom or dialing in).** Join the Zoom Meeting by clicking on the link below, copying and pasting the link into your browser, or going directly to zoom on your browser. Once in zoom, enter the Meeting ID and Passcode to be joined to the meeting. You may also call into the meeting by using the call-in number.

<https://us06web.zoom.us/j/83699855762?pwd=cGJ4UDRzdkNUL2J2NlU5b2JYaENnZz09>

Meeting ID: 836 9985 5762  
Passcode: 820875  
Call in Number: 646-558-8656

**TOWN COUNCIL MEMBERS**

Joe Wynkoop, Mayor  
Jim Ley, Councilmember  
Billy Bates, Councilmember  
Allan Hartle, Vice Mayor

**STAFF**

Paul Larino, Town Manager  
Anita Geraci-Carver, Town Attorney  
Sean Parks, Town Planner  
Sandy Johnson, Town Clerk  
BJ Cowan, Finance Director

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**DISCLAIMER**

This booklet has been prepared for the convenience of the Montverde Town Council in discussing matters before them. Every effort has been made to include all items to be discussed at this Town Council Meeting, however, the Mayor or Council Members may add items, which are not part of this Agenda, or items may be removed from consideration. While it has been the goal to present error-free information, we do not represent that documentation is without errors or omissions.

**CALL TO ORDER AND OPENING CEREMONIES**

- Pledge of Allegiance
- Invocation
- Roll Call

**I. ADMINISTRATIVE ISSUES**

- A. Appointment of Councilmember

**II. PUBLIC HEARING, ORDINANCES AND RESOLUTIONS**

- A. **Resolution No. 2023-49** A Resolution of the Town Council of the Town of Montverde, Florida, Granting Major Site Plan approval to the Town of Montverde for construction of the Library building only located north of Porter Ave, west of Fifth St, east of Town Hall and south of the existing baseball park; providing for conditions; and providing for an effective date.
- B. **Resolution No. 2023-52** A Resolution of the Town Council of the Town of Montverde Florida, approving the AIA Document A133-2019 standard form of agreement between owner and construction manager at constructor where basis of payment is the cost of the work plus a fee with a guaranteed maximum price; authorizing the Town Manager to execute the agreement; providing for an effective date.
- C. **Resolution NO. 2023-53** A Resolution of the Town Council aof the Town of Montverde, Lake County, Florida, approving amendment to agreement relating to provisions of Library Services; authorizing the Mayor to execute the amendment; providing for an effective date.
- D. **Resolution No. 2023-54** A Resolution of the Town Council of the Town of Montverde, Florida, approving the settlement agreement and release between Vista Grande Properties LLC and the Town of Montverde, Florida relating to the Hills of Montverde Lake County PUD Ordinance 2018-44 as amended by the Lake County Board of Commissioners, April 4, 2023; providing for an effective date.

**III. DISCUSSION AND ACTIONS ITEMS**

- A. Discussion of FY 2023-2024 Budget
- B. Review of Draft Council Handbook

**II. REMINDERS AND ADJOURNMENT**

- A. Staff and Mayors Additional Discussion.
- B. Motion to Adjourn.

The Town Council reserves the right to move any Agenda item to an earlier time during the meeting as its schedule permits, except in the case of the items and appointments that have been advertised in a newspaper for a specific time. Pursuant to the provisions of Chapter 286 Florida Statutes, Section 286.0105, if a person decides to appeal any decision made by the Town Council with respect to any matter considered at this Council meeting, he or she will need a record of the proceedings, and that, for such purpose, he or she may need to ensure that a verbatim record of the proceedings is made, which record may include the testimony and evidence upon which the appeal is to be based. Persons with disabilities needed assistance to participate in any of these proceedings should contact Town Hall at (407) 469-2681, 48 business hours in advance of the scheduled meeting.

## **APPOINTMENT OF COUNCILMEMBER**

**RESOLUTION No. 2023-49**

## RESOLUTION 2023-49

**A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF MONTVERDE, FLORIDA, GRANTING MAJOR SITE PLAN APPROVAL TO THE TOWN OF MONTVERDE FOR CONSTRUCTION OF THE LIBRARY BUILDING ONLY LOCATED NORTH OF PORTER AVENUE, WEST OF FIFTH STREET, EAST OF TOWN HALL AND SOUTH OF THE EXISTING BASEBALL PARK; PROVIDING FOR CONDITIONS; AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, GatorSkitch Corporation on behalf of the Town of Montverde, filed an application for Major Site Plan Approval to allow for the construction of a new library; and

**WHEREAS**, the Planning and Zoning Committee and the Town Council of the Town of Montverde have considered the application in accordance with the procedures for granting Major Site Plan Approval in Section 6-24 of the Land Development Code, subject to conditions;

**NOW THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF MONTVERDE, LAKE COUNTY, FLORIDA, AS FOLLOWS:**

### **Section 1. Granting of Major Site Plan Approval.**

The site plan, **attached hereto as Exhibit A**, pursuant to an application filed by GatorSkitch Corporation. (hereafter referred to as “Applicant”), to allow for the construction of the library building is granted, with conditions, for the following described property:

A portion of Montverde, Division C Lots 1, 2, 3,4, 13, 14, 15, 16 Blk 6 & Adjoining 20 Ft Alley, unrecorded plat (Deed: OR Bk. 1186, Page 0705, Lot 10, of the public records of Lake County, Florida), as more particularly depicted in the site plan.

### **Section 2. Conditions of Approval.**

- (1) Prior to the start of any construction activities, the Applicant shall resolve, to the satisfaction of the town manager or designee, the following Planning and Administrative Matters:
  - (a) The Applicant shall submit a full engineered site plan, drainage calculations, landscape plan, and any other pertinent information.
  - (b) The Applicant shall submit for approval by the town manager or designee a detailed landscaping and irrigation plan.
  - (c) The Applicant shall meet the Town Engineer’s reasonable requirements.

- (2) This conditioned approval may also be revoked by Town Council, at any time, if the above conditions are not followed and met by the Applicant. The Site Plan is attached hereto and incorporated herein.

**Section 3. Effective Date.**

This resolution shall become effective immediately upon its passage.

**RESOLVED** in regular session by the Town of Montverde, Lake County, Florida this \_\_\_\_ day of \_\_\_\_\_, 2023.

\_\_\_\_\_  
Joe Wynkoop, Mayor

Attest:

\_\_\_\_\_  
Sandy Johnson, Town Clerk

Approved as to form and legality:

\_\_\_\_\_  
Anita Geraci-Carver, Town Attorney

Council Member \_\_\_\_\_ moved the passage and adoption of the above and foregoing resolution. Motion was seconded by Council Member \_\_\_\_\_ and upon roll call on the motion the vote was as follows:

	YEA	NAY
Bill Bates, Councilmember		
Allan Hartle, Vice-Mayor		
Jim Ley, Councilmember		
VACANT		
Joe Wynkoop, Mayor		



# STAFF REPORT

**TO:** Town of Montverde Planning & Zoning Board  
**FROM:** Sean M Parks, AICP, QEP Town Planner  
**DATE:** April 12, 2023  
**SUBJECT:** Minor Site Plan Approval for New Library

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**Applicant:** GatorSketch Corporation  
1000 E. Highway 50, Suite 201A  
Clermont, FL 34711

**Owner:** Town of Montverde

## **Property Information:**

The Property is located at 17111 Porter Avenue, Montverde, FL 34756 – ALT Key No. 1530954 (See Figure 1). The area of the Property is 59,979 square feet and approximately 1.377 acres.

## **SECTION 1 - MINOR SITE PLAN APPROVAL**

**Requested Action:** Approval of Minor Site Plan granting the applicant's petition to construct a new library building in the same location as the current library.

## **BACKGROUND INFORMATION:**

The Helen Lehmann Memorial Library has served the Town's residents since the mid 1960's. The library was housed in a portable building until February 2023, when it was moved into the Town Hall auditorium. This is a temporary location until the new library is constructed. The portable building will be returned to Lake County.



# STAFF REPORT

Parks Consulting Services (PCS) has conducted a Minor Site Plan Application review for the above referenced project. The application was reviewed to ensure consistency with the Town of Montverde Land Development Code (LDC). The site plan was prepared by GatorSketch Corporation.

## **PROJECT DESCRIPTION**

The proposed project is a 8,135 s.f. building.

## **ZONING & EXISTING CONDITIONS**

The property is zoned Commercial.  
The proposed use is consistent with the current zoning designation.

## **LAND DEVELOPMENT REGULATIONS REVIEW**

The following general information pertains to the Town of Montverde Land Development Code and Zoning Code.

<b>Pertinent Site Data</b>	<b>Zoning Requirement</b>	<b>Project Data</b>
Zoning Designation	Commercial	Commercial
Future Land Use Designation	O/R/C	Commercial
Rear Yard Setback	25-feet	
Front Yard Setback	25-feet	
Side Yard Setback	12-feet	
Maximum Lot Coverage	85%	
Maximum Building Height	35 feet	
Minimum Open Space		





# STAFF REPORT

Specific items outlined as requirements in Chapter 6 Site Plan Regulations are outlined below.

<b>SITE PLAN SUBMITTAL REQUIREMENTS</b>			
<b>1)</b>	<b>General Information</b>	<b>Provided on Plans</b>	<b>Not Provided on Plans</b>
a)	Name of Project	X	
b)	General statement of intended use of site	X	
c)	Legal Description and size of property	X	
d)	Name and address of owner	X	
e)	Name, address and phone number of owner's agent	X	
f)	Name, address and phone number of owner's Engineer	X	
g)	Date, north arrow and scale	X	
h)	Vicinity map showing relationship of proposed development to the surrounding streets, etc.	X	
i)	Linear dimensions of the site	X	
j)	Existing topography with a maximum 1 foot contour	X	
k)	Finished grading elevations	X	
l)	Zoning of the site and all adjacent parcels	X	
m)	All existing and proposed building restriction lines	X	
n)	Percent of open space on site	X	
o)	Location of proposed signs		



# STAFF REPORT

2)	<b>Building and Structure</b>	N/A	SITE ONLY
a)	Existing and proposed structures		
b)	Intended use		
c)	Number of stories		
d)	Height of building		
e)	Number of dwelling units and density		
f)	Projected number of employees, if applicable		
g)	If restaurant, show number of seats and occupancy		
h)	Square footage calculations of proposed development		
i)	Photograph or sketch of proposed sign with dimensions and material type		
j.)	Façade and/or elevation plan		
3)	<b>Street, Sidewalks, Driveways, Parking Areas, and Loading Spaces</b>		
a)	Engineering plans and specifications		
b)	All parking spaces delineated		
c)	Number of parking spaces		
d)	Number and location of handicapped spaces		
e)	Number of square feet of paved parking and driveway areas		
f)	Surface materials and cross-section of proposed paved areas		
g)	Fire lanes per the Standard Fire Prevention Code		



# STAFF REPORT

h)	Description / location of proposed driveways and median cuts		
i)	Internal traffic circulation plan, including directional arrows and signs		
j)	Location of traffic-control signs and signalization devices, if required		
4)	Drainage and Stormwater		
a)	Soils classifications, cross-sections and details of proposed retention / detention ponds, swales, berms, etc.		
b)	Size, material and location of stormwater structures and pipes		
c)	Indicate 100 year flood elevation		
5)	Proposed Water, Sewer, and Solid Waste Facilities		
a)	Water		
b)	Sanitary Sewer		
c)	Solid Waste		
6)	Landscaping		
7)	Environmental Protection		
a)	Show natural features such as water bodies, wetlands, native vegetative communities, etc.		
b)	Conservation easements		
c)	Provisions for adequate control of erosion and sediment		
	OTHER REQUIREMENTS		
1)	Certificate of concurrency		



# STAFF REPORT

2)	Application for a clearing and tree permit		
3)	Drainage calculations		
4)	Fire flow calculations, if applicable		
5)	Lift station calculations, where required		
6)	Copy of Health Department permit, where required		
7)	Construction cost estimate prepared by engineer of record, which shall delineate improvements to be maintained by the Town		
8)	Environmental assessment, if applicable		
9)	Traffic impact analysis or data		

## **SUMMARY**

The Town of Montverde's LDC requires all development of land be conducted in a harmonious, orderly, and progressive fashion while protecting the health, safety, and welfare of the citizens of Montverde. The applicant submitted an application and supporting materials for a Minor Site Plan Approval in January 2023.

The proposed project is a 8,135 s.f. one-story building.

## **BASIS OF REVIEW AND ANALYSIS**

Pursuant to Chapter 6, Article I, Sec. 6-1, the Town of Montverde LDC, the proposed Major Site Plan Application must be reviewed for compliance with the following objectives prior to permit issuance.

- 1.) To ensure that the planned project is in conformity with the goals and objectives of the Town's Comprehensive Plan;***



# STAFF REPORT

The project site is designated as an O/R/C Land Use Category on the Town's Future Land Use Map. The proposed project and land use (Commercial) is consistent with the Institutional Future Land Use designation.

**2.) To ensure that the planned project is compatible with the surrounding area and that it will serve to enhance the general character of the area and the Town;**

The proposed project and land use (Commercial) is consistent with the Future Land Use designation.

**3.) To ensure that adequate provisions are made for vehicular traffic access, ingress, internal circulation and parking, traffic control, pedestrian movement and safety, emergency vehicle access and trailered equipment storage;**

The applicant must agree to meet all requirements pursuant to Chapter 6 of the Land Development Code (LDC).

**4.) To ensure that adequate screening and buffering will be provided between the planned project and contiguous properties;**

Additional screening and buffering is not necessary because the proposed building is located near existing facilities. However, the applicant must submit a landscape plan prior to final approval of this application and be consistent with the Town's LDRs.

**5.) To ensure that adequate provisions are planned for utilities, drainage, pollution control, and all public services, including garbage/refuse collection, delivery service, postal service, maintenance service, school bus loading and unloading, utility and exterior lighting and other services necessary to the maintenance of the health and welfare of the residents of the project;**

The applicant will plan for these provisions as indicated on their submitted plan sheets. Water and Solid Waste Utilities shall be provided by the Town.



# STAFF REPORT

Regular bus loading and unloading will not be conducted at this location and is only permitted in existing parking lot areas.

- 6.) To ensure that adequate provisions have been made for light, air, access and privacy in the arrangement of buildings as they relate to the other improvements, to public roads/streets, to internal roads, to parking areas, to recreation areas, to sidewalks and to contiguous properties;**

The architectural plan and proposed site plan will conform to this requirement for approval. Accessibility appears good.

- 7.) To ensure that the natural qualities and characteristics of the land will be preserved, and that the project site will be appropriately landscaped and provisions established for the maintenance of the same;**

A landscape plan shall be submitted for approval.

- 8.) To ensure that adequate recreation space will be provided within the planned project and that provisions are made for the supervision and maintenance thereof;**

The proposed project will not negatively affect the recreation needs of the Town of Montverde.

- 9.) To ensure that the aesthetics and architectural details of the planned project are compatible with the surrounding area and to serve to enhance the character of the area;**

The applicant's proposed elevation plan will meet or exceed the Town's requirements for the Commercial zoning district.

- 10.) To ensure the installation of prescribed standards by the land developer of those required improvements which ought not to become a charge on the citizens and taxpayers of the already existing areas;**

The Town of Montverde is responsible for all improvements including maintenance.



# STAFF REPORT

**11.) To ensure the prevention of haphazard, premature or scattered land development;**

The proposed project does not promote urban sprawl per urban sprawl proliferation review criteria defined in Chapter 9J-5.006, Florida Administrative Code.

**12.) To ensure safety from fire, panic, crime and other dangers, and to promote health and general welfare;**

The proposed project does not propose any inhabitable buildings. The applicant must adhere to Florida Building Code and provide copies of Lake County Building permits to the Town.

**13.) To ensure protection from flooding hazards and ensure proper water management;**

The proposed project is not within the 100-year FEMA Flood Elevation. The applicant is required by Resolution to submit copies of necessary storm water and Environmental Resource Permit approvals from the St. Johns River Water Management District.

**14.) To ensure the protection of natural and scenic resources, including surface waters, and groundwater recharge areas.**

The applicant's proposed landscape plan will meet or exceed the Town's minimum landscape and buffer requirements for the PF zoning district.



# STAFF REPORT

## WRITTEN COMMENTS FILED

SUPPORTIVE: 0

OPPOSITION: 0

## PLANNING & ZONING BOARD

### STAFF RECOMMENDATION

Staff recommends **APPROVAL** of GatorSkitch's request for Minor Site Plan approval for construction of a new Library building for the Town of Montverde.





# STAFF REPORT

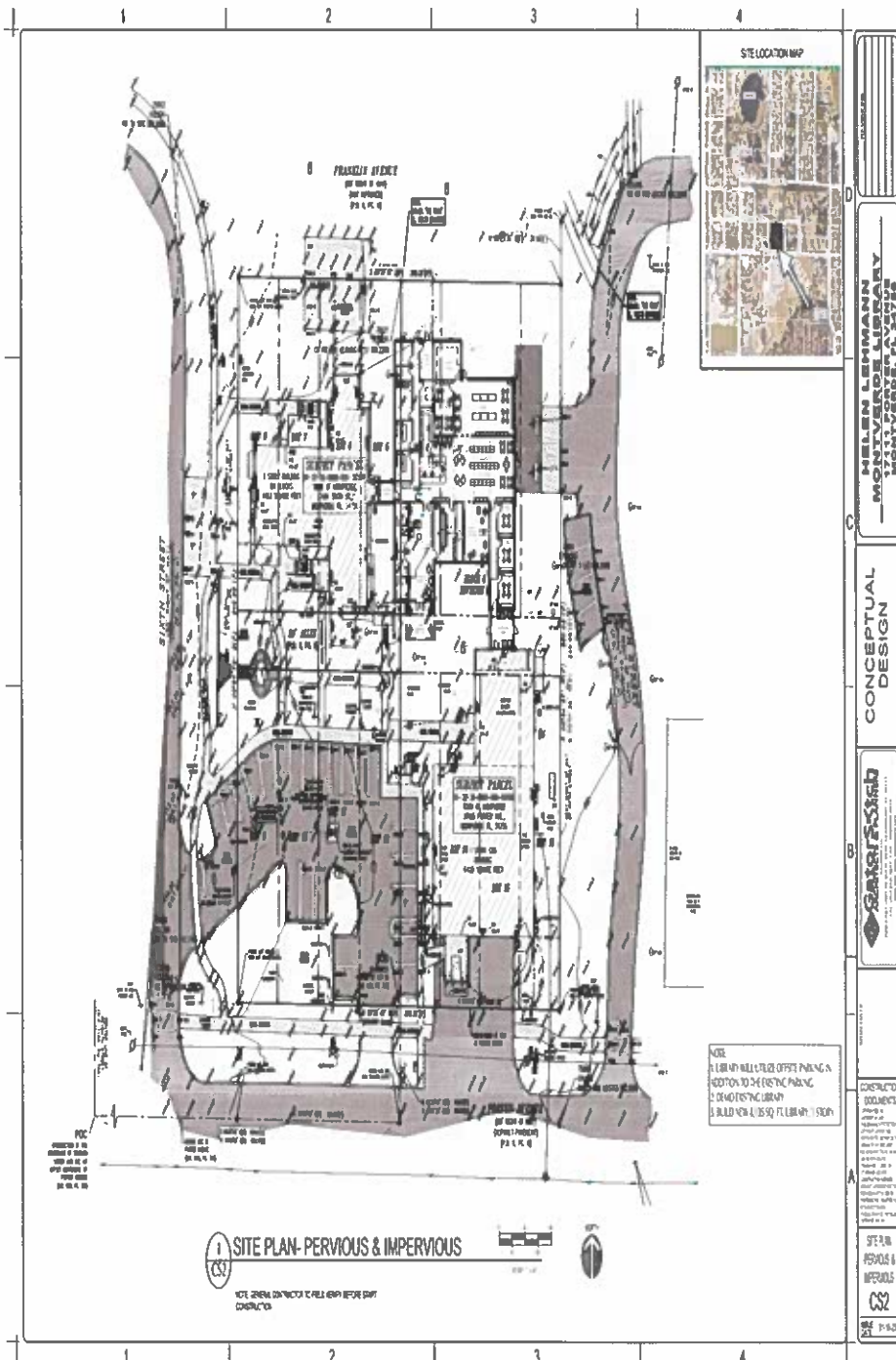
Location Map





# STAFF REPORT

## SITE PLAN



1 SITE PLAN-PERVIOUS & IMPERVIOUS  
 CS2  
 NOT OTHER CONTRACTS TO BE BUILT AND BEFORE DATE  
 CONSTRUCTION

NOTE:  
 1. LIBRARY WILL OFFER PARKING IN  
 ADDITION TO THE RETAIL PARKING.  
 2. DEMONSTRATING LIBRARY  
 3. BUILD NEW 1, 1.5 SQ. FT. LIBRARY STORY

CONSTRUCTION DOCUMENTS  
 SHEET NO. 1-53  
 CS2  
 M. LERIMANN  
 ENGINEER  
 1000 W. STATE ST. SUITE 200  
 MONTVERDE, FL 32758  
 CONCEPTUAL DESIGN

**RESOLUTION NO. 2023-52**

**RESOLUTION 2023-52**

**A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF MONTVERDE, FLORIDA, APPROVING AIA DOCUMENT A133-2019 STANDARD FORM OF AGREEMENT BETWEEN OWNER AND CONSTRUCTION MANAGER AT CONSTRUCTOR WHERE BASIS OF PAYMENT IS THE COST OF THE WORK PLUS A FEE WITH A GUARANTEED MAXIMUM PRICE; AUTHORIZING THE TOWN MANAGER TO EXECUTE THE AGREEMENT; PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, the Town Council issued a request for qualifications seeking a construction manager at risk to provide services for the new library, and selected A.D. Morgan Corporation;

**WHEREAS**, the Town of Montverde desires to enter into a contract with A.D. Morgan Corporation for the library project; and

**WHEREAS**, the Town Council of the Town of Montverde, Florida finds it is in the best interest of the Town to enter into a contract with A.D. Morgan Corporation as approved by this resolution.

**NOW, THEREFORE, BE IT RESOLVED AS FOLLOWS:**

Section 1. The AIA Document A133-2019 Standard Form of Agreement Between Owner and Construction Manager as Constructor where the basis of payment is the Cost of the Work Plus a Fee with a Guaranteed Maximum Price for the library project, **a copy of which is attached hereto**, is approved.

Section 2. The Town Council authorizes the Town Manager to execute the Agreement.

Section 3. This resolution shall take effect immediately upon its final adoption by the Town Council of the Town of Montverde, Florida.

ADOPTED this \_\_\_\_ day of April, 2023, by the Town Council of the Town of Montverde, Florida.

\_\_\_\_\_  
Joe Wynkoop, Mayor

Attest:

\_\_\_\_\_  
Sandy Johnson, Town Clerk

Approved as to form and legality:

\_\_\_\_\_  
Anita Geraci-Carver, Town Attorney

First Reading \_\_\_\_\_

Council Member \_\_\_\_\_ moved the passage and adoption of the above and foregoing Resolution. Motion was seconded by Council Member \_\_\_\_\_ and upon roll call on the motion the vote was as follows:

	YEA	NAY
Bill Bates, Councilmember		
Allan Hartle, Vice Mayor		
Jim Ley, Councilmember		
vacant		
Joe Wynkoop, Mayor		

 **AIA**® Document A133® – 2019**Standard Form of Agreement Between Owner and Construction Manager as Constructor where the basis of payment is the Cost of the Work Plus a Fee with a Guaranteed Maximum Price**

**AGREEMENT** made as of the 19day of April in the year 2023  
(In words, indicate day, month, and year.)

**BETWEEN** the Owner:  
(Name, legal status, address, and other information)

Town of Montverde  
17404 Sixth Street  
Montverde, FL 34756  
Telephone Number: 407-469-2681  
Fax Number: 407-469-2773

and the Construction Manager:  
(Name, legal status, address, and other information)

A.D. Morgan Corp.  
716 N. Renellie Drive  
Tampa, FL 33609  
813-832-3033

for the following Project:  
(Name, location, and detailed description)

Town of Montverde New Library Building  
17435 Fifth Street  
Montverde, FL 34756  
Alt Key: 1530954

Library Building, during building design: The CMoR will give assistance with Construction Costs, building material construction types, and possible VE process. The new library structure has a connection to existing Town Hall and existing Fire Station. This new building is approximately 8200 square with a traditional exterior matching the look of the Town of Montverde and consistent with the design prepared by Architect

The Architect:  
(Name, legal status, address, and other information)

GatorSkth Corp. , S Corporation  
1000 East Highway  
Suite 201a  
Clermont, FL 34711  
Telephone Number: 407-608-5677  
Fax Number: 888-599-4814

The Owner and Construction Manager agree as follows.

**ADDITIONS AND DELETIONS:**  
The author of this document has added information needed for its completion. The author may also have revised the text of the original AIA standard form. An *Additions and Deletions Report* that notes added information as well as revisions to the standard form text is available from the author and should be reviewed. A vertical line in the left margin of this document indicates where the author has added necessary information and where the author has added to or deleted from the original AIA text.

This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.

AIA Document A201™–2017, General Conditions of the Contract for Construction, is adopted in this document by reference. Do not use with other general conditions unless this document is modified.

## TABLE OF ARTICLES

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  - 6 COMPENSATION FOR CONSTRUCTION PHASE SERVICES
  - 7 COST OF THE WORK FOR CONSTRUCTION PHASE
  - 8 DISCOUNTS, REBATES, AND REFUNDS
  - 9 SUBCONTRACTS AND OTHER AGREEMENTS
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- EXHIBIT A GUARANTEED MAXIMUM PRICE AMENDMENT  
EXHIBIT B INSURANCE AND BONDS

### ARTICLE 1 INITIAL INFORMATION

§ 1.1 This Agreement is based on the Initial Information set forth in this Section 1.1.

*(For each item in this section, insert the information or a statement such as "not applicable" or "unknown at time of execution.")*

§ 1.1.1 The Owner's program for the Project, as described in Section 4.1.1:

*(Insert the Owner's program, identify documentation that establishes the Owner's program, or state the manner in which the program will be developed.)*

Single Story approximately 8,200 sqft. Library building, with city offices, IT room, storage, front desk for library-permitting -utility payments, Adult collection area, Teen collection area, Childrens collection area, 3 study rooms, conference room, Men's & Women's restrooms.

§ 1.1.2 The Project's physical characteristics:

*(Identify or describe pertinent information about the Project's physical characteristics, such as size; location; dimensions; geotechnical reports; site boundaries; topographic surveys; traffic and utility studies; availability of public and private utilities and services; legal description of the site, etc.)*

Located in the general area of the existing library that is inside the Town Hall municipal campus. Geo Technical report from Andreyev Engineering, Survey documents from Chastain Skillman Engineering, and based on the study performed by GatorSkтч Corp., potable water is available, septic system may be included.

§ 1.1.3 The Owner's budget for the Guaranteed Maximum Price, as defined in Article 6:  
(Provide total and, if known, a line item breakdown.)

One Million Six Hundred Fifty Thousand - (\$1,650,000.00)

§ 1.1.4 The Owner's anticipated design and construction milestone dates:

.1 Design phase milestone dates, if any:

September 15<sup>th</sup>, 2023 Submission for permitting

.2 Construction commencement date:

November 1<sup>st</sup>, 2023

.3 Substantial Completion date or dates:

June 30<sup>th</sup>, 2024

.4 Other milestone dates:

Final Completion July 30<sup>th</sup>, 2024

§ 1.1.5 The Owner's requirements for accelerated or fast-track scheduling, or phased construction, are set forth below:

(Identify any requirements for fast-track scheduling or phased construction.)

N/A

§ 1.1.6 The Owner's anticipated Sustainable Objective for the Project:

(Identify and describe the Owner's Sustainable Objective for the Project, if any.)

Certificate of Occupancy

§ 1.1.6.1 .

§ 1.1.7 Other Project information:

(Identify special characteristics or needs of the Project not provided elsewhere.)

§ 1.1.8 The Owner identifies the following representative in accordance with Section 4.2:

(List name, address, and other contact information.)

Paul Larino, Town Manager

§ 1.1.9 The persons or entities, in addition to the Owner's representative, who are required to review the Construction Manager's submittals to the Owner are as follows:

(List name, address and other contact information.)



§ 1.1.10 The Owner shall retain the following consultants and contractors:  
(List name, legal status, address, and other contact information.)

.1 Geotechnical Engineer:

Andreyev Engineering, Inc., Corporation  
Raymond W. Jones, P.E.  
4055 St. John's Parkway  
Sanford, FL 32771  
Telephone Number: 407-330-7763

.2 Civil Engineer:

Chastain Skillman, Corporation  
Sergio Garcia  
4301 Vineland Road, Suite E-7  
Orlando, FL 32811  
Telephone Number: 888-646-1402

.3 Other, if any:

(List any other consultants retained by the Owner, such as a Project or Program Manager.)

§ 1.1.11 The Architect's representative:  
(List name, address, and other contact information.)

Michael B. Latham  
Same

§ 1.1.12 The Construction Manager identifies the following representative in accordance with Article 3:  
(List name, address, and other contact information.)

John Kalaf  
VP of Operations  
716 Renellie Drive  
Tampa, FL 33609  
P: 813-832-3033

§ 1.1.13 The Owner's requirements for the Construction Manager's staffing plan for Preconstruction Services, as required under Section 3.1.9:  
(List any Owner-specific requirements to be included in the staffing plan.)

§ 1.1.14 The Owner's requirements for subcontractor procurement for the performance of the Work:  
(List any Owner-specific requirements for subcontractor procurement.)

Minimum of 3 bidders per trade

§ 1.1.15 Other Initial Information on which this Agreement is based:

§ 1.2 The Owner and Construction Manager may rely on the Initial Information. Both parties, however, recognize that such information may materially change and, in that event, the Owner and the Construction Manager shall appropriately adjust the Project schedule, the Construction Manager's services, and the Construction Manager's compensation. The Owner shall adjust the Owner's budget for the Guaranteed Maximum Price and the Owner's anticipated design and construction milestones, as necessary, to accommodate material changes in the Initial Information.

§ 1.3 Neither the Owner's nor the Construction Manager's representative shall be changed without ten days' prior notice to the other party.

## ARTICLE 2 GENERAL PROVISIONS

### § 2.1 The Contract Documents

The Contract Documents consist of this Agreement, Conditions of the Contract (General, Supplementary and other Conditions), Drawings, Specifications, Addenda issued prior to execution of this Agreement, other documents listed in this Agreement, and Modifications issued after execution of this Agreement, all of which form the Contract and are as fully a part of the Contract as if attached to this Agreement or repeated herein. Upon the Owner's acceptance of the Construction Manager's Guaranteed Maximum Price proposal, the Contract Documents will also include the documents described in Section 3.2.3 and identified in the Guaranteed Maximum Price Amendment and revisions prepared by the Architect and furnished by the Owner as described in Section 3.2.8. The Contract represents the entire and integrated agreement between the parties hereto and supersedes prior negotiations, representations or agreements, either written or oral. If anything in the other Contract Documents, other than a Modification, is inconsistent with this Agreement, this Agreement shall govern. An enumeration of the Contract Documents, other than a Modification, appears in Article 15.

### § 2.2 Relationship of the Parties

The Construction Manager accepts the relationship of trust and confidence established by this Agreement and covenants with the Owner to cooperate with the Architect and exercise the Construction Manager's skill and judgment in furthering the interests of the Owner to furnish efficient construction administration, management services, and supervision; to furnish at all times an adequate supply of workers and materials; and to perform the Work in an expeditious and economical manner consistent with the Owner's interests. The Owner agrees to furnish or approve, in a timely manner, information required by the Construction Manager and to make payments to the Construction Manager in accordance with the requirements of the Contract Documents.

### § 2.3 General Conditions

§ 2.3.1 For the Preconstruction Phase, AIA Document A201™-2017, General Conditions of the Contract for Construction, shall apply as follows: Section 1.5, Ownership and Use of Documents; Section 1.7, Digital Data Use and Transmission; Section 1.8, Building Information Model Use and Reliance; Section 2.2.4, Confidential Information; Section 3.12.10, Professional Services; Section 10.3, Hazardous Materials; Section 13.1, Governing Law. The term "Contractor" as used in A201-2017 shall mean the Construction Manager.

§ 2.3.2 For the Construction Phase, the general conditions of the contract shall be as set forth in A201-2017, which document is incorporated herein by reference. The term "Contractor" as used in A201-2017 shall mean the Construction Manager.

## ARTICLE 3 CONSTRUCTION MANAGER'S RESPONSIBILITIES

The Construction Manager's Preconstruction Phase responsibilities are set forth in Sections 3.1 and 3.2, and in the applicable provisions of A201-2017 referenced in Section 2.3.1. The Construction Manager's Construction Phase responsibilities are set forth in Section 3.3. The Owner and Construction Manager may agree, in consultation with the Architect, for the Construction Phase to commence prior to completion of the Preconstruction Phase, in which case, both phases will proceed concurrently. The Construction Manager shall identify a representative authorized to act on behalf of the Construction Manager with respect to the Project.

### **§ 3.1 Preconstruction Phase**

#### **§ 3.1.1 Extent of Responsibility**

The Construction Manager shall exercise reasonable care in performing its Preconstruction Services. The Owner and Architect shall be entitled to rely on, and shall not be responsible for, the accuracy, completeness, and timeliness of services and information furnished by the Construction Manager. The Construction Manager, however, does not warrant or guarantee estimates and schedules except as may be included as part of the Guaranteed Maximum Price. The Construction Manager is not required to ascertain that the Drawings and Specifications are in accordance with applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities, but the Construction Manager shall promptly report to the Architect and Owner any nonconformity discovered by or made known to the Construction Manager as a request for information in such form as the Architect may require.

**§ 3.1.2** The Construction Manager shall provide a preliminary evaluation of the Owner's program, schedule and construction budget requirements, each in terms of the other.

#### **§ 3.1.3 Consultation**

**§ 3.1.3.1** The Construction Manager shall schedule and conduct meetings with the Architect and Owner to discuss such matters as procedures, progress, coordination, and scheduling of the Work.

**§ 3.1.3.2** The Construction Manager shall advise the Owner and Architect on proposed site use and improvements, selection of materials, building systems, and equipment. The Construction Manager shall also provide recommendations to the Owner and Architect, consistent with the Project requirements, on constructability; availability of materials and labor; time requirements for procurement, installation and construction; prefabrication; and factors related to construction cost including, but not limited to, costs of alternative designs or materials, preliminary budgets, life-cycle data, and possible cost reductions. The Construction Manager shall consult with the Architect regarding professional services to be provided by the Construction Manager during the Construction Phase.

**§ 3.1.3.3** The Construction Manager shall assist the Owner and Architect in establishing building information modeling and digital data protocols for the Project, using AIA Document E203™-2013, Building Information Modeling and Digital Data Exhibit, to establish the protocols for the development, use, transmission, and exchange of digital data.

#### **§ 3.1.4 Project Schedule**

When Project requirements in Section 4.1.1 have been sufficiently identified, the Construction Manager shall prepare and periodically update a Project schedule for the Architect's review and the Owner's acceptance. The Construction Manager shall obtain the Architect's approval for the portion of the Project schedule relating to the performance of the Architect's services. The Project schedule shall coordinate and integrate the Construction Manager's services, the Architect's services, other Owner consultants' services, and the Owner's responsibilities; and identify items that affect the Project's timely completion. The updated Project schedule shall include the following: submission of the Guaranteed Maximum Price proposal; components of the Work; times of commencement and completion required of each Subcontractor; ordering and delivery of products, including those that must be ordered in advance of construction; and the occupancy requirements of the Owner.

#### **§ 3.1.5 Phased Construction**

The Construction Manager, in consultation with the Architect, shall provide recommendations with regard to accelerated or fast-track scheduling, procurement, and sequencing for phased construction. The Construction Manager shall take into consideration cost reductions, cost information, constructability, provisions for temporary facilities, and procurement and construction scheduling issues.

#### **§ 3.1.6 Cost Estimates**

**§ 3.1.6.1** Based on the preliminary design and other design criteria prepared by the Architect, the Construction Manager shall prepare, for the Architect's review and the Owner's approval, preliminary estimates of the Cost of the Work or the cost of program requirements using area, volume, or similar conceptual estimating techniques. If the Architect or Construction Manager suggests alternative materials and systems, the Construction Manager shall provide cost evaluations of those alternative materials and systems.

§ 3.1.6.2 As the Architect progresses with the preparation of the Schematic Design, Design Development and Construction Documents, the Construction Manager shall prepare and update, at appropriate intervals agreed to by the Owner, Construction Manager and Architect, an estimate of the Cost of the Work with increasing detail and refinement. The Construction Manager shall include in the estimate those costs to allow for the further development of the design, price escalation, and market conditions, until such time as the Owner and Construction Manager agree on a Guaranteed Maximum Price for the Work. The estimate shall be provided for the Architect's review and the Owner's approval. The Construction Manager shall inform the Owner and Architect in the event that the estimate of the Cost of the Work exceeds the latest approved Project budget, and make recommendations for corrective action.

§ 3.1.6.3 If the Architect is providing cost estimating services as a Supplemental Service, and a discrepancy exists between the Construction Manager's cost estimates and the Architect's cost estimates, the Construction Manager and the Architect shall work together to reconcile the cost estimates.

§ 3.1.7 As the Architect progresses with the preparation of the Schematic Design, Design Development and Construction Documents, the Construction Manager shall consult with the Owner and Architect and make recommendations regarding constructability and schedules, for the Architect's review and the Owner's approval.

§ 3.1.8 The Construction Manager shall provide recommendations and information to the Owner and Architect regarding equipment, materials, services, and temporary Project facilities.

§ 3.1.9 The Construction Manager shall provide a staffing plan for Preconstruction Phase services for the Owner's review and approval.

§ 3.1.10 If the Owner identified a Sustainable Objective in Article 1, the Construction Manager shall fulfill its Preconstruction Phase responsibilities as required in AIA Document E234™-2019, Sustainable Projects Exhibit, Construction Manager as Constructor Edition, attached to this Agreement.

#### § 3.1.11 Subcontractors and Suppliers

§ 3.1.11.1 If the Owner has provided requirements for subcontractor procurement in section 1.1.14, the Construction Manager shall provide a subcontracting plan, addressing the Owner's requirements, for the Owner's review and approval.

§ 3.1.11.2 The Construction Manager shall develop bidders' interest in the Project.

§ 3.1.11.3 The processes described in Article 9 shall apply if bid packages will be issued during the Preconstruction Phase.

#### § 3.1.12 Procurement

The Construction Manager shall prepare, for the Architect's review and the Owner's acceptance, a procurement schedule for items that must be ordered in advance of construction. The Construction Manager shall expedite and coordinate the ordering and delivery of materials that must be ordered in advance of construction. If the Owner agrees to procure any items prior to the establishment of the Guaranteed Maximum Price, the Owner shall procure the items on terms and conditions acceptable to the Construction Manager. Upon the establishment of the Guaranteed Maximum Price, the Owner shall assign all contracts for these items to the Construction Manager and the Construction Manager shall thereafter accept responsibility for them.

#### § 3.1.13 Compliance with Laws

The Construction Manager shall comply with applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities applicable to its performance under this Contract, and with equal employment opportunity programs, and other programs as may be required by governmental and quasi-governmental authorities.

#### § 3.1.14 Other Preconstruction Services

Insert a description of any other Preconstruction Phase services to be provided by the Construction Manager, or reference an exhibit attached to this document

*(Describe any other Preconstruction Phase services, such as providing cash flow projections, development of a project information management system, early selection or procurement of subcontractors, etc.)*

**§ 3.2 Guaranteed Maximum Price Proposal**

**§ 3.2.1** At a time to be mutually agreed upon by the Owner and the Construction Manager, the Construction Manager shall prepare a Guaranteed Maximum Price proposal for the Owner's and Architect's review, and the Owner's acceptance. The Guaranteed Maximum Price in the proposal shall be the sum of the Construction Manager's estimate of the Cost of the Work, the Construction Manager's contingency described in Section 3.2.4, and the Construction Manager's Fee described in Section 6.1.2.

**§ 3.2.2** To the extent that the Contract Documents are anticipated to require further development, the Guaranteed Maximum Price includes the costs attributable to such further development consistent with the Contract Documents and reasonably inferable therefrom. Such further development does not include changes in scope, systems, kinds and quality of materials, finishes, or equipment, all of which, if required, shall be incorporated by Change Order.

**§ 3.2.3** The Construction Manager shall include with the Guaranteed Maximum Price proposal a written statement of its basis, which shall include the following:

- .1 A list of the Drawings and Specifications, including all Addenda thereto, and the Conditions of the Contract;
- .2 A list of the clarifications and assumptions made by the Construction Manager in the preparation of the Guaranteed Maximum Price proposal, including assumptions under Section 3.2.2;
- .3 A statement of the proposed Guaranteed Maximum Price, including a statement of the estimated Cost of the Work organized by trade categories or systems, including allowances; the Construction Manager's contingency set forth in Section 3.2.4; and the Construction Manager's Fee;
- .4 The anticipated date of Substantial Completion upon which the proposed Guaranteed Maximum Price is based; and
- .5 A date by which the Owner must accept the Guaranteed Maximum Price.

**§ 3.2.4** In preparing the Construction Manager's Guaranteed Maximum Price proposal, the Construction Manager shall include a contingency for the Construction Manager's exclusive use to cover those costs that are included in the Guaranteed Maximum Price but not otherwise allocated to another line item or included in a Change Order.

**§ 3.2.5** The Construction Manager shall meet with the Owner and Architect to review the Guaranteed Maximum Price proposal. In the event that the Owner or Architect discover any inconsistencies or inaccuracies in the information presented, they shall promptly notify the Construction Manager, who shall make appropriate adjustments to the Guaranteed Maximum Price proposal, its basis, or both.

**§ 3.2.6** If the Owner notifies the Construction Manager that the Owner has accepted the Guaranteed Maximum Price proposal in writing before the date specified in the Guaranteed Maximum Price proposal, the Guaranteed Maximum Price proposal shall be deemed effective without further acceptance from the Construction Manager. Following acceptance of a Guaranteed Maximum Price, the Owner and Construction Manager shall execute the Guaranteed Maximum Price Amendment amending this Agreement, a copy of which the Owner shall provide to the Architect. The Guaranteed Maximum Price Amendment shall set forth the agreed upon Guaranteed Maximum Price with the information and assumptions upon which it is based.

**§ 3.2.7** The Construction Manager shall not incur any cost to be reimbursed as part of the Cost of the Work prior to the execution of the Guaranteed Maximum Price Amendment, unless the Owner provides prior written authorization for such costs.

**§ 3.2.8** The Owner shall authorize preparation of revisions to the Contract Documents that incorporate the agreed-upon assumptions and clarifications contained in the Guaranteed Maximum Price Amendment. The Owner shall promptly furnish such revised Contract Documents to the Construction Manager. The Construction Manager shall notify the Owner and Architect of any inconsistencies between the agreed-upon assumptions and clarifications contained in the Guaranteed Maximum Price Amendment and the revised Contract Documents.

§ 3.2.9 The Construction Manager shall include in the Guaranteed Maximum Price all sales, consumer, use and similar taxes for the Work provided by the Construction Manager that are legally enacted, whether or not yet effective, at the time the Guaranteed Maximum Price Amendment is executed.

### § 3.3 Construction Phase

#### § 3.3.1 General

§ 3.3.1.1 For purposes of Section 8.1.2 of A201–2017, the date of commencement of the Work shall mean the date of commencement of the Construction Phase.

§ 3.3.1.2 The Construction Phase shall commence upon the Owner's execution of the Guaranteed Maximum Price Amendment or, prior to acceptance of the Guaranteed Maximum Price proposal, by written agreement of the parties. The written agreement shall set forth a description of the Work to be performed by the Construction Manager, and any insurance and bond requirements for Work performed prior to execution of the Guaranteed Maximum Price Amendment.

#### § 3.3.2 Administration

§ 3.3.2.1 The Construction Manager shall schedule and conduct meetings to discuss such matters as procedures, progress, coordination, scheduling, and status of the Work. The Construction Manager shall prepare and promptly distribute minutes of the meetings to the Owner and Architect.

§ 3.3.2.2 Upon the execution of the Guaranteed Maximum Price Amendment, the Construction Manager shall prepare and submit to the Owner and Architect a construction schedule for the Work and a submittal schedule in accordance with Section 3.10 of A201–2017.

#### § 3.3.2.3 Monthly Report

The Construction Manager shall record the progress of the Project. On a monthly basis, or otherwise as agreed to by the Owner, the Construction Manager shall submit written progress reports to the Owner and Architect, showing percentages of completion and other information required by the Owner.

#### § 3.3.2.4 Daily Logs

The Construction Manager shall keep, and make available to the Owner and Architect, a daily log containing a record for each day of weather, portions of the Work in progress, number of workers on site, identification of equipment on site, problems that might affect progress of the work, accidents, injuries, and other information required by the Owner.

#### § 3.3.2.5 Cost Control

The Construction Manager shall develop a system of cost control for the Work, including regular monitoring of actual costs for activities in progress and estimates for uncompleted tasks and proposed changes. The Construction Manager shall identify variances between actual and estimated costs and report the variances to the Owner and Architect, and shall provide this information in its monthly reports to the Owner and Architect, in accordance with Section 3.3.2.3 above.

## ARTICLE 4 OWNER'S RESPONSIBILITIES

### § 4.1 Information and Services Required of the Owner

§ 4.1.1 The Owner shall provide information with reasonable promptness, regarding requirements for and limitations on the Project, including a written program which shall set forth the Owner's objectives, constraints, and criteria, including schedule, space requirements and relationships, flexibility and expandability, special equipment, systems, sustainability and site requirements.

§ 4.1.2 Prior to the execution of the Guaranteed Maximum Price Amendment, the Construction Manager may request in writing that the Owner provide reasonable evidence that the Owner has made financial arrangements to fulfill the Owner's obligations under the Contract. After execution of the Guaranteed Maximum Price Amendment, the Construction Manager may request such information as set forth in A201-2017 Section 2.2.

§ 4.1.3 The Owner shall establish and periodically update the Owner's budget for the Project, including (1) the budget for the Cost of the Work as defined in Article 7, (2) the Owner's other costs, and (3) reasonable contingencies related to all of these costs. If the Owner significantly increases or decreases the Owner's budget for

the Cost of the Work, the Owner shall notify the Construction Manager and Architect. The Owner and the Architect, in consultation with the Construction Manager, shall thereafter agree to a corresponding change in the Project's scope and quality.

**§ 4.1.4 Structural and Environmental Tests, Surveys and Reports.** During the Preconstruction Phase, the Owner shall furnish the following information or services with reasonable promptness. The Owner shall also furnish any other information or services under the Owner's control and relevant to the Construction Manager's performance of the Work with reasonable promptness after receiving the Construction Manager's written request for such information or services. The Construction Manager shall be entitled to rely on the accuracy of information and services furnished by the Owner but shall exercise proper precautions relating to the safe performance of the Work.

**§ 4.1.4.1** The Owner shall furnish tests, inspections, and reports, required by law and as otherwise agreed to by the parties, such as structural, mechanical, and chemical tests, tests for air and water pollution, and tests for hazardous materials.

**§ 4.1.4.2** The Owner shall furnish surveys describing physical characteristics, legal limitations and utility locations for the site of the Project, and a written legal description of the site. The surveys and legal information shall include, as applicable, grades and lines of streets, alleys, pavements and adjoining property and structures; designated wetlands; adjacent drainage; rights-of-way, restrictions, easements, encroachments, zoning, deed restrictions, boundaries and contours of the site; locations, dimensions and other necessary data with respect to existing buildings, other improvements and trees; and information concerning available utility services and lines, both public and private, above and below grade, including inverts and depths. All the information on the survey shall be referenced to a Project benchmark.

**§ 4.1.4.3** The Owner, when such services are requested, shall furnish services of geotechnical engineers, which may include test borings, test pits, determinations of soil bearing values, percolation tests, evaluations of hazardous materials, seismic evaluation, ground corrosion tests and resistivity tests, including necessary operations for anticipating subsoil conditions, with written reports and appropriate recommendations.

**§ 4.1.5** During the Construction Phase, the Owner shall furnish information or services required of the Owner by the Contract Documents with reasonable promptness. The Owner shall also furnish any other information or services under the Owner's control and relevant to the Construction Manager's performance of the Work with reasonable promptness after receiving the Construction Manager's written request for such information or services.

**§ 4.1.6** If the Owner identified a Sustainable Objective in Article I, the Owner shall fulfill its responsibilities as required in AIA Document E234™-2019, Sustainable Projects Exhibit, Construction Manager as Constructor Edition, attached to this Agreement.

## **§ 4.2 Owner's Designated Representative**

The Owner shall identify a representative authorized to act on behalf of the Owner with respect to the Project. The Owner's representative shall render decisions promptly and furnish information expeditiously, so as to avoid unreasonable delay in the services or Work of the Construction Manager. Except as otherwise provided in Section 4.2.1 of A201-2017, the Architect does not have such authority. The term "Owner" means the Owner or the Owner's authorized representative.

**§ 4.2.1 Legal Requirements.** The Owner shall furnish all legal, insurance and accounting services, including auditing services, that may be reasonably necessary at any time for the Project to meet the Owner's needs and interests.

## **§ 4.3 Architect**

The Owner shall retain an Architect to provide services, duties and responsibilities as described in AIA Document B133™-2019, Standard Form of Agreement Between Owner and Architect, Construction Manager as Constructor Edition, including any additional services requested by the Construction Manager that are necessary for the Preconstruction and Construction Phase services under this Agreement. The Owner shall provide the Construction Manager with a copy of the scope of services in the executed agreement between the Owner and the Architect, and any further modifications to the Architect's scope of services in the agreement.

**ARTICLE 5 COMPENSATION AND PAYMENTS FOR PRECONSTRUCTION PHASE SERVICES**

**§ 5.1 Compensation**

**§ 5.1.1** For the Construction Manager’s Preconstruction Phase services described in Sections 3.1 and 3.2, the Owner shall compensate the Construction Manager as follows:

*(Insert amount of, or basis for, compensation and include a list of reimbursable cost items, as applicable.)*

\$9000.00 , Nine Thousand dollars

**§ 5.1.2** The hourly billing rates for Preconstruction Phase services of the Construction Manager and the Construction Manager’s Consultants and Subcontractors, if any, are set forth below.

*(If applicable, attach an exhibit of hourly billing rates or insert them below.)*

Fixed Fee as set forth in 5.1.1

Individual or Position	Rate
------------------------	------

**§ 5.1.2.1** Hourly billing rates for Preconstruction Phase services include all costs to be paid or incurred by the Construction Manager, as required by law or collective bargaining agreements, for taxes, insurance, contributions, assessments and benefits and, for personnel not covered by collective bargaining agreements, customary benefits such as sick leave, medical and health benefits, holidays, vacations and pensions, and shall remain unchanged unless the parties execute a Modification.

**§ 5.1.3** If the Preconstruction Phase services covered by this Agreement have not been completed within Six ( 6 ) months of the date of this Agreement, through no fault of the Construction Manager, the Construction Manager’s compensation for Preconstruction Phase services shall be equitably adjusted.

**§ 5.2 Payments**

**§ 5.2.1** Unless otherwise agreed, payments for services shall be made monthly in proportion to services performed.

**§ 5.2.2** Payments are due and payable upon presentation of the Construction Manager’s invoice. Amounts unpaid ( 30 ) days after the invoice date shall bear interest at the rate entered below, or in the absence thereof at the legal rate prevailing from time to time at the principal place of business of the Construction Manager.

*(Insert rate of monthly or annual interest agreed upon.)*

2 % Two Percent

**ARTICLE 6 COMPENSATION FOR CONSTRUCTION PHASE SERVICES**

**§ 6.1 Contract Sum**

**§ 6.1.1** The Owner shall pay the Construction Manager the Contract Sum in current funds for the Construction Manager’s performance of the Contract after execution of the Guaranteed Maximum Price Amendment. The Contract Sum is the Cost of the Work as defined in Article 7 plus the Construction Manager’s Fee.

**§ 6.1.2** The Construction Manager’s Fee:

*(State a lump sum, percentage of Cost of the Work or other provision for determining the Construction Manager’s Fee.)*

6%

**§ 6.1.3** The method of adjustment of the Construction Manager’s Fee for changes in the Work:

Proposed Change Order

**§ 6.1.4** Limitations, if any, on a Subcontractor’s overhead and profit for increases in the cost of its portion of the Work:

10%



§ 6.1.5 Rental rates for Construction Manager-owned equipment shall not exceed Three percent ( 3.00 %) of the standard rental rate paid at the place of the Project.

§ 6.1.6 Liquidated damages, if any:  
*(Insert terms and conditions for liquidated damages, if any.)*

\$750.00 daily

§ 6.1.7 Other:  
*(Insert provisions for bonus, cost savings or other incentives, if any, that might result in a change to the Contract Sum.)*

## § 6.2 Guaranteed Maximum Price

The Construction Manager guarantees that the Contract Sum shall not exceed the Guaranteed Maximum Price set forth in the Guaranteed Maximum Price Amendment, subject to additions and deductions by Change Order as provided in the Contract Documents. Costs which would cause the Guaranteed Maximum Price to be exceeded shall be paid by the Construction Manager without reimbursement by the Owner.

## § 6.3 Changes in the Work

§ 6.3.1 The Owner may, without invalidating the Contract, order changes in the Work within the general scope of the Contract consisting of additions, deletions or other revisions. The Owner shall issue such changes in writing. The Construction Manager may be entitled to an equitable adjustment in the Contract Time as a result of changes in the Work.

§ 6.3.1.1 The Architect may order minor changes in the Work as provided in Article 7 of AIA Document A201–2017, General Conditions of the Contract for Construction.

§ 6.3.2 Adjustments to the Guaranteed Maximum Price on account of changes in the Work subsequent to the execution of the Guaranteed Maximum Price Amendment may be determined by any of the methods listed in Article 7 of AIA Document A201–2017, General Conditions of the Contract for Construction.

§ 6.3.3 Adjustments to subcontracts awarded on the basis of a stipulated sum shall be determined in accordance with Article 7 of A201–2017, as they refer to “cost” and “fee,” and not by Articles 6 and 7 of this Agreement. Adjustments to subcontracts awarded with the Owner’s prior written consent on the basis of cost plus a fee shall be calculated in accordance with the terms of those subcontracts.

§ 6.3.4 In calculating adjustments to the Guaranteed Maximum Price, the terms “cost” and “costs” as used in Article 7 of AIA Document A201–2017 shall mean the Cost of the Work as defined in Article 7 of this Agreement and the term “fee” shall mean the Construction Manager’s Fee as defined in Section 6.1.2 of this Agreement.

§ 6.3.5 If no specific provision is made in Section 6.1.3 for adjustment of the Construction Manager’s Fee in the case of changes in the Work, or if the extent of such changes is such, in the aggregate, that application of the adjustment provisions of Section 6.1.3 will cause substantial inequity to the Owner or Construction Manager, the Construction Manager’s Fee shall be equitably adjusted on the same basis that was used to establish the Fee for the original Work, and the Guaranteed Maximum Price shall be adjusted accordingly.

## ARTICLE 7 COST OF THE WORK FOR CONSTRUCTION PHASE

### § 7.1 Costs to Be Reimbursed

§ 7.1.1 The term Cost of the Work shall mean costs necessarily incurred by the Construction Manager in the proper performance of the Work. The Cost of the Work shall include only the items set forth in Sections 7.1 through 7.7.

§ 7.1.2 Where, pursuant to the Contract Documents, any cost is subject to the Owner’s prior approval, the Construction Manager shall obtain such approval in writing prior to incurring the cost.

§ 7.1.3 Costs shall be at rates not higher than the standard rates paid at the place of the Project, except with prior approval of the Owner.

## § 7.2 Labor Costs

§ 7.2.1 Wages or salaries of construction workers directly employed by the Construction Manager to perform the construction of the Work at the site or, with the Owner's prior approval, at off-site workshops.

§ 7.2.2 Wages or salaries of the Construction Manager's supervisory and administrative personnel when stationed at the site and performing Work, with the Owner's prior approval.

§ 7.2.2.1 Wages or salaries of the Construction Manager's supervisory and administrative personnel when performing Work and stationed at a location other than the site, but only for that portion of time required for the Work, and limited to the personnel and activities listed below:

*(Identify the personnel, type of activity and, if applicable, any agreed upon percentage of time to be devoted to the Work.)*

Contractor to complete

§ 7.2.3 Wages and salaries of the Construction Manager's supervisory or administrative personnel engaged at factories, workshops or while traveling, in expediting the production or transportation of materials or equipment required for the Work, but only for that portion of their time required for the Work.

§ 7.2.4 Costs paid or incurred by the Construction Manager, as required by law or collective bargaining agreements, for taxes, insurance, contributions, assessments and benefits and, for personnel not covered by collective bargaining agreements, customary benefits such as sick leave, medical and health benefits, holidays, vacations and pensions, provided such costs are based on wages and salaries included in the Cost of the Work under Sections 7.2.1 through 7.2.3.

§ 7.2.5 If agreed rates for labor costs, in lieu of actual costs, are provided in this Agreement, the rates shall remain unchanged throughout the duration of this Agreement, unless the parties execute a Modification.

## § 7.3 Subcontract Costs

Payments made by the Construction Manager to Subcontractors in accordance with the requirements of the subcontracts and this Agreement.

## § 7.4 Costs of Materials and Equipment Incorporated in the Completed Construction

§ 7.4.1 Costs, including transportation and storage at the site, of materials and equipment incorporated, or to be incorporated, in the completed construction.

§ 7.4.2 Costs of materials described in the preceding Section 7.4.1 in excess of those actually installed to allow for reasonable waste and spoilage. Unused excess materials, if any, shall become the Owner's property at the completion of the Work or, at the Owner's option, shall be sold by the Construction Manager. Any amounts realized from such sales shall be credited to the Owner as a deduction from the Cost of the Work.

## § 7.5 Costs of Other Materials and Equipment, Temporary Facilities and Related Items

§ 7.5.1 Costs of transportation, storage, installation, dismantling, maintenance, and removal of materials, supplies, temporary facilities, machinery, equipment and hand tools not customarily owned by construction workers that are provided by the Construction Manager at the site and fully consumed in the performance of the Work. Costs of materials, supplies, temporary facilities, machinery, equipment, and tools, that are not fully consumed, shall be based on the cost or value of the item at the time it is first used on the Project site less the value of the item when it is no longer used at the Project site. Costs for items not fully consumed by the Construction Manager shall mean fair market value.

§ 7.5.2 Rental charges for temporary facilities, machinery, equipment, and hand tools not customarily owned by construction workers that are provided by the Construction Manager at the site, and the costs of transportation, installation, dismantling, minor repairs, and removal of such temporary facilities, machinery, equipment, and hand tools. Rates and quantities of equipment owned by the Construction Manager, or a related party as defined in

Section 7.8, shall be subject to the Owner's prior approval. The total rental cost of any such equipment may not exceed the purchase price of any comparable item.

**§ 7.5.3** Costs of removal of debris from the site of the Work and its proper and legal disposal.

**§ 7.5.4** Costs of the Construction Manager's site office, including general office equipment and supplies.

**§ 7.5.5** Costs of materials and equipment suitably stored off the site at a mutually acceptable location, subject to the Owner's prior approval.

**§ 7.6 Miscellaneous Costs**

**§ 7.6.1** Premiums for that portion of insurance and bonds required by the Contract Documents that can be directly attributed to this Contract.

**§ 7.6.1.1** Costs for self-insurance, for either full or partial amounts of the coverages required by the Contract Documents, with the Owner's prior approval.

**§ 7.6.1.2** Costs for insurance through a captive insurer owned or controlled by the Construction Manager, with the Owner's prior approval.

**§ 7.6.2** Sales, use, or similar taxes, imposed by a governmental authority, that are related to the Work and for which the Construction Manager is liable.

**§ 7.6.3** Fees and assessments for the building permit, and for other permits, licenses, and inspections, for which the Construction Manager is required by the Contract Documents to pay.

**§ 7.6.4** Fees of laboratories for tests required by the Contract Documents; except those related to defective or nonconforming Work for which reimbursement is excluded under Article 13 of AIA Document A201-2017 or by other provisions of the Contract Documents, and which do not fall within the scope of Section 7.7.3.

**§ 7.6.5** Royalties and license fees paid for the use of a particular design, process, or product, required by the Contract Documents.

**§ 7.6.5.1** The cost of defending suits or claims for infringement of patent rights arising from requirements of the Contract Documents, payments made in accordance with legal judgments against the Construction Manager resulting from such suits or claims, and payments of settlements made with the Owner's consent, unless the Construction Manager had reason to believe that the required design, process, or product was an infringement of a copyright or a patent, and the Construction Manager failed to promptly furnish such information to the Architect as required by Article 3 of AIA Document A201-2017. The costs of legal defenses, judgments, and settlements shall not be included in the Cost of the Work used to calculate the Construction Manager's Fee or subject to the Guaranteed Maximum Price.

**§ 7.6.6** Costs for communications services, electronic equipment, and software, directly related to the Work and located at the site, with the Owner's prior approval.

**§ 7.6.7** Costs of document reproductions and delivery charges.

**§ 7.6.8** Deposits lost for causes other than the Construction Manager's negligence or failure to fulfill a specific responsibility in the Contract Documents.

**§ 7.6.9** Legal, mediation and arbitration costs, including attorneys' fees, other than those arising from disputes between the Owner and Construction Manager, reasonably incurred by the Construction Manager after the execution of this Agreement in the performance of the Work and with the Owner's prior approval, which shall not be unreasonably withheld.

**§ 7.6.10** Expenses incurred in accordance with the Construction Manager's standard written personnel policy for relocation and temporary living allowances of the Construction Manager's personnel required for the Work, with the Owner's prior approval.

**§ 7.6.11** That portion of the reasonable expenses of the Construction Manager's supervisory or administrative personnel incurred while traveling in discharge of duties connected with the Work.

**§ 7.7 Other Costs and Emergencies**

**§ 7.7.1** Other costs incurred in the performance of the Work, with the Owner's prior approval.

**§ 7.7.2** Costs incurred in taking action to prevent threatened damage, injury, or loss, in case of an emergency affecting the safety of persons and property, as provided in Article 10 of AIA Document A201-2017.

**§ 7.7.3** Costs of repairing or correcting damaged or nonconforming Work executed by the Construction Manager, Subcontractors, or suppliers, provided that such damaged or nonconforming Work was not caused by the negligence of, or failure to fulfill a specific responsibility by, the Construction Manager, and only to the extent that the cost of repair or correction is not recovered by the Construction Manager from insurance, sureties, Subcontractors, suppliers, or others.

**§ 7.7.4** The costs described in Sections 7.1 through 7.7 shall be included in the Cost of the Work, notwithstanding any provision of AIA Document A201-2017 or other Conditions of the Contract which may require the Construction Manager to pay such costs, unless such costs are excluded by the provisions of Section 7.9.

**§ 7.8 Related Party Transactions**

**§ 7.8.1** For purposes of this Section 7.8, the term "related party" shall mean (1) a parent, subsidiary, affiliate, or other entity having common ownership of, or sharing common management with, the Construction Manager; (2) any entity in which any stockholder in, or management employee of, the Construction Manager holds an equity interest in excess of ten percent in the aggregate; (3) any entity which has the right to control the business or affairs of the Construction Manager; or (4) any person, or any member of the immediate family of any person, who has the right to control the business or affairs of the Construction Manager.

**§ 7.8.2** If any of the costs to be reimbursed arise from a transaction between the Construction Manager and a related party, the Construction Manager shall notify the Owner of the specific nature of the contemplated transaction, including the identity of the related party and the anticipated cost to be incurred, before any such transaction is consummated or cost incurred. If the Owner, after such notification, authorizes the proposed transaction in writing, then the cost incurred shall be included as a cost to be reimbursed, and the Construction Manager shall procure the Work, equipment, goods, or service, from the related party, as a Subcontractor, according to the terms of Article 9. If the Owner fails to authorize the transaction in writing, the Construction Manager shall procure the Work, equipment, goods, or service from some person or entity other than a related party according to the terms of Article 9.

**§ 7.9 Costs Not To Be Reimbursed**

**§ 7.9.1** The Cost of the Work shall not include the items listed below:

- .1 Salaries and other compensation of the Construction Manager's personnel stationed at the Construction Manager's principal office or offices other than the site office, except as specifically provided in Section 7.2, or as may be provided in Article 14;
- .2 Bonuses, profit sharing, incentive compensation, and any other discretionary payments, paid to anyone hired by the Construction Manager or paid to any Subcontractor or vendor, unless the Owner has provided prior approval;
- .3 Expenses of the Construction Manager's principal office and offices other than the site office;
- .4 Overhead and general expenses, except as may be expressly included in Sections 7.1 to 7.7;
- .5 The Construction Manager's capital expenses, including interest on the Construction Manager's capital employed for the Work;
- .6 Except as provided in Section 7.7.3 of this Agreement, costs due to the negligence of, or failure to fulfill a specific responsibility of the Contract by, the Construction Manager, Subcontractors, and suppliers, or anyone directly or indirectly employed by any of them or for whose acts any of them may be liable;

- .7 Any cost not specifically and expressly described in Sections 7.1 to 7.7;
- .8 Costs, other than costs included in Change Orders approved by the Owner, that would cause the Guaranteed Maximum Price to be exceeded; and
- .9 Costs for services incurred during the Preconstruction Phase.

#### **ARTICLE 8 DISCOUNTS, REBATES, AND REFUNDS**

§ 8.1 Cash discounts obtained on payments made by the Construction Manager shall accrue to the Owner if (1) before making the payment, the Construction Manager included the amount to be paid, less such discount, in an Application for Payment and received payment from the Owner, or (2) the Owner has deposited funds with the Construction Manager with which to make payments; otherwise, cash discounts shall accrue to the Construction Manager. Trade discounts, rebates, refunds, and amounts received from sales of surplus materials and equipment shall accrue to the Owner, and the Construction Manager shall make provisions so that they can be obtained.

§ 8.2 Amounts that accrue to the Owner in accordance with the provisions of Section 8.1 shall be credited to the Owner as a deduction from the Cost of the Work.

#### **ARTICLE 9 SUBCONTRACTS AND OTHER AGREEMENTS**

§ 9.1 Those portions of the Work that the Construction Manager does not customarily perform with the Construction Manager's own personnel shall be performed under subcontracts or other appropriate agreements with the Construction Manager. The Owner may designate specific persons from whom, or entities from which, the Construction Manager shall obtain bids. The Construction Manager shall obtain bids from Subcontractors, and from suppliers of materials or equipment fabricated especially for the Work, who are qualified to perform that portion of the Work in accordance with the requirements of the Contract Documents. The Construction Manager shall deliver such bids to the Architect and Owner with an indication as to which bids the Construction Manager intends to accept. The Owner then has the right to review the Construction Manager's list of proposed subcontractors and suppliers in consultation with the Architect and, subject to Section 9.1.1, to object to any subcontractor or supplier. Any advice of the Architect, or approval or objection by the Owner, shall not relieve the Construction Manager of its responsibility to perform the Work in accordance with the Contract Documents. The Construction Manager shall not be required to contract with anyone to whom the Construction Manager has reasonable objection.

§ 9.1.1 When a specific subcontractor or supplier (1) is recommended to the Owner by the Construction Manager; (2) is qualified to perform that portion of the Work; and (3) has submitted a bid that conforms to the requirements of the Contract Documents without reservations or exceptions, but the Owner requires that another bid be accepted, then the Construction Manager may require that a Change Order be issued to adjust the Guaranteed Maximum Price by the difference between the bid of the person or entity recommended to the Owner by the Construction Manager and the amount of the subcontract or other agreement actually signed with the person or entity designated by the Owner.

§ 9.2 Subcontracts or other agreements shall conform to the applicable payment provisions of this Agreement, and shall not be awarded on the basis of cost plus a fee without the Owner's prior written approval. If a subcontract is awarded on the basis of cost plus a fee, the Construction Manager shall provide in the subcontract for the Owner to receive the same audit rights with regard to the Subcontractor as the Owner receives with regard to the Construction Manager in Article 10.

#### **ARTICLE 10 ACCOUNTING RECORDS**

The Construction Manager shall keep full and detailed records and accounts related to the Cost of the Work, and exercise such controls, as may be necessary for proper financial management under this Contract and to substantiate all costs incurred. The accounting and control systems shall be satisfactory to the Owner. The Owner and the Owner's auditors shall, during regular business hours and upon reasonable notice, be afforded access to, and shall be permitted to audit and copy, the Construction Manager's records and accounts, including complete documentation supporting accounting entries, books, job cost reports, correspondence, instructions, drawings, receipts, subcontracts, Subcontractor's proposals, Subcontractor's invoices, purchase orders, vouchers, memoranda, and other data relating to this Contract. The Construction Manager shall preserve these records for a period of three years after final payment, or for such longer period as may be required by law.

## ARTICLE 11 PAYMENTS FOR CONSTRUCTION PHASE SERVICES

### § 11.1 Progress Payments

§ 11.1.1 Based upon Applications for Payment submitted to the Architect by the Construction Manager, and Certificates for Payment issued by the Architect, the Owner shall make progress payments on account of the Contract Sum, to the Construction Manager, as provided below and elsewhere in the Contract Documents.

§ 11.1.2 The period covered by each Application for Payment shall be one calendar month ending on the last day of the month, or as follows:

§ 11.1.3 Provided that an Application for Payment is received by the Architect not later than the 25th day of a month, the Owner shall make payment of the amount certified to the Construction Manager not later than the 30th of the following month. If an Application for Payment is received by the Architect after the application date fixed above, payment of the amount certified shall be made by the Owner not later than thirty (30) days after the Architect receives the Application for Payment.

*(Federal, state or local laws may require payment within a certain period of time.)*

§ 11.1.4 With each Application for Payment, the Construction Manager shall submit payrolls, petty cash accounts, receipted invoices or invoices with check vouchers attached, and any other evidence required by the Owner or Architect to demonstrate that payments already made by the Construction Manager on account of the Cost of the Work equal or exceed progress payments already received by the Construction Manager, plus payrolls for the period covered by the present Application for Payment, less that portion of the progress payments attributable to the Construction Manager's Fee.

§ 11.1.5 Each Application for Payment shall be based on the most recent schedule of values submitted by the Construction Manager in accordance with the Contract Documents. The schedule of values shall allocate the entire Guaranteed Maximum Price among: (1) the various portions of the Work; (2) any contingency for costs that are included in the Guaranteed Maximum Price but not otherwise allocated to another line item or included in a Change Order; and (3) the Construction Manager's Fee.

§ 11.1.5.1 The schedule of values shall be prepared in such form and supported by such data to substantiate its accuracy as the Architect may require. The schedule of values shall be used as a basis for reviewing the Construction Manager's Applications for Payment.

§ 11.1.5.2 The allocation of the Guaranteed Maximum Price under this Section 11.1.5 shall not constitute a separate guaranteed maximum price for the Cost of the Work of each individual line item in the schedule of values.

§ 11.1.5.3 When the Construction Manager allocates costs from a contingency to another line item in the schedule of values, the Construction Manager shall submit supporting documentation to the Architect.

§ 11.1.6 Applications for Payment shall show the percentage of completion of each portion of the Work as of the end of the period covered by the Application for Payment. The percentage of completion shall be the lesser of (1) the percentage of that portion of the Work which has actually been completed, or (2) the percentage obtained by dividing (a) the expense that has actually been incurred by the Construction Manager on account of that portion of the Work and for which the Construction Manager has made payment or intends to make payment prior to the next Application for Payment, by (b) the share of the Guaranteed Maximum Price allocated to that portion of the Work in the schedule of values.

§ 11.1.7 In accordance with AIA Document A201-2017 and subject to other provisions of the Contract Documents, the amount of each progress payment shall be computed as follows:

§ 11.1.7.1 The amount of each progress payment shall first include:

- .1 That portion of the Guaranteed Maximum Price properly allocable to completed Work as determined by multiplying the percentage of completion of each portion of the Work by the share of the Guaranteed Maximum Price allocated to that portion of the Work in the most recent schedule of values;

- .2 That portion of the Guaranteed Maximum Price properly allocable to materials and equipment delivered and suitably stored at the site for subsequent incorporation in the completed construction or, if approved in writing in advance by the Owner, suitably stored off the site at a location agreed upon in writing;
- .3 That portion of Construction Change Directives that the Architect determines, in the Architect's professional judgment, to be reasonably justified; and
- .4 The Construction Manager's Fee, computed upon the Cost of the Work described in the preceding Sections 11.1.7.1.1 and 11.1.7.1.2 at the rate stated in Section 6.1.2 or, if the Construction Manager's Fee is stated as a fixed sum in that Section, an amount that bears the same ratio to that fixed-sum fee as the Cost of the Work included in Sections 11.1.7.1.1 and 11.1.7.1.2 bears to a reasonable estimate of the probable Cost of the Work upon its completion.

§ 11.1.7.2 The amount of each progress payment shall then be reduced by:

- .1 The aggregate of any amounts previously paid by the Owner;
- .2 The amount, if any, for Work that remains uncorrected and for which the Architect has previously withheld a Certificate for Payment as provided in Article 9 of AIA Document A201-2017;
- .3 Any amount for which the Construction Manager does not intend to pay a Subcontractor or material supplier, unless the Work has been performed by others the Construction Manager intends to pay;
- .4 For Work performed or defects discovered since the last payment application, any amount for which the Architect may withhold payment, or nullify a Certificate of Payment in whole or in part, as provided in Article 9 of AIA Document A201-2017;
- .5 The shortfall, if any, indicated by the Construction Manager in the documentation required by Section 11.1.4 to substantiate prior Applications for Payment, or resulting from errors subsequently discovered by the Owner's auditors in such documentation; and
- .6 Retainage withheld pursuant to Section 11.1.8.

**§ 11.1.8 Retainage**

§ 11.1.8.1 For each progress payment made prior to Substantial Completion of the Work, the Owner may withhold the following amount, as retainage, from the payment otherwise due:

*(Insert a percentage or amount to be withheld as retainage from each Application for Payment. The amount of retainage may be limited by governing law.)*

10%

§ 11.1.8.1.1 The following items are not subject to retainage:

*(Insert any items not subject to the withholding of retainage, such as general conditions, insurance, etc.)*

N/A

§ 11.1.8.2 Reduction or limitation of retainage, if any, shall be as follows:

*(If the retainage established in Section 11.1.8.1 is to be modified prior to Substantial Completion of the entire Work, insert provisions for such modification.)*

50% of retainage at 75% completion of the project

§ 11.1.8.3 Except as set forth in this Section 11.1.8.3, upon Substantial Completion of the Work, the Construction Manager may submit an Application for Payment that includes the retainage withheld from prior Applications for Payment pursuant to this Section 11.1.8. The Application for Payment submitted at Substantial Completion shall not include retainage as follows:

*(Insert any other conditions for release of retainage, such as upon completion of the Owner's audit and reconciliation, upon Substantial Completion.)*

§ 11.1.9 If final completion of the Work is materially delayed through no fault of the Construction Manager, the Owner shall pay the Construction Manager any additional amounts in accordance with Article 9 of AIA Document A201-2017.

§ 11.1.10 Except with the Owner's prior written approval, the Construction Manager shall not make advance payments to suppliers for materials or equipment which have not been delivered and suitably stored at the site.

§ 11.1.11 The Owner and the Construction Manager shall agree upon a mutually acceptable procedure for review and approval of payments to Subcontractors, and the percentage of retainage held on Subcontracts, and the Construction Manager shall execute subcontracts in accordance with those agreements.

§ 11.1.12 In taking action on the Construction Manager's Applications for Payment the Architect shall be entitled to rely on the accuracy and completeness of the information furnished by the Construction Manager, and such action shall not be deemed to be a representation that (1) the Architect has made a detailed examination, audit, or arithmetic verification, of the documentation submitted in accordance with Section 11.1.4 or other supporting data; (2) that the Architect has made exhaustive or continuous on-site inspections; or (3) that the Architect has made examinations to ascertain how or for what purposes the Construction Manager has used amounts previously paid on account of the Contract. Such examinations, audits, and verifications, if required by the Owner, will be performed by the Owner's auditors acting in the sole interest of the Owner.

## § 11.2 Final Payment

§ 11.2.1 Final payment, constituting the entire unpaid balance of the Contract Sum, shall be made by the Owner to the Construction Manager when

- .1 the Construction Manager has fully performed the Contract, except for the Construction Manager's responsibility to correct Work as provided in Article 12 of AIA Document A201-2017, and to satisfy other requirements, if any, which extend beyond final payment;
- .2 the Construction Manager has submitted a final accounting for the Cost of the Work and a final Application for Payment; and
- .3 a final Certificate for Payment has been issued by the Architect in accordance with Section 11.2.2.2.

§ 11.2.2 Within 30 days of the Owner's receipt of the Construction Manager's final accounting for the Cost of the Work, the Owner shall conduct an audit of the Cost of the Work or notify the Architect that it will not conduct an audit.

§ 11.2.2.1 If the Owner conducts an audit of the Cost of the Work, the Owner shall, within 10 days after completion of the audit, submit a written report based upon the auditors' findings to the Architect.

§ 11.2.2.2 Within seven days after receipt of the written report described in Section 11.2.2.1, or receipt of notice that the Owner will not conduct an audit, and provided that the other conditions of Section 11.2.1 have been met, the Architect will either issue to the Owner a final Certificate for Payment with a copy to the Construction Manager, or notify the Construction Manager and Owner in writing of the Architect's reasons for withholding a certificate as provided in Article 9 of AIA Document A201-2017. The time periods stated in this Section 11.2.2 supersede those stated in Article 9 of AIA Document A201-2017. The Architect is not responsible for verifying the accuracy of the Construction Manager's final accounting.

§ 11.2.2.3 If the Owner's auditors' report concludes that the Cost of the Work, as substantiated by the Construction Manager's final accounting, is less than claimed by the Construction Manager, the Construction Manager shall be entitled to request mediation of the disputed amount without seeking an initial decision pursuant to Article 15 of AIA Document A201-2017. A request for mediation shall be made by the Construction Manager within 30 days after the Construction Manager's receipt of a copy of the Architect's final Certificate for Payment. Failure to request mediation within this 30-day period shall result in the substantiated amount reported by the Owner's auditors becoming binding on the Construction Manager. Pending a final resolution of the disputed amount, the Owner shall pay the Construction Manager the amount certified in the Architect's final Certificate for Payment.

§ 11.2.3 The Owner's final payment to the Construction Manager shall be made no later than 30 days after the issuance of the Architect's final Certificate for Payment, or as follows:

30 days after Final Completion



§ 11.2.4 If, subsequent to final payment, and at the Owner's request, the Construction Manager incurs costs, described in Sections 7.1 through 7.7, and not excluded by Section 7.9, to correct defective or nonconforming Work, the Owner shall reimburse the Construction Manager for such costs, and the Construction Manager's Fee applicable thereto, on the same basis as if such costs had been incurred prior to final payment, but not in excess of the Guaranteed Maximum Price. If adjustments to the Contract Sum are provided for in Section 6.1.7, the amount of those adjustments shall be recalculated, taking into account any reimbursements made pursuant to this Section 11.2.4 in determining the net amount to be paid by the Owner to the Construction Manager.

**§ 11.3 Interest**

Payments due and unpaid under the Contract shall bear interest from the date payment is due at the rate stated below, or in the absence thereof, at the legal rate prevailing from time to time at the place where the Project is located.

*(Insert rate of interest agreed upon, if any.)*

2 % Two

**ARTICLE 12 DISPUTE RESOLUTION**

**§ 12.1 Initial Decision Maker**

§ 12.1.1 Any Claim between the Owner and Construction Manager shall be resolved in accordance with the provisions set forth in this Article 12 and Article 15 of A201-2017. However, for Claims arising from or relating to the Construction Manager's Preconstruction Phase services, no decision by the Initial Decision Maker shall be required as a condition precedent to mediation or binding dispute resolution, and Section 12.1.2 of this Agreement shall not apply.

§ 12.1.2 The Architect will serve as the Initial Decision Maker pursuant to Article 15 of AIA Document A201-2017 for Claims arising from or relating to the Construction Manager's Construction Phase services, unless the parties appoint below another individual, not a party to the Agreement, to serve as the Initial Decision Maker.

*(If the parties mutually agree, insert the name, address and other contact information of the Initial Decision Maker, if other than the Architect.)*

**§ 12.2 Binding Dispute Resolution**

For any Claim subject to, but not resolved by mediation pursuant to Article 15 of AIA Document A201-2017, the method of binding dispute resolution shall be as follows:

*(Check the appropriate box.)*

Arbitration pursuant to Article 15 of AIA Document A201-2017

Litigation in a court of competent jurisdiction

Other: *(Specify)*

Prior to filing suit the parties must participate in pre-suit mediation with the cost of the mediator to be shared by the parties.

If the Owner and Construction Manager do not select a method of binding dispute resolution, or do not subsequently agree in writing to a binding dispute resolution method other than litigation, Claims will be resolved by litigation in a court of competent jurisdiction.

**ARTICLE 13 TERMINATION OR SUSPENSION**

**§ 13.1 Termination Prior to Execution of the Guaranteed Maximum Price Amendment**

§ 13.1.1 If the Owner and the Construction Manager do not reach an agreement on the Guaranteed Maximum Price, the Owner may terminate this Agreement upon not less than seven days' written notice to the Construction Manager,

and the Construction Manager may terminate this Agreement, upon not less than seven days' written notice to the Owner.

**§ 13.1.2** In the event of termination of this Agreement pursuant to Section 13.1.1, the Construction Manager shall be compensated for Preconstruction Phase services and Work performed prior to receipt of a notice of termination, in accordance with the terms of this Agreement. In no event shall the Construction Manager's compensation under this Section exceed the compensation set forth in Section 5.1.

**§ 13.1.3** Prior to the execution of the Guaranteed Maximum Price Amendment, the Owner may terminate this Agreement upon not less than seven days' written notice to the Construction Manager for the Owner's convenience and without cause, and the Construction Manager may terminate this Agreement, upon not less than seven days' written notice to the Owner, for the reasons set forth in Article 14 of A201–2017.

**§ 13.1.4** In the event of termination of this Agreement pursuant to Section 13.1.3, the Construction Manager shall be equitably compensated for Preconstruction Phase services and Work performed prior to receipt of a notice of termination. In no event shall the Construction Manager's compensation under this Section exceed the compensation set forth in Section 5.1.

**§ 13.1.5** If the Owner terminates the Contract pursuant to Section 13.1.3 after the commencement of the Construction Phase but prior to the execution of the Guaranteed Maximum Price Amendment, the Owner shall pay to the Construction Manager an amount calculated as follows, which amount shall be in addition to any compensation paid to the Construction Manager under Section 13.1.4:

- .1 Take the Cost of the Work incurred by the Construction Manager to the date of termination;
- .2 Add the Construction Manager's Fee computed upon the Cost of the Work to the date of termination at the rate stated in Section 6.1 or, if the Construction Manager's Fee is stated as a fixed sum in that Section, an amount that bears the same ratio to that fixed-sum Fee as the Cost of the Work at the time of termination bears to a reasonable estimate of the probable Cost of the Work upon its completion; and
- .3 Subtract the aggregate of previous payments made by the Owner for Construction Phase services.

**§ 13.1.6** The Owner shall also pay the Construction Manager fair compensation, either by purchase or rental at the election of the Owner, for any equipment owned by the Construction Manager that the Owner elects to retain and that is not otherwise included in the Cost of the Work under Section 13.1.5.1. To the extent that the Owner elects to take legal assignment of subcontracts and purchase orders (including rental agreements), the Construction Manager shall, as a condition of receiving the payments referred to in this Article 13, execute and deliver all such papers and take all such steps, including the legal assignment of such subcontracts and other contractual rights of the Construction Manager, as the Owner may require for the purpose of fully vesting in the Owner the rights and benefits of the Construction Manager under such subcontracts or purchase orders. All Subcontracts, purchase orders and rental agreements entered into by the Construction Manager will contain provisions allowing for assignment to the Owner as described above.

**§ 13.1.6.1** If the Owner accepts assignment of subcontracts, purchase orders or rental agreements as described above, the Owner will reimburse or indemnify the Construction Manager for all costs arising under the subcontract, purchase order or rental agreement, if those costs would have been reimbursable as Cost of the Work if the contract had not been terminated. If the Owner chooses not to accept assignment of any subcontract, purchase order or rental agreement that would have constituted a Cost of the Work had this agreement not been terminated, the Construction Manager will terminate the subcontract, purchase order or rental agreement and the Owner will pay the Construction Manager the costs necessarily incurred by the Construction Manager because of such termination.

## **§ 13.2 Termination or Suspension Following Execution of the Guaranteed Maximum Price Amendment**

### **§ 13.2.1 Termination**

The Contract may be terminated by the Owner or the Construction Manager as provided in Article 14 of AIA Document A201–2017.

**§ 13.2.2 Termination by the Owner for Cause**

**§ 13.2.2.1** If the Owner terminates the Contract for cause as provided in Article 14 of AIA Document A201–2017, the amount, if any, to be paid to the Construction Manager under Article 14 of AIA Document A201–2017 shall not cause the Guaranteed Maximum Price to be exceeded, nor shall it exceed an amount calculated as follows:

- .1 Take the Cost of the Work incurred by the Construction Manager to the date of termination;
- .2 Add the Construction Manager’s Fee, computed upon the Cost of the Work to the date of termination at the rate stated in Section 6.1 or, if the Construction Manager’ Fee is stated as a fixed sum in that Section, an amount that bears the same ratio to that fixed-sum Fee as the Cost of the Work at the time of termination bears to a reasonable estimate of the probable Cost of the Work upon its completion;
- .3 Subtract the aggregate of previous payments made by the Owner; and
- .4 Subtract the costs and damages incurred, or to be incurred, by the Owner under Article 14 of AIA Document A201–2017.

**§ 13.2.2.2** The Owner shall also pay the Construction Manager fair compensation, either by purchase or rental at the election of the Owner, for any equipment owned by the Construction Manager that the Owner elects to retain and that is not otherwise included in the Cost of the Work under Section 13.2.2.1.1. To the extent that the Owner elects to take legal assignment of subcontracts and purchase orders (including rental agreements), the Construction Manager shall, as a condition of receiving the payments referred to in this Article 13, execute and deliver all such papers and take all such steps, including the legal assignment of such subcontracts and other contractual rights of the Construction Manager, as the Owner may require for the purpose of fully vesting in the Owner the rights and benefits of the Construction Manager under such subcontracts or purchase orders.

**§ 13.2.3 Termination by the Owner for Convenience**

If the Owner terminates the Contract for convenience in accordance with Article 14 of AIA Document A201–2017, then the Owner shall pay the Construction Manager a termination fee as follows:

*(Insert the amount of or method for determining the fee, if any, payable to the Construction Manager following a termination for the Owner’s convenience.)*

N/A

**§ 13.3 Suspension**

The Work may be suspended by the Owner as provided in Article 14 of AIA Document A201–2017; in such case, the Guaranteed Maximum Price and Contract Time shall be increased as provided in Article 14 of AIA Document A201–2017, except that the term “profit” shall be understood to mean the Construction Manager’s Fee as described in Sections 6.1 and 6.3.5 of this Agreement.

**ARTICLE 14 MISCELLANEOUS PROVISIONS**

**§ 14.1** Terms in this Agreement shall have the same meaning as those in A201–2017. Where reference is made in this Agreement to a provision of AIA Document A201–2017 or another Contract Document, the reference refers to that provision as amended or supplemented by other provisions of the Contract Documents.

**§ 14.2 Successors and Assigns**

**§ 14.2.1** The Owner and Construction Manager, respectively, bind themselves, their partners, successors, assigns and legal representatives to covenants, agreements, and obligations contained in the Contract Documents. Except as provided in Section 14.2.2 of this Agreement, and in Section 13.2.2 of A201–2017, neither party to the Contract shall assign the Contract as a whole without written consent of the other. If either party attempts to make an assignment without such consent, that party shall nevertheless remain legally responsible for all obligations under the Contract.

**§ 14.2.2** The Owner may, without consent of the Construction Manager, assign the Contract to a lender providing construction financing for the Project, if the lender assumes the Owner’s rights and obligations under the Contract Documents. The Construction Manager shall execute all consents reasonably required to facilitate the assignment.

**§ 14.3 Insurance and Bonds**

**§ 14.3.1 Preconstruction Phase**

The Construction Manager shall maintain the following insurance for the duration of the Preconstruction Services performed under this Agreement. If any of the requirements set forth below exceed the types and limits the

Construction Manager normally maintains, the Owner shall reimburse the Construction Manager for any additional cost.

§ 14.3.1.1 Commercial General Liability (See Attachment 'A').

§ 14.3.1.2 Automobile Liability covering vehicles owned, and non-owned vehicles used, by the Construction Manager(See Attachment 'A').

§ 14.3.1.3 The Construction Manager may achieve the required limits and coverage for Commercial General Liability and Automobile Liability through a combination of primary and excess or umbrella liability insurance, provided that such primary and excess or umbrella liability insurance policies result in the same or greater coverage as the coverages required under Sections 14.3.1.1 and 14.3.1.2, and in no event shall any excess or umbrella liability insurance provide narrower coverage than the primary policy. The excess policy shall not require the exhaustion of the underlying limits only through the actual payment by the underlying insurers.

§ 14.3.1.4 Workers' Compensation at statutory limits and Employers Liability with policy(See Attachment 'A').

§ 14.3.1.5 Professional Liability covering negligent acts, errors and omissions in the performance of professional services(See Attachment 'A').

**§ 14.3.1.6 Other Insurance**

*(List below any other insurance coverage to be provided by the Construction Manager and any applicable limits.)*

Coverage (See Attachment 'A')	Limits
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§ 14.3.1.7 Additional Insured Obligations. To the fullest extent permitted by law, the Construction Manager shall cause the primary and excess or umbrella policies for Commercial General Liability and Automobile Liability to include the Owner as an additional insured for claims caused in whole or in part by the Construction Manager's negligent acts or omissions. The additional insured coverage shall be primary and non-contributory to any of the Owner's insurance policies and shall apply to both ongoing and completed operations.

§ 14.3.1.8 The Construction Manager shall provide certificates of insurance to the Owner that evidence compliance with the requirements in this Section 14.3.1.

**§ 14.3.2 Construction Phase**

After execution of the Guaranteed Maximum Price Amendment, the Owner and the Construction Manager shall purchase and maintain insurance as set forth in AIA Document A133™-2019, Standard Form of Agreement Between Owner and Construction Manager as Constructor where the basis of payment is the Cost of the Work Plus a Fee with a Guaranteed Maximum Price, Exhibit B, Insurance and Bonds, and elsewhere in the Contract Documents.

§ 14.3.2.1 The Construction Manager shall provide bonds as set forth in AIA Document A133™-2019 Exhibit B, and elsewhere in the Contract Documents.

*(Paragraphs Deleted)*

**§ 14.5 Other provisions:**

N/A

**ARTICLE 15 SCOPE OF THE AGREEMENT**

§ 15.1 This Agreement represents the entire and integrated agreement between the Owner and the Construction Manager and supersedes all prior negotiations, representations or agreements, either written or oral. This Agreement may be amended only by written instrument signed by both Owner and Construction Manager.

§ 15.2 The following documents comprise the Agreement:

- .1 AIA Document A133™-2019, Standard Form of Agreement Between Owner and Construction Manager as Constructor where the basis of payment is the Cost of the Work Plus a Fee with a Guaranteed Maximum Price
- .2 AIA Document A133™-2019, Exhibit A, Guaranteed Maximum Price Amendment, if executed
- .3 AIA Document A133™-2019, Exhibit B, Insurance and Bonds
- .4 AIA Document A201™-2017, General Conditions of the Contract for Construction
- .5 AIA Document E203™-2013, Building Information Modeling and Digital Data Exhibit, dated as indicated below:  
(Insert the date of the E203-2013 incorporated into this Agreement.)

April 19, 2023

- .6 Other Exhibits:  
(Check all boxes that apply.)

[ N/A ] AIA Document E234™-2019, Sustainable Projects Exhibit, Construction Manager as Constructor Edition, dated as indicated below:  
(Insert the date of the E234-2019 incorporated into this Agreement.)

[ TOWN OF MONTVERDE CAN CANCEL THIS AGREEMENT AT THE END OF PRE CONSTRUCTION PHASE FOR ANY REASON WITHOUT PENALTY. ] Supplementary and other Conditions of the Contract:

Document	Title	Date	Pages
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- .7 Other documents, if any, listed below:  
(List here any additional documents that are intended to form part of the Contract Documents. AIA Document A201-2017 provides that the advertisement or invitation to bid, Instructions to Bidders, sample forms, the Construction Manager's bid or proposal, portions of Addenda relating to bidding or proposal requirements, and other information furnished by the Owner in anticipation of receiving bids or proposals, are not part of the Contract Documents unless enumerated in this Agreement. Any such documents should be listed here only if intended to be part of the Contract Documents.)

This Agreement is entered into as of the day and year first written above.

\_\_\_\_\_  
OWNER (Signature)

Paul Larino, Town Manager  
\_\_\_\_\_  
(Printed name and title)

\_\_\_\_\_  
CONSTRUCTION MANAGER (Signature)

John Kalaf Vice President of Operations  
\_\_\_\_\_  
(Printed name and title)



# ATTACHMENT 'A' CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)  
4/12/2023

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

**IMPORTANT:** If the certificate holder is an **ADDITIONAL INSURED**, the policy(ies) must have **ADDITIONAL INSURED** provisions or be endorsed. If **SUBROGATION IS WAIVED**, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

**PRODUCER**  
Wallace Welch & Willingham, Inc.  
300 1st Ave. So., 5th Floor  
Saint Petersburg FL 33701

**CONTACT NAME:** Certificates/Commercial Lines  
**PHONE (A/C No. Ext):** 727-522-7777 **FAX (A/C No):** 727-521-2902  
**E-MAIL ADDRESS:** certificates@w3ins.com

**INSURED**  
The A. D. Morgan Corporation  
716 N Renellie Dr  
Tampa FL 33609

ADMORGA-01

INSURER(S) AFFORDING COVERAGE		NAIC #
INSURER A :	Amerisure Ins. Co.	19488
INSURER B :	Amerisure Mutual Ins. Co.	23396
INSURER C :	Illinois Union Ins. Co.	27960
INSURER D :		
INSURER E :		
INSURER F :		

**COVERAGES**

CERTIFICATE NUMBER: 1019857525

REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE		ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
B	<input checked="" type="checkbox"/>	COMMERCIAL GENERAL LIABILITY			CPP20826111002	5/20/2022	7/1/2023	EACH OCCURRENCE	\$ 1,000,000
	<input type="checkbox"/>	CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR						DAMAGE TO RENTED PREMISES (Ea occurrence)	\$ 1,000,000
	<input checked="" type="checkbox"/>	Contractual liab						MED EXP (Any one person)	\$ 10,000
	GEN'L AGGREGATE LIMIT APPLIES PER:							PERSONAL & ADV INJURY	\$ 1,000,000
	<input type="checkbox"/>	POLICY <input checked="" type="checkbox"/> PROJECT <input type="checkbox"/> LOC						GENERAL AGGREGATE	\$ 2,000,000
	OTHER:							PRODUCTS - COMP/OP AGG	\$ 2,000,000
									\$
A	<input checked="" type="checkbox"/>	AUTOMOBILE LIABILITY			CA20826101005	5/20/2022	7/1/2023	COMBINED SINGLE LIMIT (Ea accident)	\$ 1,000,000
	<input checked="" type="checkbox"/>	ANY AUTO OWNED AUTOS ONLY HIRED AUTOS ONLY	<input type="checkbox"/>	<input checked="" type="checkbox"/>				BODILY INJURY (Per person)	\$
	<input checked="" type="checkbox"/>	SCHEDULED AUTOS NON-OWNED AUTOS ONLY						BODILY INJURY (Per accident)	\$
								PROPERTY DAMAGE (Per accident)	\$
								PIP	\$ 10,000
B	<input checked="" type="checkbox"/>	UMBRELLA LIAB			CU21120780302	5/20/2022	7/1/2023	EACH OCCURRENCE	\$ 5,000,000
	<input checked="" type="checkbox"/>	EXCESS LIAB						AGGREGATE	\$ 5,000,000
		DED <input checked="" type="checkbox"/> RETENTION \$ 0							\$
A		WORKERS COMPENSATION AND EMPLOYERS' LIABILITY			WC20826121001	6/26/2022	6/26/2023	PER STATUTE	OTHER
		ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH)	<input type="checkbox"/>	N/A				E.L. EACH ACCIDENT	\$ 1,000,000
		If yes, describe under DESCRIPTION OF OPERATIONS below						E.L. DISEASE - EA EMPLOYEE	\$ 1,000,000
								E.L. DISEASE - POLICY LIMIT	\$ 1,000,000
C		Professional Liability incl E&O			G27059910010	7/1/2022	7/1/2023	Limit of Liability	1,000,000
								Deductible	25,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

Project : New Public Library Project

Automatic additional insured and waiver of subrogation applies if required by written contract, subject to terms, conditions and exclusions of the policies, per attached endorsement forms.

**CERTIFICATE HOLDER****CANCELLATION**

Towne of Montverde  
1705 6th St  
Montverde, FL 34756

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

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**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

## **FLORIDA ADVANTAGE COMMERCIAL AUTOMOBILE BROAD FORM ENDORSEMENT**

This endorsement modifies insurance provided under the

### **BUSINESS AUTO COVERAGE FORM**

With respect to coverage provided by this endorsement, the provisions of the Coverage Form apply unless modified by the endorsement.

The premium for this endorsement is \$ \$350.00

#### **1. EXTENDED CANCELLATION CONDITION**

**COMMON POLICY CONDITIONS - CANCELLATION**, Paragraph A.2. is replaced by the following:

2. We may cancel this policy by mailing or delivering to the first Named Insured written notice of cancellation at least:
  - a. 10 days before the effective date of cancellation if we cancel for nonpayment of premium; or
  - b. 60 days before the effective date of cancellation if we cancel for any other reason.

#### **2. BROAD FORM INSURED**

**SECTION II - LIABILITY COVERAGE A.1. WHO IS AN INSURED** is amended by the addition of the following:

- d. Any organization you newly acquire or form, other than a partnership, joint venture or limited liability company, and over which you maintain ownership or a majority interest, will qualify as a Named Insured. However,
  - (1) Coverage under this provision is afforded only until the end of the policy period;
  - (2) Coverage does not apply to "accidents" or "loss" that occurred before you acquired or formed the organization; and
  - (3) Coverage does not apply to an organization that is an "insured" under any other policy or would be an "insured" but for its termination or the exhausting of its limit of insurance.
- e. Any "employee" of yours using:
  - (1) A covered "auto" you do not own, hire or borrow, or a covered "auto" not owned by the "employee" or a member of his or her household, while performing duties related to the conduct of your business or your personal affairs; or
  - (2) An "auto" hired or rented under a contract or agreement in that "employee's" name, with your permission, while performing duties related to the conduct of your business. However, your "employee" does not qualify as an insured under this paragraph (2) while using a covered "auto" rented from you or from any member of the "employee's" household.
- f. Your members, if you are a limited liability company, while using a covered "auto" you do not own, hire, or borrow, while performing duties related to the conduct of your business or your personal affairs.
- g. Any person or organization with whom you agree in a written contract, written agreement or permit, to provide insurance such as is afforded under this policy, but only with respect to your covered "autos".

This provision does not apply:

- (1) Unless the written contract or agreement is executed or the permit is issued prior to the "bodily injury" or "property damage";

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- (2) To any person or organization included as an insured by an endorsement or in the Declarations; or
- (3) To any lessor of "autos" unless:
  - (a) The lease agreement requires you to provide direct primary insurance for the lessor;
  - (b) The "auto" is leased without a driver; and
  - (c) The lease had not expired.

Leased "autos" covered under this provision will be considered covered "autos" you own and not covered "autos" you hire.

- h. Any legally incorporated organization or subsidiary in which you own more than 50% of the voting stock on the effective date of this endorsement.

This provision does not apply to "bodily injury" or "property damage" for which an "insured" is also an insured under any other automobile policy or would be an insured under such a policy, but for its termination or the exhaustion of its limits of insurance, unless such policy was written to apply specifically in excess of this policy.

### 3. COVERAGE EXTENSIONS - SUPPLEMENTARY PAYMENTS

Under SECTION II - LIABILITY COVERAGE, A.2.a. Supplementary Payments, paragraphs (2) and (4) are deleted and replaced with the following:

- (2) Up to \$2500 for the cost of bail bonds (including bonds for related traffic law violations) required because of an "accident" we cover. We do not have to furnish these bonds.
- (4) All reasonable expenses incurred by the "insured" at our request, including actual loss of earnings up to \$500 a day because of time off from work.

### 4. AMENDED FELLOW EMPLOYEE EXCLUSION

SECTION II - LIABILITY COVERAGE, B. EXCLUSIONS, paragraph 5. FELLOW EMPLOYEE is deleted and replaced by the following:

"Bodily injury" to any fellow "employee" of the "insured" arising out of and in the course of the fellow "employee's" employment or while performing duties related to the conduct of your business. However, this exclusion does not apply to your "employees" that are officers or managers if the "bodily injury" results from the use of a covered "auto" you own, hire or borrow. Coverage is excess over any other collectible insurance.

### 5. HIRED AUTO PHYSICAL DAMAGE COVERAGE AND LOSS OF USE EXPENSE

- A. Under SECTION III - PHYSICAL DAMAGE COVERAGE, A. COVERAGE, the following is added:

If any of your owned covered "autos" are covered for Physical Damage, we will provide Physical Damage coverage to "autos" that you or your "employees" hire or borrow, under your name or the "employee's" name, for the purpose of doing your work. We will provide coverage equal to the broadest physical damage coverage applicable to any covered "auto" shown in the Declarations, Item Three, Schedule of Covered Autos You Own, or on any endorsements amending this schedule.

- B. Under SECTION III - PHYSICAL DAMAGE COVERAGE, A.4. COVERAGE EXTENSIONS, paragraph b. Loss of Use Expenses is deleted and replaced with the following:

#### b. Loss Of Use Expenses

For Hired Auto Physical Damage, we will pay expenses for which an "insured" becomes legally responsible to pay for loss of use of a vehicle rented or hired without a driver, under a written rental contract or agreement. We will pay for loss of use expenses if caused by:

- (1) Other than collision, only if the Declarations indicate that Comprehensive Coverage is provided for any covered "auto";
- (2) Specified Causes of Loss, only if the Declarations indicate that Specified Causes Of Loss Coverage is provided for any covered "auto"; or

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- (3) Collision, only if the Declarations indicate that Collision Coverage is provided for any covered "auto".

However, the most we will pay for any expenses for loss of use is \$30 per day, to a maximum of \$2,000.

- C. Under **SECTION IV – BUSINESS AUTO CONDITIONS**, paragraph 5.b. **Other Insurance** is deleted and replaced by the following:

- b. For Hired Auto Physical Damage Coverage, the following are deemed to be covered "autos" you own:
1. Any covered "auto" you lease, hire, rent or borrow; and
  2. Any covered "auto" hired or rented by your "employee" under a contract in that individual "employee's" name, with your permission, while performing duties related to the conduct of your business.

However, any "auto" that is leased, hired, rented or borrowed with a driver is not a covered "auto", nor is any "auto" you hire from any of your "employees", partners (if you are a partnership), members (if you are a limited liability company), or members of their households.

## 6. LOAN OR LEASE GAP COVERAGE

Under **SECTION III - PHYSICAL DAMAGE COVERAGE, A. COVERAGE**, the following is added:

If a covered "auto" is owned or leased and if we provide Physical Damage Coverage on it, we will pay, in the event of a covered total "loss", any unpaid amount due on the lease or loan for a covered "auto", less:

- (a) The amount paid under the Physical Damage Coverage Section of the policy; and
- (b) Any:
- (1) Overdue lease or loan payments including penalties, interest or other charges resulting from overdue payments at the time of the "loss";
  - (2) Financial penalties imposed under a lease for excessive use, abnormal wear and tear or high mileage;
  - (3) Costs for extended warranties, Credit Life Insurance, Health, Accident or Disability Insurance purchased with the loan or lease;
  - (4) Security deposits not refunded by a lessor; and
  - (5) Carry-over balances from previous loans or leases.

## 7. RENTAL REIMBURSEMENT

**SECTION III - PHYSICAL DAMAGE COVERAGE, A. COVERAGE**, paragraph 4. **Coverage Extensions** is deleted and replaced by the following:

### 4. Coverage Extensions

- (a) We will pay up to \$75 per day to a maximum of \$2000 for transportation expense incurred by you because of covered "loss". We will pay only for those covered "autos" for which you carry Collision Coverage or either Comprehensive Coverage or Specified Causes of Loss Coverage. We will pay for transportation expenses incurred during the period beginning 24 hours after the covered "loss" and ending, regardless of the policy's expiration, when the covered "auto" is returned to use or we pay for its "loss". This coverage is in addition to the otherwise applicable coverage you have on a covered "auto". No deductibles apply to this coverage.
- (b) This coverage does not apply while there is a spare or reserve "auto" available to you for your operation.

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## 8. AIRBAG COVERAGE

**SECTION III - PHYSICAL DAMAGE, B. EXCLUSIONS, Paragraph 3.** is deleted and replaced by the following:

We will not pay for "loss" caused by or resulting from any of the following unless caused by other "loss" that is covered by this insurance:

- a. Wear and tear, freezing, mechanical or electrical breakdown. However, this exclusion does not include the discharge of an airbag.
- b. Blowouts, punctures or other road damage to tires.

## 9. GLASS REPAIR - WAIVER OF DEDUCTIBLE

**SECTION III - PHYSICAL DAMAGE COVERAGE, D. DEDUCTIBLE** is amended to add the following:

No deductible applies to glass damage.

## 10. COLLISION COVERAGE – WAIVER OF DEDUCTIBLE

**SECTION III - PHYSICAL DAMAGE COVERAGE, D. DEDUCTIBLE** is amended to add the following:

When there is a "loss" to your covered "auto" insured for Collision Coverage, no deductible will apply if the "loss" was caused by a collision with another "auto" insured by us.

## 11. KNOWLEDGE OF ACCIDENT

**SECTION IV - BUSINESS AUTO CONDITIONS, A. LOSS CONDITIONS, 2. DUTIES IN THE EVENT OF ACCIDENT, CLAIM, SUIT OR LOSS,** paragraph a. is deleted and replaced by the following:

- a. You must see to it that we are notified as soon as practicable of an "accident", claim, "suit" or "loss". Knowledge of an "accident", claim, "suit" or "loss" by your "employees" shall not, in itself, constitute knowledge to you unless one of your partners, executive officers, directors, managers, or members (if you are a limited liability company) has knowledge of the "accident", claim, "suit" or "loss". Notice should include:
  - (1) How, when and where the "accident" or "loss" occurred;
  - (2) The "insured's" name and address; and
  - (3) To the extent possible, the names and addresses of any injured persons and witnesses.

## 12. TRANSFER OF RIGHTS (BLANKET WAIVER OF SUBROGATION)

**SECTION IV - BUSINESS AUTO CONDITIONS A.5. TRANSFER OF RIGHTS OF RECOVERY AGAINST OTHERS TO US** is deleted and replaced by the following:

If any person or organization to or for whom we make payment under this Coverage Form has rights to recover damages from another, those rights are transferred to us. That person or organization must do everything necessary to secure our rights and must do nothing after "accident" or "loss" to impair them. However, if the insured has waived rights to recover through a written contract, or if your work was commenced under a letter of intent or work order, subject to a subsequent reduction in writing with customers whose customary contracts require a waiver, we waive any right of recovery we may have under this Coverage Form.

## 13. UNINTENTIONAL FAILURE TO DISCLOSE HAZARDS

**SECTION IV - BUSINESS AUTO CONDITIONS, B. GENERAL CONDITIONS, 2. CONCEALMENT, MISREPRESENTATION OR FRAUD** is amended by the addition of the following:

We will not deny coverage under this Coverage Form if you unintentionally fail to disclose all hazards existing as of the inception date of this policy. You must report to us any knowledge of an error or omission in your representations as soon as practicable after its discovery. This provision does not affect our right to collect additional premium or exercise our right of cancellation or non-renewal.

## 14. AUDIO, VISUAL AND DATA ELECTRONIC EQUIPMENT COVERAGE

### SCHEDULE

#### Description of Covered "Auto":

**Limit of Insurance**  
\$500

**Deductible**  
\$250

#### A. Coverage

1. We will pay, with respect to a covered "auto" described in the above Schedule, for "loss" to any electronic equipment that receives or transmits audio, visual or data signals and that is not designed solely for the reproduction of sound. This coverage applies only if the equipment is permanently installed in the covered "auto" at the time of the "loss" or the equipment is removable from a housing unit that is permanently installed in the covered "auto" at the time of "loss", and such equipment is designed to be solely operated by use of the power from the "auto's" electrical system, in or upon the covered "auto".
2. We will pay, with respect to a covered "auto" described in the above Schedule, for "loss" to any accessories used with the electronic equipment described in paragraph A.1. above. However, this does not include tapes, records or discs.

#### B. Exclusions

For purposes of this provision 14, the exclusions that apply to Physical Damage Coverage, except for the exclusion relating to Audio, Visual and Data Electronic Equipment, also apply to coverage provided by this endorsement. In addition, the following exclusions apply:

We will not pay, under this endorsement, for either any electronic equipment or accessories used with such electronic equipment that is:

1. Necessary for the normal operation of the covered "auto" or the monitoring of the covered "auto's" operating system; or
2. Both:
  - a. An integral part of the same unit housing any sound reproducing equipment designed solely for the reproduction of sound if the sound reproducing equipment is permanently installed in the covered "auto"; and
  - b. Permanently installed in the opening of the dash or console normally used by the manufacturer for the installation of a radio.
3. A device designed or used to detect speed measuring equipment such as radar or laser detectors or a jamming apparatus intended to elude or disrupt speed measurement equipment, whether permanently installed or temporarily mounted in or on the covered "auto".

#### C. Limit of Insurance

With respect to coverage under provision 14. of this endorsement, the Limit of Insurance provision of Physical Damage Coverage is replaced by the following:

1. The most we will pay for all "loss" to audio, visual or data electronic equipment and any accessories used with this equipment, as described in paragraph A. above, as a result of any one "accident", is the lesser of:
  - a. The actual cash value of the damaged or stolen property as of the time of the "loss"; or
  - b. The cost of repairing or replacing the damaged or stolen property with other property of like kind and quality; or
  - c. The amount shown in the Schedule.

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2. An adjustment for depreciation and physical condition will be made in determining actual cash value at the time of the "loss".
3. If a repair or replacement results in better than like kind or quality, we will not pay for the amount of betterment.

**D. Deductible**

1. If "loss" to the audio, visual or data electronic equipment or accessories used with this equipment, as described in paragraph A. above, is the result of a "loss" to the covered "auto" under this Coverage Form's Comprehensive or Collision Coverage, then for each covered "auto" our obligation to pay for, repair, return or replace damaged or stolen property will be reduced by the applicable deductible shown in the Declarations. Any Comprehensive Coverage deductible shown in the Declarations does not apply to "loss" to audio, visual or data electronic equipment caused by fire or lightning.
2. If "loss" to the audio, visual or data electronic equipment or accessories used with this equipment, as described in paragraph A. above, is the result of a "loss" to the covered "auto" under this Coverage Form's Specified Causes of Loss Coverage, then for each covered "auto" our obligation to pay for, repair, return or replace damaged or stolen property will be reduced by the applicable deductible shown in the Schedule of this endorsement.
3. If "loss" occurs solely to the audio, visual or data electronic equipment or accessories used with this equipment, as described in paragraph A. above, then for each covered "auto" our obligation to pay for, repair, return or replace damaged or stolen property will be reduced by the applicable deductible shown in the Schedule of this endorsement.
4. In the event that there is more than one applicable deductible, only the highest deductible will apply. In no event will more than one deductible apply.

**E. When This Provision Becomes Void**

This provision, **AUDIO, VISUAL AND DATA ELECTRONIC EQUIPMENT COVERAGE**, is void if CA 99 60, Audio, Visual And Data Electronic Equipment Coverage, is attached to the policy.

**RESOLUTION NO. 2023-53**

**RESOLUTION 2023-53**

**A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF MONTVERDE, LAKE COUNTY, FLORIDA, APPROVING AMENDMENT TO AGREEMENT RELATING TO PROVISION OF LIBRARY SERVICES; AUTHORIZING THE MAYOR TO EXECUTE THE AMENDMENT; PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, the Town of Montverde is a member of the Lake County Library System; and

**WHEREAS**, on September 10, 2019 the Town of Montverde entered into an Interlocal Agreement with Lake County, Florida, Relating to the Provision of Library Services; and

**WHEREAS**, on September 13, 2022, the County and the Town of Montverde entered into an extension of the Agreement for an additional 12-month period expiring on September 30, 2023; and

**WHEREAS**, the Town of Montverde desires to extend the Agreement for an additional twelve-month period expiring September 30, 2024; and

**WHEREAS**, the Town Council finds that extending the Agreement is beneficial to the Town of Montverde and its residents; and

**WHEREAS**, the Town Council desires to enter into the Amendment to Agreement Relating to Provision of Library Services.

**NOW, THEREFORE, BE IT RESOLVED** by the Town Council of the Town of Montverde, Lake County, Florida, as follows:

**Section 1.** The foregoing recitals are true and correct and, by this reference, are hereby incorporated into and made an integral part of this resolution.

**Section 2.** The Amendment to Agreement Relating to the Provision of Library Services between Lake County, Florida and the Town of Montverde, Florida, a copy of which is attached hereto, is approved.

**Section 3.** The Town Council authorizes the Mayor to execute the Amendment to Agreement Relating to the Provision of Library Services.

**Section 4.** This resolution shall become effective immediately upon adoption.

**PASSED AND RESOLVED** at a duly noticed meeting of the Town Council of the Town of Montverde, Florida this 18th day of April, 2023.

\_\_\_\_\_  
Joe Wynkoop, Mayor

Attest:

\_\_\_\_\_  
Sandy Johnson, Town Clerk

Approved as to form and legality:

\_\_\_\_\_  
Anita Geraci-Carver, Town Attorney

First Reading \_\_\_\_\_

Council Member \_\_\_\_\_ moved the passage and adoption of the above and foregoing Resolution. Motion was seconded by Council Member \_\_\_\_\_ and upon roll call on the motion the vote was as follows:

	YEA	NAY
Billy Bates, Councilmember		
Allan Hartle, Vice Mayor		
Jim Ley, Councilmember		
vacant		
Joe Wynkoop, Mayor		

**AMENDMENT TO AGREEMENT  
RELATING TO  
PROVISION OF LIBRARY SERVICES**

This is an Amendment to the Interlocal Agreement between Lake County, Florida, a political subdivision of the State of Florida, hereinafter referred to as "COUNTY", by and through its Board of County Commissioners, and the Town of Montverde, a municipal corporation pursuant to the Laws of Florida, hereinafter referred to as "MUNICIPALITY" or "Town", by and through its Town Council.

**WITNESSETH:**

**WHEREAS**, on September 10, 2019, the COUNTY entered into an Interlocal Agreement with the MUNICIPALITY for the provision of public library services (the "Agreement"); and

**WHEREAS**, on September 13, 2022, the County and the MUNICIPALITY entered into an extension of the Agreement for an additional 12-month period expiring on September 30, 2023; and

**WHEREAS**, the parties now want to extend the Agreement for an additional 12-month period expiring on September 30, 2024; and

**WHEREAS**, executing this Amendment is in the best interests of the parties and the residents of Lake County.

**NOW, THEREFORE**, the parties agree as follows:

1. **Legal Findings of Law.** The foregoing recitals are hereby adopted as legislative findings of the Board of County Commissioners and are ratified and confirmed as being true and correct and are hereby made a specific part of this Amendment upon adoption hereof.
2. **Amendment.** The Agreement is hereby amended as follows:
  - A. Section 3, *Term*, is hereby amended to allow for an additional 12-month period and terminating on September 30, 2024.
  - B. Section 13 (E), *Appropriation of County Funds for Municipality*, is hereby amended to add Year Five: The COUNTY shall allocate a base amount of twenty five thousand dollars (\$25,000) to assist with funding of programs and services at its participating library.
3. **Effect of Amendment.** All other provisions of the Agreement will remain in full force and effect unless otherwise formally amended by the parties. To the extent this Amendment conflicts with the Agreement, this Amendment will govern.

**IN WITNESS WHEREOF**, the parties have signed this Amendment through their authorized representatives on the dates under each signature.



**AMENDMENT TO AGREEMENT BETWEEN LAKE COUNTY, FLORIDA AND TOWN OF MONTVERDE  
RELATING TO PROVISION OF LIBRARY SERVICES**

---

**COUNTY**

LAKE COUNTY, FLORIDA, through its  
BOARD OF COUNTY COMMISSIONERS

ATTEST:

\_\_\_\_\_  
Gary J. Cooney, Clerk  
Board of County Commissioners  
of Lake County, Florida

\_\_\_\_\_  
Kirby Smith, Chairman

This \_\_\_\_ day of \_\_\_\_\_, 2023.

Approved as to form and legality:

\_\_\_\_\_  
Melanie Marsh  
County Attorney

**MUNICIPALITY**

ATTEST:

TOWN OF MONTVERDE

\_\_\_\_\_  
Sandy Johnson, Town Clerk

\_\_\_\_\_  
Joe Wynkoop, Mayor

This \_\_\_\_ day of \_\_\_\_\_, 2023.

Approved as to form and legality:

\_\_\_\_\_  
Anita R. Geraci-Carver, Town Attorney

**RESOLUTION NO. 2023-54**

**RESOLUTION 2023-54**

**A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF MONTVERDE, FLORIDA, APPROVING THE SETTLEMENT AGREEMENT AND RELEASE BETWEEN VISTA GRANDE PROPERTIES LLC AND THE TOWN OF MONTVERDE, FLORIDA RELATING TO THE HILLS OF MONTVERDE LAKE COUNTY PUD ORDINANCE 2018-44 AS AMENDED BY THE LAKE COUNTY BOARD OF COUNTY COMMISSIONERS APRIL 4, 2023; PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, Vista Grande Properties LLC (“Owner”) owns certain real property commonly known as the Hills of Montverde Subdivision (the “Subdivision”) which is located in unincorporated Lake County, Florida and is more particularly described within the Lake County Rezoning Staff Report attached composite Exhibit “A” (the “Staff Report”); and

**WHEREAS**, the Owner has engineered and permitted the Subdivision pursuant to the requirements of Lake County and Lake County Ordinance #2018-44 dated September 25, 2018 and recorded on November 9, 2018 at Official Records Book 5195, Pages 1746 – 1752, of the public records of Lake County, Florida (the “Ordinance”); and

**WHEREAS**, the Owner has filed a request with Lake County to amend the Ordinance in the manner more particularly described in the Staff Report; and

**WHEREAS**, the Town has filed an objection to the Owner’s application to amend the Ordinance; and

**WHEREAS**, the Owner and the Town have negotiated a resolution of the disputes between the Parties with respect to the Town’s objections to the proposed amendments to the Ordinance in accordance with the terms, conditions, provisions and conditions set forth herein;

**WHEREAS**, the Town Council finds it beneficial to the Town of Montverde to approve the Settlement Agreement and Release with the terms and conditions outlined therein.

**NOW THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF MONTVERDE, LAKE COUNTY, FLORIDA, AS FOLLOWS:**

**SECTION 1.** The Settlement Agreement and Release between Vista Grande Properties LLC and the Town of Montverde, Florida, a copy of which is attached hereto, is approved.

**SECTION 2.** The Town Council authorizes the Mayor to execute the Settlement Agreement and Release.

**SECTION 3.** This resolution shall take effect immediately upon its passage and adoption.

PASSED AND RESOLVED at a duly noticed meeting of the Town Council of the Town of Montverde, Florida this 18<sup>th</sup> day of April, 2023.

\_\_\_\_\_  
Joe Wynkoop, Mayor

Attest:

\_\_\_\_\_  
Sandy Johnson, Town Clerk

Approved as to form and legality:

\_\_\_\_\_  
Anita Geraci-Carver, Town Attorney

First Reading \_\_\_\_\_

Council Member \_\_\_\_\_ moved the passage and adoption of the above and foregoing Resolution. Motion was seconded by Council Member \_\_\_\_\_ and upon roll call on the motion the vote was as follows:

	YEA	NAY
Billy Bates, Councilmember		
Allan Hartle, Vice Mayor		
Jim Ley, Councilmember		
vacant		
Joe Wynkoop, Councilmember		

## **AGREEMENT**

THIS AGREEMENT (“Agreement”) is made and entered into by and between Vista Grande Properties LLC, a Florida limited liability company (“Owner”); and The Town of Montverde (“Town”) (sometimes referred to hereinafter as the “Parties”).

### **Recitals**

WHEREAS, Owner owns certain real property commonly known as the Hills of Montverde Subdivision (the “Subdivision”) which is located in unincorporated Lake County, Florida and is more particularly described within the Lake County Rezoning Staff Report attached composite Exhibit “A” (the “Staff Report”); and

WHEREAS, the Owner has engineered and permitted the Subdivision pursuant to the requirements of Lake County and Lake County Ordinance #2018-44 dated September 25, 2018 and recorded on November 9, 2018 at Official Records Book 5195, Pages 1746 – 1752, of the public records of Lake County, Florida (the “Ordinance”); and

WHEREAS, the Owner has filed a request with Lake County to amend the Ordinance in the manner more particularly described in the Staff Report; and

WHEREAS, the Town has filed an objection to the Owner’s application to amend the Ordinance; and

WHEREAS, the Owner and the Town have negotiated a resolution of the disputes between the Parties with respect to the Town’s objections to the proposed amendments to the Ordinance in accordance with the terms, conditions, provisions and conditions set forth herein;

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

1. **Recitals.** The aforementioned recitals are hereby incorporated and made a part of this Agreement as if more fully set forth herein.
2. **Resolution.**
  - a. The water plant (proposed Tract “B”) and sewer plant (proposed Tract “L”) as shown on the Concept Plan attached as Exhibit B to the proposed Amended Ordinance, will be constructed by the Owner in accordance with the approved construction plans as approved by Lake County. The water plant and sewer plant shall be engineered and constructed independent of the Town of Montverde’s existing utility systems, and of sufficient capacity to serve the Hills of Montverde Subdivision with potable and irrigation water, fire flows, and sewer service. After the Subdivision Improvements are

constructed and the plat of Hills of Montverde is recorded, and after the water plant and sewer plant facilities are fully constructed and in operation, the Owner shall cause the HILLS OF MONTVERDE ASSOCIATION, INC., a Florida corporation not-for-profit, to convey fee simple title to Tract "B" and Tract "L" to the Town of Montverde to own and operate, inclusive of the water plant and sewer plant and all utility infrastructure including but not limited to all water mains, water services between mains and water meters, meters, fire hydrants, sewer mains, force mains, pump station, generator and all sanitary sewer manholes. No water or sewer impact fees will be due. The Town shall not charge the Owner for potable water meter install fee; connection fee to water main; irrigation water meter install fee; and sewer connection/inspection fee because the Owner will be providing and installing the potable water meter and irrigation meter, connecting each to the water main and making the connection to the sewer system, as well as inspecting. In the event the Owner requests the Town to install meters and/or make any connections, then the Owner will pay the Town the then current Town fees. All meters, auto-dialers, and apparatus must be compatible and approved by the Town, and such approval shall not be unreasonably withheld by the Town. The Owner shall have the right, but not the obligation, of installing a separate meter for irrigation water supply using an irrigation water meter reasonably approved by the Town, with such approval not being unreasonably withheld, conditioned or delayed. At the time of this Agreement the required water and irrigation meters are Neptune T-10 with ProCoder R900i v4 pit/standard registers.

- b. The Owner agrees, at its sole cost and expense, to connect the potable water line that will provide potable water services to the homes within the Hills of Montverde Subdivision with the Town's existing 8" water line at the connection point located at the boundary of the Subdivision with the neighboring Willow Ridge subdivision, unless connection would adversely affect the Subdivision or the neighboring Willow Ridge Subdivision as determined by the Town's engineer after consulting with the Owner's engineer.
- c. The Owner shall cause to be delivered to the Town easements in favor of the Town for ingress and egress over the private roads within the Subdivision for the Town's unfettered access to the water plant and sewer plant facilities. The water plant will provide potable water, irrigation, and fire-flow to the residents of the Hills of Montverde subdivision. The sewer plant will be located on the sewer tract as close to the boundary line with radio tower property as possible consistent with Lake County's set-back requirements. To shield the sewer facility from the adjacent Willow Ridge subdivision, the Owner shall install an opaque landscape buffer using 60-gallon pine trees

every 20 feet and 15 gallon native shrubs every 3 feet along the East and South boundary lines of the sewer plant tract (proposed Tract "L").

- d. Owner will contribute/donate the sum of \$100,000.00 to the Town's construction of a public trail along Fosgate Road as an extension of the public trail along Blackstill Lake Road. The \$100,000.00 contribution shall be delivered by the Owner to the Town prior to April 4, 2023. The Town will not expend the funds for a period of ninety days from the date of approval of the amended Ordinance by Lake County.
- e. The Town shall immediately withdraw its objections to the proposed amendment to the Ordinance, and the Town shall announce its support for the amendment to the Ordinance at the Lake County Board of County Commissioner meeting to be held on April 4, 2023.

3. **Effective Date of this Agreement.** This Agreement shall become binding upon the Owner immediately upon the Owner's execution of this Agreement, and the Owner shall not and may not withdraw this Agreement at any time hereafter unless (i) the Town fails to honor its obligation under paragraph 2(e) hereof, or if the Lake County Board of County Commissioners fails to approve the Owner's proposed amendment to the Ordinance. In the event the Town fails to honor its obligation under paragraph 2(e) hereof, or if the Lake County Board of County Commissioners fails to approve the Owner's amendment to the Ordinance, the Town will return the \$100,000.00 to Owner within five (5) business days of the Lake County Board of County Commissioner meeting. The Parties understand and agree that the Town may not be able to sign this Agreement prior to April 4, 2023. The Owner shall not withdraw this Agreement hereafter and the Owner agrees to allow the Town sufficient time to execute this Agreement in compliance with the Town's ordinances and applicable Florida law. The obligations of the Owner under paragraph 2 hereof, shall become effective and binding upon the Owner when the Lake County Board of County Commissioners approves the Owner's application to amend the Ordinance and an amended Ordinance is issued by Lake County and thereafter filed of public record in Lake County, Florida, and the time for appeals has passed.

4. **Attorneys' Fees and Costs.** The Parties agree to each bear their own attorney's fees and costs.

5. **Counterparts.** This Agreement may be executed simultaneously in two or more counterparts, each of which shall be deemed to be an original, but all of which together shall constitute one and the same instrument.

6. **Entire Agreement.** This Agreement constitutes the entire agreement between the Parties relating to the subject matter hereof and there are no representations, warranties, agreements or commitments except as set forth herein. This Agreement

supersedes all prior understandings, negotiations and discussions, written or oral, of the Parties relating to the transactions contemplated by this Agreement.

7. **Mutual Releases.**

(a) The Parties, on behalf of themselves, and all persons or entities claiming by, through or under them, and their respective heirs, successors and assigns, hereby fully, completely and finally waive, release, remise, acquit, and forever discharge and covenant not to sue the other Parties, as well as the other Parties' respective officers, directors, members, agents, and representatives, with respect to any and all claims, demands, suits, manner of obligation, debt, liability, tort, covenant, contract, or causes of action of any kind whatsoever, at law or in equity, including without limitation, all claims and causes of action arising out of or in any way relating to the matters set forth herein. The Parties warrant and represent that they have not assigned or otherwise transferred any claim or cause of action released by this Agreement.

(b) The Parties acknowledge and agree that these releases are GENERAL RELEASES. The Parties expressly waive and assume the risk of any and all claims for damages which exist as of this date, but which they do not know or suspect to exist, whether through ignorance, oversight, error, negligence, or otherwise, and which, if known, would materially affect his or her or its decision to enter into this Agreement. The Parties expressly acknowledge that this waiver of claims includes any claims for any alleged fraud, deception, concealment, misrepresentation or any other misconduct of any kind in procuring this Agreement. The Parties specifically do not, however, waive or release any claim that may arise for breach of this Agreement.

8. **No Admission of Liability.** Neither the payment of any sums nor the execution of this Agreement shall be construed as an admission of liability or fault by any party. Any and all liability is expressly denied by all Parties.

9. **Authority to Settle.** The Parties hereby represent and warrant that no other person or entity has any interest in the liability, claims, demands, suits, or causes of action settled or resolved by this Agreement and that the Parties have the sole right and exclusive authority to execute this Agreement.

10. **Binding Effect.** This Agreement shall inure to the benefit of, and be binding upon the Parties and their respective attorneys, assigns, agents, representatives, corporations, partnerships, officers, directors, principals, shareholders, employees, parent corporations, insurers, merger partners, affiliates, subsidiaries, predecessors in interest, and successors in interest or assignees.

11. **Survival.** Each party agrees that any and all agreements, warranties, provisions, representations and obligations of the Parties hereto shall survive the termination or complete performance of this Agreement.

12. **Counsel and Interpretation.** The Parties do hereby acknowledge and agree that they have been or have had the opportunity to be represented by independent



counsel of their own choice throughout all negotiations which preceded the execution of this Agreement, and that they have executed this Agreement with the consent and upon the advice of independent counsel. Accordingly, it is agreed that any legal rule of construction to the effect that ambiguities are to be resolved against the drafting party shall not apply to the interpretation of this Agreement.

13. **Attorney's Fees.** In the event of any litigation between the Parties arising out of the interpretation or enforcement of this Agreement, the prevailing party shall be entitled to its attorney's fees and costs from the non-prevailing party, including the fees and costs associated with appeal.

14. **Governing Law.** The laws of the State of Florida shall govern the validity, interpretation, construction, and enforcement of this agreement. Venue for any action brought under this Settlement Agreement shall be in Lake County, Florida.

***Remainder of the page is left blank, with the signature pages following.***

**IN WITNESS WHEREOF**, the aforementioned Parties have executed this Agreement on the date and year set forth below.

Vista Grande Properties, LLC, a Florida limited liability company:

By: Matella Holdings LLLP, a Florida limited liability partnership:

DocuSigned by:  
  
By: 03F6AEC3641347A  
Joseph Matella, General Partner

**ADOPTED AND APPROVED** by the Town Council of the Town of Montverde, Lake County, Florida this \_\_\_\_\_ day of \_\_\_\_\_, 2023.

\_\_\_\_\_  
Joe Wynkoop, Mayor

Approved as to form and legality:

Attest:

\_\_\_\_\_  
Sandy Johnson, Town Clerk

\_\_\_\_\_  
Anita Geraci-Carver, Town Attorney



# REZONING STAFF REPORT

## OFFICE OF PLANNING & ZONING

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Tab Number: 7

Public Hearings: Planning & Zoning Board (PZB): March 1, 2023  
Board of County Commissioners (BCC): April 4, 2023

Case No. and Project Name: RZ-22-28-2, Hills of Montverde PUD Amendment

Applicant: Berry James Walker Jr., Esquire

Owner: Vista Grande Properties, LLC

Requested Action: Amend Section 1.C.1 entitled Development Standards/Design Criteria of Planned Unit Development (PUD) Ordinance #2018-44 and clarify the side and rear setbacks, noted in Section D.

Case Manager: Janie Barron, Chief Planner

PZB Recommendation:

### Subject Property Information

Size: 24.96 +/- acres

Location: South of Fosgate Road and east of State Road 91 (Florida Turnpike), in the unincorporated Clermont area.

Alternate Key No.: 1029503, 2873728 and 3778275

Current Future Land Use: Urban Low Density (Attachment "A")

Current Zoning District: Planned Unit Development by Ordinance #2018-44 (Attachment "B")

Proposed Zoning District: Planned Unit Development (PUD)

Flood Zone: "X"

ISBA / Joint Planning Area: Town of Montverde Interlocal Service Boundary Agreement (ISBA)

Overlay Districts: Lake Apopka Basin Overlay District

RZ-22-22-8, Hills of Montverde PUD amendment

Land Use Table

<u>Direction</u>	<u>Future Land Use</u>	<u>Zoning</u>	<u>Existing Use</u>	<u>Comments</u>
North	Rural Transition	Rural Residential District (R-1) and Agriculture Residential (AR)	Right-of-way, and Residential	Fosgate Road, and Trails of Montverde Residential Subdivision North of R-O-W
South	Rural Transition and Town of Montverde	Community Facility District (CFD), Agriculture and Town of Montverde	Radio Tower, Agriculture and Residential	AM Radio Repeater Tower, Agriculture and Municipal Limits
East	Town of Montverde	Town of Montverde	Residential and Vacant	Single-Family Residential
West	City of Clermont	City of Clermont	Right-of-Way and Residential	Vacant Residential

Staff Analysis

The subject property contains approximately 24.96 +/- gross acres and is located south of Fosgate Road and east of the Florida Turnpike. The property is contiguous to the municipal limits of the Town of Montverde, which is located to the east.

In 2018, the Board of County Commissioners (BCC) approved Ordinance #2018-44 to accommodate a single-family residential development at a maximum of 4 dwelling units per net acre. The applicant, pursuant to the Narrative Statement (Attachment "F") seeks to amend Section 1.C.1 entitled Development Standards/Design Criteria, to incorporate specific Architectural Design Standards (Attachment "D") rather than incorporating the Town of Montverde standards via reference. Section 1.C.1 of Ordinance #2018-44 indicates that Development shall adhere to architectural design standards in accordance with the Town of Montverde Neighborhood Standards and Guidelines Manual for New Subdivision, as amended.

As the subject parcel is located within the Town of Montverde Interlocal Service Boundary Agreement (ISBA), the Town of Montverde was provided with a copy of the application. The Town Attorney submitted comments on behalf of the Town of Montverde (Attachment "G"), a utility agreement (Attachment "H") and filed a Notice of Appearance (Attachment "I").

At the time of the approval of Ordinance #2018-44 there was a scrivener's error in the side and rear setbacks. The side and rear setback were reflected in the Ordinance as 10-feet however, the applicant for the 2018 rezoning request had submitted documentation requesting that the side and rear setbacks reflect 5-feet.

On January 8, 2020, the Hills of Montverde Preliminary Plat was approved for 97 single-family residential lots (Attachment "I"). However, the submitted construction plans show only 91 lots.

	Zoning District	Acres	Maximum Density	Density	Maximum ISR	Minimum Open Space	Building Height
Existing Ordinance #2018-44	PUD	24.96 +/- Acres	99 units (4 dwelling units per net acre)	99 units (4 dwelling units per net acre)	45%	40%	40 Feet
Proposed Amendment	PUD	24.96 +/- Acres	99 units (4 dwelling units per net acre)	91 units (3.65 dwelling units per net acre)	45%	40%	40 Feet

RZ-22-22-8, Hills of Montverde PUD amendment

**Standards for Review (LDR Section 14.03.03)**

**A. Whether the proposed amendment is consistent with all elements of the Comprehensive Plan.**

The applicant is requesting to amend the Architectural Design Standards and clarify the side and rear setbacks. In their narrative statement for rezoning, the applicant provided the following statement:

*"The proposed amendment to Ordinance #2018-44 is not in conflict with any applicable provisions of the Lake County Land Development Code."*

**B. Whether the proposed amendment is in conflict with any applicable provisions of these regulations.**

The request is consistent with Land Development Regulations (LDR) Section 6.15.03(B), which allows for residential uses within a one-half (1/2) mile of the lake shoreline.

In their narrative statement for rezoning, the applicant provided the following statement:

*"The proposed amendment to Ordinance #2018-44 is consistent with all elements of the Comprehensive Plan and does not seed [sic] to change or alter the Comprehensive Plan."*

**C. Whether, and the extent to which, the proposed amendment is inconsistent with existing and proposed land uses.**

In their narrative statement for rezoning, the applicant provided the following statement:

*"The proposed amendment to Ordinance #2018-44 is not inconsistent with existing land uses and is entirely consistent with the land uses proposed for the subject property as established by Ordinance #2018-44."*

**D. Whether there have been changed conditions that justify an amendment.**

In their narrative statement for rezoning, the applicant provided the following statement:

*"The requirement that single family dwelling units be constructed in accordance with Town of Montverde Neighborhood Standards and Guidelines Manual for New Subdivision, as amended, was added to Ordinance #2018-44 based upon a representation or promise made on February 22, 2018 by the Town of Montverde that Town of Montverde has sufficient potable water and wastewater capacity to serve 99 single family residential units being developed by Vista Grande Properties, LLC on the subject property. The promise of water and sewer services was conditioned upon execution of a utility agreement and a covenant to annex the property into the Town of Montverde. The promise of water service and sewer service availability never materialized. The project has therefore been designed with a central water and sewer system that will be privately owned and privately operated by the Hills of Montverde Homeowners Association, Inc. Hills of Montverde is entirely located within the jurisdiction of Lake County. The Town of Montverde is not providing sewer services or water services to the Hills of Montverde subdivision. Therefore, Vista Grande Properties, LLC should be permitted to construct homes within the subdivision according to Lake County Minimum Residential Construction Standards."*

**E. Whether, and the extent to which, the proposed amendment would result in demands on public facilities, and whether, or to the extent to which, the proposed amendment would exceed the capacity of such public facilities, infrastructure and services, including, but not limited to police, roads, sewage facilities, water supply, drainage, solid waste, parks and recreation, schools, and fire and emergency medical facilities.**

In their narrative statement for rezoning, the applicant provided the following statement:

*"The proposed amendment to Ordinance #2018-44 will have no effect upon nor will it place any additional demands upon public facilities. The proposed amendment on affects the design criteria for single-family residences to be construction within the subdivision."*

RZ-22-22-8, Hills of Montverde PUD amendment

Water and Sewer

The project narrative prepared by the applicant states that the proposed residential development will be designed with a central water and sewer system that will be privately owned and private operated by the Hills of Montverde Homeowners Association, Inc. (Attachment "G").

Schools

Lake County Schools reviewed the application, and the applicant provided a copy of the School Concurrency Capacity Reservation for the Hills of Montverde subdivision. The School Concurrency Reservation expires on May 22, 2023 (Attachment "F").

Parks

The proposed rezoning amendment is not anticipated to adversely impact park capacity or levels of service.

Solid Waste

The proposed rezoning amendment is not anticipated to adversely impact solid waste capacities or levels of service.

Public Safety

The closest Lake County Fire Rescue Stations (LCFR Station #112) is located approximately less than 1 mile from the subject property. Lake County Fire Station #83 is located approximately 4.2 miles away from the subject properties.

Transportation Concurrency

The proposed rezoning amendment is not anticipated to adversely impact transportation capacity or levels of service.

**F. Whether, and the extent to which, the proposed amendment would result in significant impacts on the natural environment.**

In their narrative statement for rezoning, the applicant provided the following statement:

*"The proposed amendment to Ordinance #2018-44 will have no effect upon the natural environment."*

**G. Whether, and the extent to which, the proposed amendment would affect the property values in the area.**

In their narrative statement for rezoning, the applicant provided the following statement:

*"The proposed amendment to Ordinance #2018-44 should have a positive impact upon property values in the area."*

**H. Whether, and the extent to which, the proposed amendment would result in an orderly and logical development pattern, specifically identifying any negative effects on such pattern.**

In their narrative statement for rezoning, the applicant provided the following statement:

*"The proposed amendment to Ordinance #2018-44 will results in an orderly and logical development pattern because Lake County will be reviewing house construction building plans for compliance with Lake County Minimum Residential Construction Standards as established by Lake County."*

**I. Whether the proposed amendment would be consistent with or advance the public interest, and in harmony with the purpose and interest of these regulations.**

In their narrative statement for rezoning, the applicant provided the following statement:

*"The proposed amendment to Ordinance #2018-44 is not in conflict with the public interest and is in harmony with the purpose and intent of Lake County regulations by making applicable the Minimum Residential Construction Standards as established by Lake County."*

**J. Any other matters that may be deemed appropriate by the Lake County Zoning Board or the Board of County Commissioners, in review and consideration of the proposed rezoning.**

None.

RZ-22-22-8, Hills of Montverde PUD amendment

# Attachment "A" - Future Land Use Category

CURRENT FUTURE LAND USE

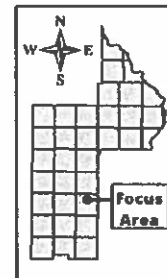


**Future Land Use**

Urban Low Rural Transition

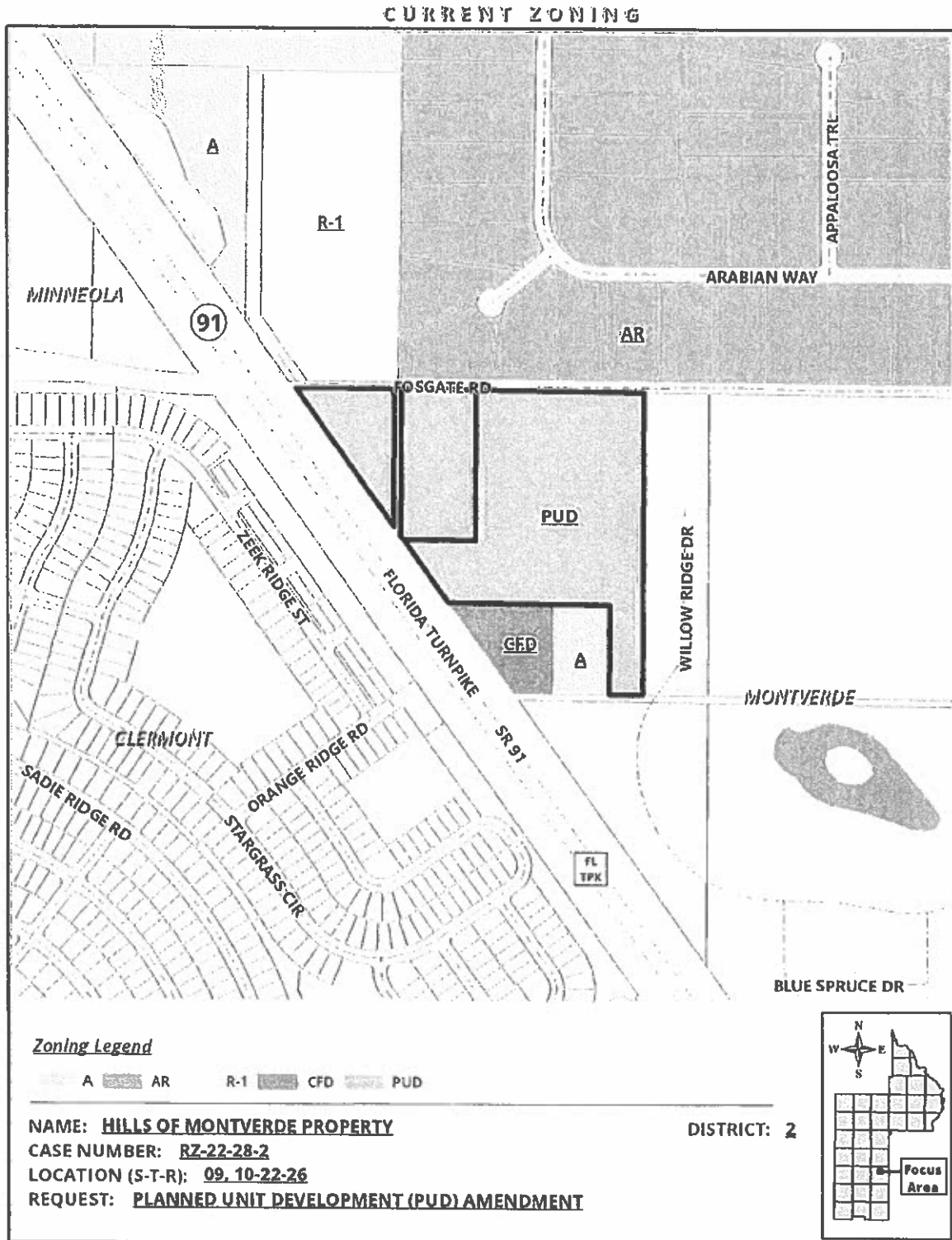
NAME: **HILLS OF MONTVERDE PROPERTY**  
CASE NUMBER: **RZ-22-28-2**  
LOCATION (S-T-R): **09, 10-22-26**  
REQUEST: **PLANNED UNIT DEVELOPMENT (PUD) AMENDMENT**

DISTRICT: 2



RZ-22-22-8, Hills of Montverde PUD amendment

# Attachment "B"- Zoning District





RZ-22-22-8, Hills of Montverde PUD amendment

# Attachment "C"- Ordinance #2018-44 (Page 7 of 7)

INSTRUMENT #2018131868  
 OR BK 5186 PG 1746 - 1762 (7 PGS)  
 DATE: 11/9/2018 1:54:17 PM  
 GARY J. COONEY, CLERK OF THE CIRCUIT COURT  
 AND COMPTROLLER, LAKE COUNTY, FLORIDA  
 RECORDING FEES \$61.00

**ORDINANCE #2018-44**  
**Vista Grande Properties**  
**RZ-17-25-2**

1 AN ORDINANCE OF THE LAKE COUNTY BOARD OF COUNTY COMMISSIONERS AMENDING THE  
2 LAKE COUNTY ZONING MAPS; AND PROVIDING FOR AN EFFECTIVE DATE.

3  
4 WHEREAS, Jimmy D. Crawford, Esquire (the "Applicant") submitted an application on behalf of Vista  
5 Grande Properties, LLC (the "Owners") has made a request to establish a Planned Unit Development (PUD)  
6 zoning district for a single-family residential development; and  
7

8 WHEREAS, the subject property consists of 26.06 +/- acres and is located south of Fosgate Road  
9 and east of State Road 91 (Florida Turnpike) in the Clermont area within Section 13, Township 24 South,  
10 Range 26 East, and is more particularly described in Exhibit "A"; and  
11

12 WHEREAS, the subject property is located within the Urban Low Future Use Category in accordance  
13 with Ordinance Number 2018-43; and  
14

15 WHEREAS, the Lake County Planning & Zoning Board reviewed Petition RZ-17-25-2 on September  
16 5, 2018, after giving notice of the hearing on the petition for a change in zoning, including notice that the  
17 petition would be presented to the Board of County Commissioners of Lake County, Florida, on September  
18 25, 2018; and  
19

20 WHEREAS, the Board of County Commissioners reviewed the petition, the recommendations of the  
21 Lake County Planning & Zoning Board, staff report, and any comments, favorable or unfavorable, from the  
22 public and surrounding property owners at a public hearing duly advertised; and  
23

24 WHEREAS, upon review, certain terms pertaining to the development of the above described  
25 property have been duly approved; and  
26

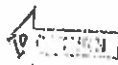
27 NOW THEREFORE, BE IT ORDAINED by the Board of County Commissioners of Lake County,  
28 Florida, that:  
29

30 **Section 1.** Terms. The County Manager or designee shall amend the Lake County Zoning Map to show the  
31 Planned Unit Development (PUD) zoning district in accordance with this Ordinance. All uses  
32 specified must be generally consistent with the Concept Plan as shown in Exhibit "B" of this  
33 Ordinance. To the extent where there are conflicts between the Concept Plan and this  
34 Ordinance, the Ordinance will take precedence.  
35

36 **A. Permitted Land Uses.**

- 37
- 38 1. Residential development, 4 dwelling per net acre.
- 39
- 40 2. Model Homes and Sales Centers. Construction of model units, sales centers and  
41 temporary parking lots will be allowed with an approved site plan. Up to 6 models may  
42 be started prior to each final plat via a notes and bound description in conjunction with  
43 a Developer's Agreement. Parking may be located on one of the six lots.  
44
- 45 3. Accessory uses may be approved by the County Manager or designee.

DONNA BOHRER  
OFFICE OF PLANNING & ZONING  
315 WEST MAIN ST - RM 510  
TAVARES FL 32778



RZ-22-22-8, Hills of Montverde PUD amendment

# Attachment "C"- Ordinance #2018-44 (Page 8 of 7)

Ordinance #2018-44, RZ-17-26-2, Vista Grande Properties

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4. Any other use of the property will require approval of an amendment to this Ordinance by the Board of County Commissioners.

**B. Open Space, Impervious Surface Ratio, and Building Height.**

- 1. The Maximum Building height is forty (40) feet.
- 2. The maximum Impervious Surface Ratio (ISR) will be 0.60 for the overall development. The preliminary plat must calculate the maximum ISR allowed on each platted lot.
- 3. The development shall provide a minimum of 25% open space of the net developable area.
- 4. All other development standards must be in accordance with the Comprehensive Plan and Land Development Regulations (LDR), as amended.

**C. Development Standards/Design Criteria.**

- 1. Development shall adhere to architectural design standards in accordance with the Town of Montverde Neighborhood Standards and Guidelines Manual for New Subdivision, as amended.

**D. Setbacks.** The minimum setback for residential development will be as specified below, as measured from the property line:

Development	Front	Side <sup>1</sup>	Rear <sup>1</sup>	Multiple/Secondary Frontage(s)
Single Family Residence	Twenty-five (25) Feet	Ten (10) Feet	Ten (10) Feet	Fifteen (15) feet
Note 1: Pools, pool enclosures, screen rooms, sheds and similar accessory structures shall have a five (5) foot side and rear setback.				

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- 1. Driveways for single family lots shall be setback a minimum of five (5) feet from the side property lines.
- 2. With the exception of water dependent structures, all development must be setback a minimum of fifty (50) feet from the jurisdictional wetland line.
- 3. Any setback not specified herein must be in accordance with the Lake County Land Development Regulations, as amended.

**E. Parking Requirements.** Off-street parking must be provided in accordance with the Lake County Land Development Regulations (LDR), as amended.

RZ-22-22-8, Hills of Montverde PUD amendment

## Attachment "C"- Ordinance #2018-44 (Page 9 of 7)

Ordinance #2018-44, RZ-17-26-2, Vista Grande Properties

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- F. Landscaping, Buffering, and Screening.**
1. Trees within the residential lots and other parcels, including common areas, shall be a minimum distance of eight (8) feet from right-of-way or sidewalk, whichever is greater.
  2. All new development must provide landscaping in accordance with the Lake County Land Development Regulations (LDR), as amended.
- G. Environmental Requirements.**
1. An environmental assessment no more than six (6) months old will be required at the time of the Preliminary Plat submittal. The environmental assessment will need to indicate the presence of vegetation, soils, threatened and endangered species that may exist on the site. Any State permitting or mitigation will be required before development can commence.
  2. Environmental resources shall be protected in accordance with the Comprehensive Plan and Land Development Regulations (LDR), as amended.
  3. Open space shall be provided in accordance with the Land Development Regulations (LDR), as amended.
- H. Noise:** Compliance must be in accordance with the Lake County Land Development Regulations, as amended.
- I. Transportation Improvements.**
1. All access management shall be in accordance with the Comprehensive Plan and Land Development Regulations, as amended.
  2. Additional right-of-way will be required for Fosgate Road.
  3. Fosgate Road will be required to be improved to county paved road standards.
- J. Utilities.** The development shall be served with central potable water and central sewer, in accordance with the Comprehensive Plan and Land Development Regulations (LDR), as amended.
- K. Stormwater Management.** The stormwater management system must be designed in accordance with all applicable Lake County and St. Johns River Water Management District requirements.
- L. Floodplain Management.** The Owners will be responsible for any flood studies required for developing the site and to comply with Federal Emergency Management Agency (FEMA) regulations, the Comprehensive Plan, and the Lake County Land Development Regulations. Any development within the floodplain as identified on the FEMA maps will require compensating storage.

RZ-22-22-8, Hills of Montverde PUD amendment

# Attachment "C"- Ordinance #2018-44 (Page 10 of

Ordinance #2018-44, RZ-17-25-2, Vista Grande Properties

- 1 M. **Lighting.** Exterior lighting must be in accordance with the Lake County Land Development
- 2 Regulations, as amended, and consistent with Dark-Sky Principles.
- 3
- 4 N. **Signage.** All signage must be in accordance with the Lake County Land Development
- 5 Regulations, as amended.
- 6
- 7 O. **Concurrency Management Requirements.** Any development must comply with the Lake
- 8 County Concurrency Management System, as amended.
- 9
- 10 P. **Development Review and Approval.**
- 11
- 12 1. Prior to the issuance of any permits, the Applicant shall be required to submit a
- 13 preliminary plat, construction plans, and final plat generally consistent with EXHIBIT "B"
- 14 - Conceptual Plan for review and approval in accordance with the Comprehensive Plan
- 15 and LDR, as amended.
- 16
- 17 2. PUD Expiration: Physical development shall commence within three (3) years from the
- 18 date of this Ordinance approval. Failure to commence construction within three (3) years
- 19 of approval shall cause the revocation of this ordinance, in accordance with the
- 20 Comprehensive Plan or superseding documents amended. Prior to expiration of the
- 21 three-year time frame, the Board of County Commissioners may grant, via a Public
- 22 Hearing, one (1) extension of the time frame for a maximum of two (2) years upon a
- 23 showing that reasonable efforts have been made towards securing the required
- 24 approvals and commencement of work.
- 25
- 26 **Section 2. Conditions.**
- 27
- 28 A. After establishment of the facilities as provided in this Ordinance, the property may only be
- 29 used for the purposes identified in this Ordinance. Any other proposed use must be
- 30 specifically authorized by the Lake County Board of County Commissioners.
- 31
- 32 B. No person, firm, or corporation may erect, construct, enlarge, alter, repair, remove, improve,
- 33 move, convert, or demolish any building structure, add other uses, or alter the land in any
- 34 manner within the boundaries of the above described land without first obtaining the
- 35 necessary approvals in accordance with the Lake County Code, as amended, and obtaining
- 36 the permits required from the other appropriate governmental agencies.
- 37
- 38 C. This Ordinance will inure to the benefit of, and will constitute a covenant running with the
- 39 land, and the terms, conditions, and provisions of this Ordinance will be binding upon the
- 40 present Owners and any successor, and will be subject to each and every condition set out
- 41 in this Ordinance.
- 42 D. The transfer of ownership or lease of any or all of the property described in this Ordinance
- 43 must include in the transfer or lease agreement, a provision that the purchaser or lessee is
- 44 made good and aware of the conditions established by this Ordinance and agrees to be
- 45 bound by these conditions. The purchaser or lessee may request a change from the existing
- 46 plans and conditions by following the procedures contained in the Land Development
- 47 Regulations, as amended.

RZ-22-22-8, Hills of Montverde PUD amendment

# Attachment "C" - Ordinance #2018-44 (Page 11 of

Ordinance #2018 44, RZ-17-25-2, Vista Grande Properties

1 E. Action by the Lake County Code Enforcement Special Master. The Lake County Code  
2 Enforcement Special Master will have authority to enforce the terms and conditions set forth  
3 in this Ordinance and to recommend that the ordinance be revoked.  
4

5 **Section 3. Severability.** If any section, sentence, clause or phrase of this Ordinance is held to be invalid or  
6 unconstitutional by any court of competent jurisdiction, the holding will in no way affect the validity  
7 of the remaining portions of this Ordinance.  
8

9 **Section 4. Filing with the Department of State.** The clerk is hereby directed to send a copy of this  
10 Ordinance to the Secretary of State for the State of Florida in accordance with Section 125.66,  
11 Florida Statutes.  
12

13 **Section 5. Effective Date.** This Ordinance will become effective as provided by law.  
14

15 ENACTED this 25<sup>th</sup> day of September, 2018.

16 FILED with the Secretary of State October 2, 2018.

17 EFFECTIVE September 25, 2018.  
18  
19  
20  
21

22 BOARD OF COUNTY COMMISSIONERS  
23 LAKE COUNTY, FLORIDA

24 Timothy I. Sullivan  
25 TIMOTHY I. SULLIVAN, CHAIRMAN  
26  
27

28 ATTEST:  
29  
30 Gary J. Cooney  
31 GARY J. COONEY, CLERK OF THE  
32 BOARD OF COUNTY COMMISSIONERS  
33 LAKE COUNTY, FLORIDA  
34  
35  
36

37 APPROVED AS TO FORM AND LEGALITY:  
38

39 Melanie Marsh  
40  
41 MELANIE MARSH, COUNTY ATTORNEY  
42  
43  
44  
45  
46  
47

RZ-22-22-8, Hills of Montverde PUD amendment

# Attachment "C" - Ordinance #2018-44 (Page 12 of

Ordinance #2018-44, RZ-17-25-2, Vista Grande Properties

## EXHIBIT A – Legal Description

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21

Tract 39, East 1/2 of Tract 40, Tract 41, Tract 42, of the Lake Highlands Company Plat, Section 10, Township 22 South, Range 26 East, Public Records of Lake County, Florida.

Also:

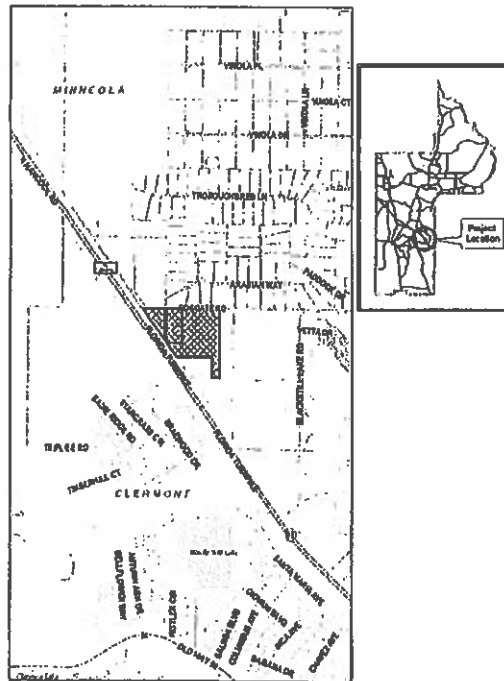
That part of the East 1/2 of the East 1/2 of the Southeast 1/4 of Section 9, Township 22 South, Range 26 East, lying North and East of the Sunshine State Parkway.

Less and Except:

That part of Tract 41 in Lake Highlands Company's Subdivision in Section 10, Township 22 South, Range 26 East, as per Plat thereof recorded in Plat Book 3, Page 51, Public Records of Lake County, Florida, described as follows: Beginning on the West line of said Section 10 at a point S. 0 degrees 25' 28" W. a distance 37' 32" E. a distance of 810.03 feet, thence N. 89 degrees 34' 02" W. a distance of 371.10 feet, thence N. 35 degrees 37' 32" W. a distance of 179.44 feet, to the aforesaid West line of Section 10, thence N. 0 degrees 25' 28" E. along said line a distance of 509.78 feet to the point of Beginning. Less existing Right-of-Way.

Also Less and Except:

That part of: Tract 41 in Lake Highlands Company's Subdivision in Section 10, Township 22 South, Range 26 East, as per plat thereof recorded in Plat Book 3, Page 51 Public Records of Lake County, Florida described as follows: Begin on the West line of said Section 10 at a point S. 0 degrees 25' 28" W. a distance of 1180.68 feet from the NW corner of the SW 1/4 thereof and continue thence S. 0 degrees 25' 28" W. a distance of 145.06 feet; run thence S. 89 degrees 34' 02" E. a distance of 105.60 feet; run thence N. 35 degrees 37' 32" W. a distance of 179.44 feet to the point of beginning. Less existing right-of-way.



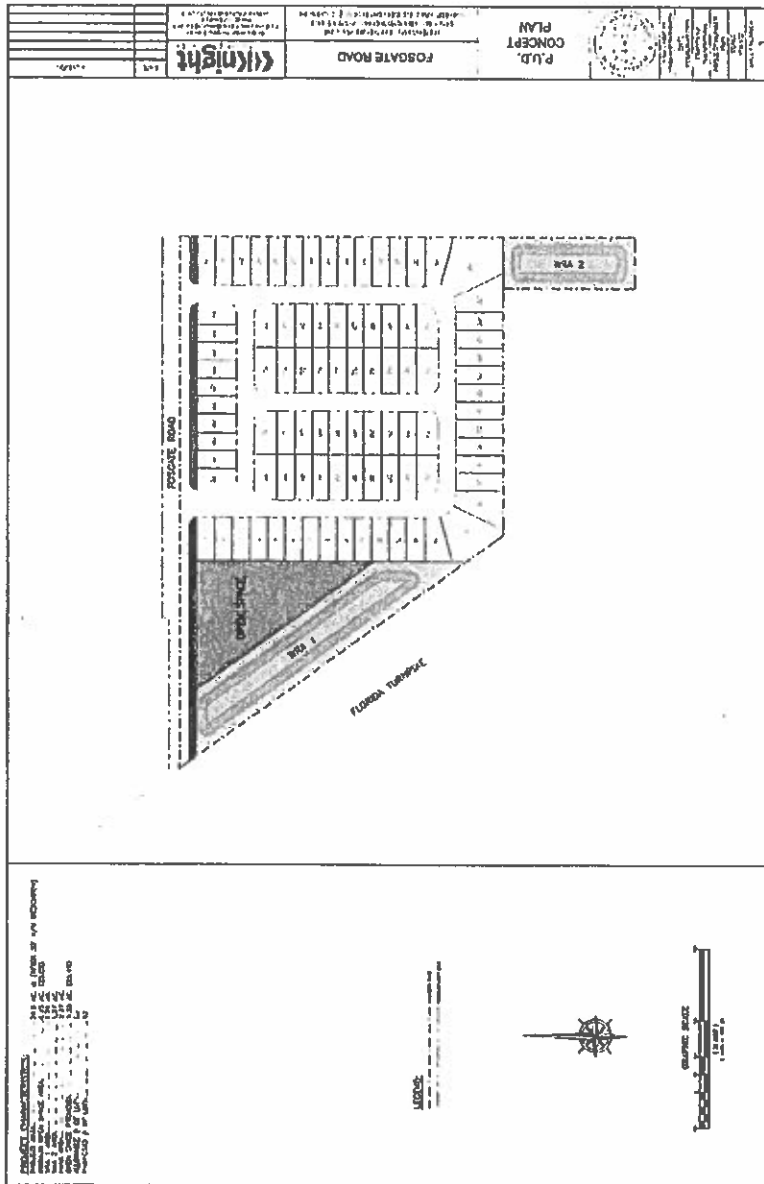
RZ-22-22-8, Hills of Montverde PUD amendment

# Attachment "C" - Ordinance #2018-44 (Page 7 of 7)

Ordinance #2018-44, RZ-17-25-2, Visla Grande Properties

1  
2

## EXHIBIT B - Concept Plan



3

RZ-22-22-8, Hills of Montverde PUD amendment

## Attachment "C"- Project Narrative (Page 14 of

### HILLS OF MONTVERDE PROJECT NARRATIVE

The Hills of Montverde subdivision was approved by Lake County Board of County Commissioners through Ordinance #2018-44 on September 25, 2018. Final Construction drawings for the Hills of Montverde subdivision has been submitted for approval to Lake County. All required permits for the subdivision improvements have been issued by St. Johns River Water Management District and Florida Department of Environmental Protection. Hills of Montverde subdivision will consist of 91 single-family residential building lots and an amenity feature. The subdivision plans are approved, and the project is ready for site construction activities.

The homes to be constructed on the finished lots in the Hills of Montverde subdivision is subject to certain architectural standards as set forth in Ordinance #2018-44 which provides as follows:

- C. Development Standards/Design Criteria.
  - 1. Development shall adhere to the architectural design standards in accordance with the Town of Montverde Neighborhood Standards and Guidelines Manual for New Subdivision, as amended.

Vista Grande Properties, LLC is requesting an amendment to Ordinance #2018-44 to delete the aforementioned provision and, in its place, the following language would appear:

- C. Development Standards/Design Criteria.
  - 1. Single Family Dwelling Units to be constructed within the subdivision will be constructed to the Minimum Residential Construction Standards as established by Lake County.

In support of the is request Vista Grande Properties, LLC states as follows:

- A. The proposed amendment to Ordinance #2018-44 is not in conflict with any applicable provisions of the Lake County Land Development Code.



RZ-22-22-8, Hills of Montverde PUD amendment

## Attachment "C"- Project Narrative (Page 15 of

### HILLS OF MONTVERDE PROJECT NARRATIVE

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- A. The proposed amendment to Ordinance #2018-44 is not in conflict with any applicable provisions of the Lake County Land Development Code.

RZ-22-22-8, Hills of Montverde PUD amendment

## Attachment "C" - Project Narrative (Page 3 of 3)

### HILLS OF MONTVERDE PROJECT NARRATIVE

The Hills of Montverde subdivision was approved by Lake County Board of County Commissioners through Ordinance #2018-44 on September 25, 2018. Final Construction drawings for the Hills of Montverde subdivision has been submitted for approval to Lake County. All required permits for the subdivision improvements have been issued by St. Johns River Water Management District and Florida Department of Environmental Protection. Hills of Montverde subdivision will consist of 91 single-family residential building lots and an amenity feature. The subdivision plans are approved, and the project is ready for site construction activities.

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- A. The proposed amendment to Ordinance #2018-44 is not in conflict with any applicable provisions of the Lake County Land Development Code.

RZ-22-22-8, Hills of Montverde PUD amendment

# Attachment "D"- Architectural Design Standards (Page 1 of 3)

## EXHIBIT "A"

### ARCHITECTURAL DESIGN STANDARDS

#### General Standards for all Homes

##### A. Architectural Styles

- a. Residential structures are encouraged to be consistent with the following architectural styles:
  1. Contemporary Modern Craftsman
  2. Frame Vernacular
  3. Bungalow
  4. Colonial Revival
  5. Tuscan
  6. Mediterranean Revival
  7. Mission
  8. Prairie
  9. Florida Cracker

##### B. General Architectural Standards

- a. Windows: All front, street-facing facades shall have windows covering at least 15% of the façade's area.
- b. Exterior Finishes: Exterior finishes should be use hardy board, brick, rock, masonry, brick veneer, stone veneer, and stucco.
- c. Garages
  - i. Where lots are 50-ft or less in width, garages must be alley loaded.
  - ii. A front-loaded lot with a side-facing door(s) must incorporate windows and trim on the wall facing the front street.
  - iii. Front loaded garages cannot exceed 55% of the front façade.
  - iv. No more than 50 percent of the lots in proposed subdivision (all phases) are permitted to contain front loaded garages.
  - v. Two car garages with a minimum interior size of 360 feet are required.

RZ-22-22-8, Hills of Montverde PUD amendment

## Attachment "D"- Architectural Design Standards (Page 2 of 3)

### EXHIBIT "A"

#### ARCHITECTURAL DESIGN STANDARDS

##### General Standards for all Homes

##### A. Architectural Styles

a. Residential structures are encouraged to be consistent with the following architectural styles:

1. Contemporary Modern Craftsman
2. Frame Vernacular
3. Bungalow
4. Colonial Revival
5. Tuscan
6. Mediterranean Revival
7. Mission
8. Prairie
9. Florida Cracker

##### B. General Architectural Standards

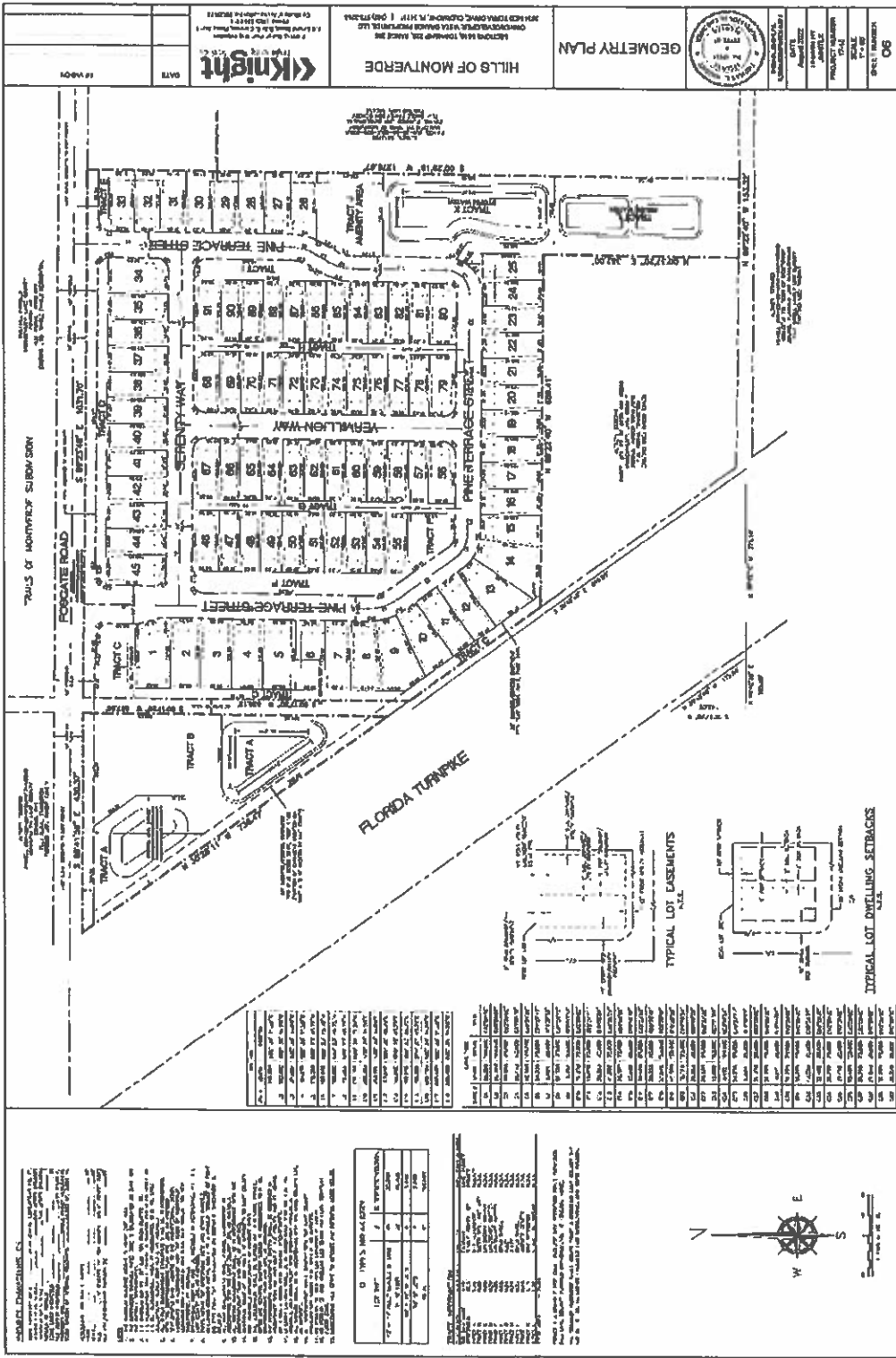
- a. **Windows:** All front, street-facing facades shall have windows covering at least 15% of the façade's area.
- b. **Exterior Finishes:** Exterior finishes should be use hardy board, brick, rock, masonry, brick veneer, stone veneer, and stucco.
- c. **Garages**
  - i. Where lots are 50-ft or less in width, garages must be alley loaded.
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  - iii. Front loaded garages cannot exceed 55% of the front façade.
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  - v. Two car garages with a minimum interior size of 360 feet are required.

RZ-22-22-8, Hills of Montverde PUD amendment

## Attachment "D"- Architectural Design Standards (Page 3 of 3)

- d. Accessory Structures greater than 150 ft<sup>2</sup> must be consistent with the architectural style, color, and building materials of the primary residential structure.
- e. Color
  - i. Accent colors for entry doors and window trims, such as white, grey, and earth colors are encouraged.
  - ii. Bright colors, florescent colors, are prohibited.
- C. Approved Elevations

The elevations attached hereto are being offered as consistent with the General Standards contained herein.



Attachment "E" - Concept Plan

RZ-22-22-8, Hills of Montverde PUD amendment

# Attachment "F"- LCSB School Concurrency Capacity Reservation



201 West Burtleigh Boulevard • Tavares • FL 32778-2486  
(352) 263-8600 • Fax: (352) 263-8603 • [www.lake.k12.fl.us](http://www.lake.k12.fl.us)

**Superintendent:**  
Diane S. Kornegay, M.Ed.

**School Board Members:**  
*District 1*  
Bill Mathias  
*District 2*  
Tyler Brandenburg  
*District 3*  
Mara Dodd  
*District 4*  
Molle Cunningham  
*District 5*  
Stephanie Luke

December 8, 2022

Mr. Joseph Matella  
Vista Grande Properties  
3534 Medterra Drive  
Clermont, Florida 34711

**RE: Hills of Montverde – Lake County  
School Concurrency Capacity Reservation (District Project #LCS2019-11XLOD2)**

Dear Mr. Matella:

Lake County has confirmed approval of the construction plans for the above referenced project. Based on this information, the School District has approved a time extension to run concurrent with the construction plan approval. The new expiration date of the School Concurrency Reservation is May 22, 2023.

In the event the construction plans expire or the necessary approvals are not obtained to begin construction the school concurrency capacity reservation shall also expire.

If you should have questions or require additional information, please do not hesitate to contact me at (352) 253-6694 or at [lavalleyh@lake.k12.fl.us](mailto:lavalleyh@lake.k12.fl.us)

Sincerely,

Helen LaValley  
Growth Planning Department

*"Commitment to Education and Excellence"*

RZ-22-22-8, Hills of Montverde PUD amendment

## Attachment "G"- Town of Montverde Comments (Page 22 of



October 21, 2022

**VIA E-MAIL**

Janie Barron, Chief Planner  
Office of Planning & Zoning  
315 West Main Street  
P.O. Box 7800  
Tavares, FL 32778

Melanie Marsh, Esq.  
County Attorney  
Lake County, Florida  
P.O. Box 7800  
Tavares, FL 32778

Re: Hills of Montverde  
Submitted to Lake County – Rezoning Application – Request for amendment of  
Ordinance #2018-44  
AR #5036  
1st Review

Dear Ms. Barron and Ms. Marsh:

I have the pleasure of representing the Town of Montverde. Paul Larino, Town Manager and I have reviewed the rezoning application dated 9/16/2022 as well as the supporting documentation for the above-referenced project provided by you to the Town on September 26, 2022. The applicant seeks to amend the PUD zoning ordinance "to delete Paragraph C 1 in its entirety from Ordinance 2018-44, and in its place the following language would appear: "Single Family Dwelling Units to be constructed within subdivision will be constructed to the Minimum Residential Construction Standards as established by Lake County." On behalf of the Town, please find our comments below:

1. Paragraph C 1 proposed to be deleted states, "*Development shall adhere to architectural design standards in accordance with the Town of Montverde Neighborhood Standards and Guidelines Manual for New Subdivision, as amended.*" The Town objects to this requirement being deleted in full and instead proposes to amend Paragraph C 1 to read, "*Development shall adhere to the Town of Montverde Neighborhood Standards and Guidelines Manual for New Subdivisions, as may be amended.*"
2. Add the following to Paragraph J, "*The development shall be served with central potable water, including irrigation, by the Town of Montverde.*"

---

352.243.2801 • Fax 352.243.2788  
1560 Bloxam Avenue • Clermont, Florida 34711  
anita@agclaw.net



RZ-22-22-8, Hills of Montverde PUD amendment

## Attachment "G"- Town of Montverde Comments (Page 2 of 2)

Janie Barron & Melanie Marsh, Esq.  
AR #5036 – Hills of Montverde  
October 21, 2022  
Page | 2

3. Amend Paragraph J to require the sewer plant to be constructed in a location closer to the turnpike and at a greater distance from Willow Ridge subdivision located in the Town of Montverde.
4. Amend Paragraph J to increase the landscape buffer width and number of tree and shrub plantings to better buffer the residents of Willow Ridge subdivision from the Hills of Montverde's sewer plant.
5. In the 3-page Hills of Montverde Project Narrative, paragraph D. the applicant misrepresents that "*The promise of water service and sewer service availability never materialized. The project has therefore been designed with a central water ad sewer system that will be privately owned and privately operated by the Hills of Montverde Homeowners Association, Inc.*" A meeting was held in 2018 to discuss utilities, annexation, and timing for annexation. Thereafter, the owner/developer refused to meet with the Town to discuss the provision of utilities. The town manager expressed at meeting(s) with the applicant and Lake County that the Town will be providing potable water service at a minimum and information was needed from the applicant to determine capacity for sewer. The applicant finally met with the Town and the County Attorney September 12, 2022 to discuss utilities. The Town again reiterated its ability to provide water, and agreed to discuss availability of sewer with the City of Clermont. On September 27, 2022 the Town provided the applicant with the proposed Utility Development Agreement and notified the applicant the Town is unable to provide sewer service. The Town requested comments from the applicant to the proposed Utility Development Agreement by October 18, 2022. Comments have not been received from the applicant.
6. The Hills of Montverde project is located within the Town's Ch. 180 utility services area. This is further detailed in the ISBA between the Town and Lake County. The Town expended public funds to upsize the potable water main in order to provide water to the Hills of Montverde development. Therefore, any approved construction plans stemming from the zoning ordinance should reflect connection to the Town's water utility.

Thank you for the opportunity to comment. If you have any questions please contact me.

Sincerely,

  
Anita Geraci-Carver

RZ-22-22-8, Hills of Montverde PUD amendment

# Attachment "H" - Town of Montverde Utility Agreement (Page 24 of

Record and Return to:  
Anita Gersoi-Carver, Esq.  
Town Attorney for  
Town of Montverde  
1560 Bloxam Avenue  
Clermont, Florida 34711

## UTILITY DEVELOPMENT AGREEMENT BETWEEN THE TOWN OF MONTVERDE AND VISTA GRANDE PROPERTIES, LLC

THIS UTILITY DEVELOPMENT AGREEMENT ("Agreement") is made and entered into as of the \_\_\_\_\_ day of \_\_\_\_\_, 2022, by and between the TOWN OF MONTVERDE, FLORIDA, a Florida municipal corporation (hereafter called, the "TOWN"), and VISTA GRANDE PROPERTIES, LLC, a Florida limited liability company (hereafter called "OWNER").

(Whenever used herein the terms "TOWN", and "OWNER", shall include all the parties to this instrument and the successors and assigns of corporations, partnerships (including joint ventures), public bodies and quasi-public bodies.)

### RECITALS

WHEREAS, the TOWN owns and operates a water utility service within its incorporated Town boundaries and within a designated utility service district adopted pursuant to Chapter 180, Florida State Statutes; and

WHEREAS, OWNER owns certain real property located within Lake County, within the TOWN'S designated utility service district, and said property is currently being developed as a residential subdivision known as Hills of Montverde. The real property is more particularly described in Exhibit A attached hereto and by this reference made a part hereof (the "Property"); and

WHEREAS, the TOWN desires to provide potable water and irrigation utility services to the Property and within the subject development; and

WHEREAS, the TOWN requires OWNER to construct and provide infrastructure for potable water and irrigation water utilities to serve the Property and within the subject development; and

WHEREAS, the TOWN and the OWNER desire to memorialize their respective obligations regarding construction of infrastructure and the provision of utility services; and

WHEREAS, the TOWN deems it in the best interest of its citizens and utility customers to provide such utility services to the Property and enter into a utility development agreement with the OWNER.

RZ-22-22-8, Hills of Montverde PUD amendment

## Attachment "H"- Town of Montverde Utility Agreement (Page 25 of

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged by the parties, the TOWN and OWNER agrees as follows:

1. **Recitals.** The foregoing recitals are true and correct in all respects and are expressly incorporated herein by this reference.

2. **Residential Units.** The Hills of Montverde residential subdivision shall consist of no more than 4 residential units per net acre as provided in Lake County Ordinance No. #2018-44 recorded November 9, 2018 in Official Records Book 5196, Page 1746, Public Records of Lake County, Florida.

3. **Water Services.**

(a) **Improvements.** The OWNER, at its own expense, will be responsible for designing, permitting and constructing the potable water utility service system and infrastructure within the Property which shall include a separate water utility service system for irrigation, OWNER shall also, at its own expense, design, permit and construct the following:

- a. Potable Water lines, valves, related equipment and connection from the TOWN'S existing water main located at \_\_\_\_\_ to the Property for the sole purpose of providing potable water.
- b. All design and engineering shall be built to the Montverde Standards and approved by the town engineer. The irrigation water utility service system shall be constructed within a designated, platted tract designed on the plat for the Property.
- c. The TOWN shall review and approve the specifications and engineering plans prior to permitting and construction. At a minimum irrigation water facilities shall consist of the following:
  - i. Four (4) wells four inches in diameter with a production capacity of 80 gallons per minute each which shall be for irrigation water supply.
  - ii. Sites shall have security fencing and a concrete access driveway.
  - iii. Wells shall have stabilized access for well maintenance.
  - iv. Each well site shall be equipped with flow meters, pressure tanks, and appropriate valves for proper operation and maintenance. The wells shall be manifolded in a common raw water main to operate as one integrated system.
  - v. The OWNER agrees to provide irrigation infrastructure to all common areas, boulevards and homes within Hills of Montverde, as approved by the town engineer.
- d. Construction of all improvements required hereunder shall be in accordance with the Town of Montverde's requirements, FDEP standards and sound engineering practices.

RZ-22-22-8, Hills of Montverde PUD amendment

## Attachment "H" - Town of Montverde Utility Agreement (Page 26 of

- e. All homes must have RPZ back flow device installed.
- (b) Water Impact Fees.
  - a. OWNER recognizes the TOWN will incur administrative impacts associated with providing water utility services to the Property. OWNER shall pay to the TOWN, within one hundred twenty (120) days of the execution of this Agreement, \$5,100 (91 lots x \$50.00). In addition, OWNER shall pay TOWN costs incurred by the TOWN for engineering and legal services relating to the Property (hereinafter "Consultants Fees"). Consultant's Fees shall be due and payable by OWNER to the TOWN within thirty (30) days of an invoice.
  - b. OWNER acknowledges that the owner of each residential unit must pay an impact fee to the TOWN prior to the residential unit's initial connection to the water system. The water impact fee for each residential unit shall be paid at the time a building permit is issued for the corresponding residential unit. No residential unit shall connect to the water system until a water impact fee is paid. Impact fees are nonrefundable.
- (c) Fees. At the time a residence is connected to the water utility system, a Water System Connection Fee (per lot up to two meters), Water Account Deposit (per meter), and a Water Turn On Fee (per meter) shall be due and payable to the TOWN.
- (d) Provision of Water Service. Provided the water utility service system and infrastructure have been completed in accordance with Section 3(a) above, and the payments have been made in accordance with Section 3(b) and (c) above, the TOWN guarantees water service capacity and services to serve a total of 91 residential units.
- (e) Restrictive Covenants. OWNER shall cause to be recorded encumbering the Property a restrictive covenant that prohibits any and all properties within 100' of the irrigation wells from being rezoned or utilized for any use, other than residential, and to strictly prohibit commercial and industrial uses within 100' of the irrigation wells.

4. Unit Count. In the event a total of 91 residential units within the Property have not received certificates of occupancy by October 30, 2025 the OWNER shall pay the TOWN user fees for the number residential units equal to the difference between 91 residential units and the actual number of residential units which have received certificates of occupancy by October 30, 2025. Said user fees shall be paid by the OWNER on a monthly basis pursuant to the TOWN'S monthly utility billing cycle, and shall continue until a total of 91 residential units have received certificates of occupancy.

5. Design, Review, Construction and Inspection of Facilities. During the construction of the water and irrigation water facilities by the OWNER, the TOWN shall have the right to inspect such installation to determine compliance with the plans and specifications, adequacy of the quality of the installation, and further, shall be entitled to perform standard tests for pressure, filtration, line and grade, and all other normal engineering tests required by specifications and/or good engineering practices. Complete

RZ-22-22-8, Hills of Montverde PUD amendment

## Attachment "H"- Town of Montverde Utility Agreement (Page 27 of

as-built plans shall be submitted to the TOWN upon completion of construction.

All direct costs, expenses and fees incurred by the TOWN that relate directly to the plan review, inspection, or testing of the water and irrigation water facilities, including, but not limited to, expenses of the town engineers, as well as other expenses related directly to engineering review or inspection shall be assessed to the OWNER and reimbursed to the TOWN.

6. **Permission to Connect Required.** The OWNER, or any owner of any parcel within the Hills of Montverde or the Property, or any occupant of any residences located thereon, shall not have the right to and shall not connect any customer installation to the water and irrigation facilities of the TOWN until payment is received for such connection and approval for such connection has been granted by the TOWN, such approval not to be unreasonably withheld.

7. **Provision of Service: Payment of Rates.**

a. Upon the continued accomplishment of all the prerequisites contained in this Agreement to be performed by the OWNER, the TOWN covenants and agrees that it will allow the connection of the water and irrigation water facilities installed by the OWNER to the water, and irrigation water facilities of the TOWN in accordance with the terms and intent of this Agreement. Such connection shall be in accordance with the rules and regulations of the Department of Health and Rehabilitative Services and the Florida Department of Environmental Protection. The TOWN agrees that, once it provides water, and irrigation water services to the Property and the OWNER or others have connected customer installations to the TOWN'S system, it will thereafter, continuously provide, in accordance with the other provisions of this Agreement and applicable laws, including rules and regulations and rate schedules, water, and irrigation water services to the Property in a manner to conform with all requirements of all governmental agencies having jurisdiction over the water, and irrigation water utilities of the TOWN. The OWNER, its successors and assigns, agree to timely and fully pay all applicable monthly rates, fees, and charges to the TOWN and otherwise fully comply with the TOWN'S rules, regulations, and ordinances applicable to the provision of water, and irrigation water service.

b. The OWNER, its successors and assigns, agree to pay the TOWN for monthly service within thirty (30) days after a statement is rendered by the TOWN, all sums due and payable as set forth in such statement. Upon failure or refusal to pay the amounts due on statements as rendered, the TOWN may, in its sole discretion, terminate service to the individual parcel or lot in question. Nothing herein shall be construed as creating an obligation on the OWNER as to the failure of a third party to make such payment of a statement.

c. The TOWN may establish, revise, modify and enforce rules, regulations and rates covering the provision of water, and irrigation water service to the homeowners on the Property. Such rules and regulations shall at all times be reasonable and subject to regulation as may be provided by law or under contract.

RZ-22-22-8, Hills of Montverde PUD amendment

## Attachment "H"- Town of Montverde Utility Agreement (Page 28 of

### 8. Conveyance of Systems.

OWNER shall, upon completion of construction of the water and irrigation utility improvements, and upon acceptance by the TOWN of the OWNER'S construction of same, convey by bill of sale said water and irrigation improvements to the TOWN at no charge. OWNER shall warrant the design, materials, and construction of the water improvements for a period of four (4) years from the date of conveyance to the TOWN, and shall provide to TOWN a maintenance bond or letter of credit in an amount of twenty-percent (20%) of the construction costs of the water and wastewater improvements and as approved by the Town's engineer, for a period of four (4) years ("maintenance bond"). If an event or events occur within the four (4) year period that constitutes a breach of the warranty and the warranty is not honored within a reasonable time after notice from the TOWN of said event, the TOWN may make a claim for failure of the design, materials or construction against the maintenance bond in an amount equal to reasonable costs to repair the failure. In such event, unless repairs must be made in a timelier manner as determined by the Town's engineer, the TOWN shall repair the failure in a reasonable time after receipt of the funds from the maintenance bond. If the Town's engineer determines the repairs must be made in a timelier manner, the TOWN may have such maintenance or repairs performed and obtain reimbursement from OWNER should the TOWN not receive reimbursement from the maintenance bond. OWNER shall reimburse TOWN within thirty (30) days of an invoice.

### 9. Conveyance of Real Property Interests.

(a) OWNER, upon completion of the water and irrigation improvements and upon acceptance by the TOWN shall by plat dedication and non-exclusive utility easement convey to the TOWN underground utility easements sufficient for the water and irrigation systems located within the Property including reasonable and necessary access thereto for maintenance, repair and replacement.

(b) OWNER shall convey or cause to be conveyed to TOWN by warranty deed those tract(s) within the Hills of Montverde upon which the irrigation wells have been constructed. Such site shall have full access from the right-of-way. Such site(s) shall be free of all mortgages, taxes, liens, and covenants.

10. Evidence of Title. At least thirty (30) days prior to the TOWN'S acceptance of the water, and irrigation water facilities within the Property, the OWNER agrees, at its expense, to either deliver to the TOWN a title commitment, brought up to date, which shall be retained by the TOWN, and remain the property of the TOWN, or furnish to the TOWN an opinion of title from a qualified attorney or a qualified title insurance company with respect to the Property, which opinion shall include a current report on the status of the title, setting out the name of the legal title holders, the outstanding mortgages, taxes, liens, and covenants. The provisions of this Section are for the exclusive rights of service contained in this Agreement. Any mortgage or lien holder having an interest in the Property shall be required to join in the grant of exclusive service rights set forth in this Agreement. Title standards shall be the same as those applicable to real estate generally adopted by The Florida Bar and in accordance with Florida law.

RZ-22-22-8, Hills of Montverde PUD amendment

## Attachment "H"- Town of Montverde Utility Agreement (Page 29 of

11. **Notices.** All notices, demands or other writings required or permitted to be given or made or sent under this Agreement, by either Party to the other, shall be in writing and shall be deemed to have been fully delivered upon: (i) receipt of such notice when hand delivered (by personal courier or overnight delivery service) to the Party to whom such notice is addressed as set forth below; (ii) receipt of such notice as indicated by the signature and date on the return receipt of a certified mailing; or (iii) on the same day if sent by facsimile and a printed confirmation of transmission is obtained by the sender, and addressed and transmitted to the Party to whom such notice is to be delivered as set forth below. Any Party by written notice in accordance with the requirements of this Section may modify its address for receipt of all future notices

Notice to Town: Paul Larino, Town Manager  
Town of Montverde  
Tel: (407) 469-2681  
Fax: (407) 469-2773  
17404 Sixth St.  
P.O. Box 560008  
Montverde, FL 34756

With copy to: Anita Geraci-Carver, Esq., Town Attorney  
1560 Bloxam Avenue  
Clermont, FL 34711  
Telephone: 352-243-2801  
Facsimile: 352-243-2768

Notice to Owner: Vista Grand Properties, LLC  
Attn: Joseph Matella  
3534 Mediterra Drive  
Clermont, FL 34711  
Telephone: \_\_\_\_\_  
Facsimile: \_\_\_\_\_

With copy to: Berry J. Walker, Jr., Esquire  
Walker & Tudhope, P.A.  
225 South Westmonte Drive, Suite 2040  
Altamonte Springs, FL 32714  
Phone: 407-478-1866  
Facsimile: 407-478-1865

12. **Entire Agreement.** This Agreement embodies and constitutes the entire understanding of the Parties with respect to the subject matter addressed herein, and all prior negotiations, correspondence, conversations, agreements, understandings, representations, and statements, oral or written, are incorporated and merged into this Agreement.

13. **Amendments to Agreement.** No modification, amendment or alteration

RZ-22-22-8, Hills of Montverde PUD amendment

## Attachment "H"- Town of Montverde Utility Agreement (Page 30 of

of the terms or conditions contained herein shall be effective or binding upon the Parties hereto unless the same is contained in a written instrument executed by the Parties.

**14. Binding Agreement: Assignments By Owner.**

- a. This Agreement shall be binding upon and inure to the benefit of the OWNER, the TOWN, and their respective successors and assigns. The terms and conditions of this Agreement shall burden, benefit, and shall run with the title to the Property.
- b. This Agreement shall be binding upon and shall inure to the benefit of the OWNER, the TOWN, and their respective assigns and successors by merger, consolidation, or conveyance. This Agreement shall not be assigned by the OWNER without the written consent of the TOWN first having been obtained which shall not be unreasonably delayed, conditioned, or withheld.

**15. Survival of Covenants.** The rights, privileges, obligations, and covenants of the OWNER and the TOWN shall survive the completion of the work of the OWNER with respect to completing the water, and irrigation facilities and services to any phase area and to the Property as a whole.

**16. Severability.** If any provision of this Agreement, the deletion of which would not adversely affect receipt of any material benefits by a Party hereunder or substantially increase the burden of a Party hereunder, shall be held to be invalid or unenforceable to any extent by a court of competent jurisdiction, the same shall not affect in any respect whatsoever the validity or enforceability or the remainder of this Agreement.

**17. Authority.** Each Party warrants and represents to the other that it has all necessary power and authority to enter into and consummate the terms and conditions of this Agreement and that, upon execution of this Agreement by both Parties, this Agreement shall be valid, binding and enforceable against such Parties and their respective successors and assigns.

**18. Breach.** In the event of a breach of this Agreement by either Party hereto, the other Party shall have the rights and remedies allowed by law, including, but not limited to, the right to specific performance of the provisions hereof.

**19. Governing Law.** This Agreement shall be construed and enforced in accordance with the laws of the State of Florida. Exclusive venue in any action to construe or enforce the provisions of this Agreement shall be in the Circuit Court of and for Lake County, Florida.

**20. Time is of the Essence.** Time is hereby declared to be of the essence in the performance of the duties and obligations of the respective Parties to this Agreement.

**21. Captions.** The captions or section headings in this Agreement are



RZ-22-22-8, Hills of Montverde PUD amendment

## Attachment "H" - Town of Montverde Utility Agreement (Page 31 of

provided for convenience only and shall not be deemed to explain, modify, amplify, or aid in the interpretation, or meaning of this Agreement.

22. **Attorney's Fees.** The prevailing party in any action or proceeding to enforce the terms and provisions of this Agreement shall be entitled to recover from the non-prevailing party, all reasonable attorney's and paralegal fees, and costs incurred before trial, at all trial and appellate levels, in all post judgment proceedings and in any bankruptcy proceedings; provided.

23. **Counterparts.** This Amendment may be executed in any number of counterparts each of which, when executed and delivered, shall be an original, but all counterparts shall together constitute one and the same instrument.

24. **Recording of Agreement.** This Agreement shall be recorded in the Public Records of Lake County, Florida, by the Town.

25. **Effective Date.** This Amendment shall take effect on the date that this Amendment is fully executed by the last of the parties to do so.

SIGNATURE PAGES TO FOLLOW

RZ-22-22-8, Hills of Montverde PUD amendment

# Attachment "H"- Town of Montverde Utility Agreement (Page 32 of

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed in form and manner sufficient to bind them as of the date indicated hereinabove.

**VISTA GRANDE PROPERTIES, LLC,**  
a Florida limited liability company,

**By: Matella Holdings LLLP, as Manager Member**

Witnesses:

By: \_\_\_\_\_  
Joseph Matella, General Partner

Signature

\_\_\_\_\_  
Print Name

Signature

\_\_\_\_\_  
Print Name

By: \_\_\_\_\_  
Ann Matella, General Partner

Signature

\_\_\_\_\_  
Print Name

Signature

\_\_\_\_\_  
Print Name

STATE OF FLORIDA  
COUNTY OF \_\_\_\_\_

The foregoing instrument was acknowledged before me by means of  physical presence or  online notarization this \_\_\_ day of \_\_\_\_\_, 2022, by Joseph Matella, General Partner of Matella Holdings LLLP as Manager Member of Vista Grande Properties, LLC, a Florida limited liability company, on behalf of the company who is personally known to me or has produced \_\_\_\_\_ as identification.

RZ-22-22-8, Hills of Montverde PUD amendment

# Attachment "H"- Town of Montverde Utility Agreement (Page 33 of 13)

\_\_\_\_\_  
NOTARY PUBLIC

STATE OF FLORIDA  
COUNTY OF \_\_\_\_\_

The foregoing instrument was acknowledged before me by means of  physical presence or  online notarization this \_\_\_ day of \_\_\_\_\_, 2022, by Ann Matella, General Partner of Matella Holdings LLLP as Manager Member of Vista Grande Properties, LLC, a Florida limited liability company, on behalf of the company, who is personally known to me or has produced \_\_\_\_\_ as identification.

\_\_\_\_\_  
NOTARY PUBLIC

RZ-22-22-8, Hills of Montverde PUD amendment

# Attachment "H" - Town of Montverde Utility Agreement (Page 34 of 13)

**TOWN OF MONTVERDE, FLORIDA**

BY: \_\_\_\_\_  
Joe Wynkoop, Mayor

[SEAL]

Attest:

\_\_\_\_\_  
Sandy Johnson, Town Clerk

**WITNESSES AS TO MAYOR AND TOWN CLERK:**

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Print Name

**STATE OF FLORIDA  
COUNTY OF LAKE**

The foregoing instrument was acknowledged before me by means of  physical presence or  online notarization this \_\_\_ day of \_\_\_\_\_, 2022, by Joe Wynkoop, Mayor of the Town of Montverde, a Florida municipal corporation, on behalf of the corporation and who is personally known to me or has produced \_\_\_\_\_ as identification.

\_\_\_\_\_  
NOTARY PUBLIC

RZ-22-22-8, Hills of Montverde PUD amendment

## Attachment "H"- Town of Montverde Utility Agreement (Page 35 of 13)

### EXHIBIT A

#### The Property (Hills of Montverde)

INSERT LEGAL DESCRIPTION FROM ADOPTED ORDINANCE

ACREAGE = 25.06 +/-

RZ-22-22-8, Hills of Montverde PUD amendment

## Attachment "H" - Town of Montverde Utility Agreement (Page 13 of 13)

### EXHIBIT B

RZ-22-22-8, Hills of Montverde PUD amendment

# Attachment "I" - Notice of Appearance

**LAKE COUNTY, FLORIDA  
BOARD OF COUNTY COMMISSIONERS**

RECEIVED  
OCT 11 2022  
Planning & Zoning

VISTA GRANTE PROPERTIES, LLC, PROPERTY OWNER  
APPLICANT: BERRY JAMES WALKER JR., ESQ.

Rezoning Amendment - Hills of Montverde  
(AR #5036)  
Ordinance 2018-44  
Hills of Montverde

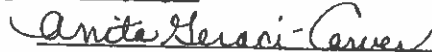
## NOTICE OF APPEARANCE

Pursuant to 14.00.06, Chapter XIV of the Lake County Land Development Regulations, Anita Geraci-Carver, Esq., as Town Attorney for the Town of Montverde and Paul Larino, Town Manager of the Town of Montverde, file this Notice of Appearance on behalf of the Town of Montverde for the above-referenced matter for purposes of public hearing(s) on the matter.

Paul Larino, Town Manager  
Town of Montverde  
17404 Sixth St.  
P.O. Box 560008  
Montverde, FL 34756

## CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished this 7<sup>th</sup> day of October, 2022, by U.S. Mail to: **Lake County Board of County Commissioners**, Office of Planning & Zoning, P.O. Box 7800, Tavares, FL 32778 and via e-mail to **Melanie Marsh**, County Attorney, [melanie.marsh@lakecountyfl.gov](mailto:melanie.marsh@lakecountyfl.gov).



Anita Geraci-Carver  
Florida Bar No. 061115  
Law Office of Anita Geraci-Carver, P.A.  
1560 Bloxam Avenue  
Clermont, Florida 34711  
Telephone 352-243-2801  
Facsimile 352-243-2768  
[anita@agclaw.net](mailto:anita@agclaw.net)  
Attorney for Town of Montverde

**ORDINANCE #2023-\_\_\_\_\_**  
**Vista Grande Properties**  
**RZ-22-28-2**

1 **AN ORDINANCE OF THE LAKE COUNTY BOARD OF COUNTY COMMISSIONERS AMENDING**  
2 **THE LAKE COUNTY ZONING MAPS; AND PROVIDING FOR AN EFFECTIVE DATE.**  
3

4 **WHEREAS**, Berry James Walker Jr., Esquire (the "Applicant") submitted an application on  
5 behalf of Vista Grande Properties, LLC (the "Owners") to amend Section 1.C.1 entitled Development  
6 Standards/Design Criteria of Planned Unit Development (PUD) Ordinance #2018-44 to modify the  
7 Architectural Design Standards and clarify the setbacks, noted in Section D; and  
8

9 **WHEREAS**, the subject property consists of 24.96 +/- acres and is located south of Fosgate  
10 Road and east of State Road 91 (Florida Turnpike) in the Montverde area within Sections 9/10,  
11 Township 22 South, Range 26 East, identified by Alternate Key Numbers 1029503, 2873728, and  
12 3778275, and more particularly described in Exhibit "A"; and  
13

14 **WHEREAS**, the subject property is located within the Urban Low Future Use Category in  
15 accordance with Ordinance Number 2018-43; and  
16

17 **WHEREAS**, on September 25, 2018, the Lake County Board of County Commissioners  
18 approved a rezoning request to establish a Planned Unit Development (PUD) to accommodate a  
19 single-family residential development; and  
20

21 **WHEREAS**, the Lake County Planning & Zoning Board did on the 1st day of March 2023  
22 review Petition RZ-22-28-2; after giving Notice of Hearing on petition for a change in the use of land,  
23 including notice that the Ordinance would be presented to the Board of County Commissioners of  
24 Lake County, Florida, on the 4th day of April 2023; and  
25

26 **WHEREAS**, the Board of County Commissioners reviewed the recommended application  
27 and ordinance, the recommendations of the Lake County Planning & Zoning Board and County staff,  
28 and comments, favorable or unfavorable, from the public and surrounding property owners at Public  
29 Hearing duly advertised; and  
30

31 **WHEREAS**, upon review, certain terms pertaining to the development of the above-described  
32 property have been duly approved.  
33

34 **NOW THEREFORE, BE IT ORDAINED** by the Board of County Commissioners of Lake  
35 County, Florida, that:  
36

37 **Section 1. Terms.** The County Manager or designee shall amend the Lake County  
38 Zoning Map to show the Planned Unit Development (PUD) zoning district in accordance with this  
39 Ordinance. All uses specified must be generally consistent with the Concept Plan as shown in Exhibit  
40 "B" of this Ordinance. To the extent where there are conflicts between the Concept Plan and this  
41 Ordinance, the Ordinance will take precedence. Upon the Effective Date, this ordinance shall replace  
42 and supersede PUD Ordinance #2018-44.



Ordinance #2023-\_\_\_\_\_, RZ-22-28-2, Vista Grande Properties

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**A. Permitted Land Uses.**

1. Residential development, 4 dwelling per net acre.
2. Model Homes and Sales Centers. Construction of model units, sales centers and temporary parking lots will be allowed with an approved site plan. Up to 6 models may be started prior to each final plat via a metes and bound description in conjunction with a Developer's Agreement. Parking may be located on one of the six lots.
3. Accessory uses may be approved by the County Manager or designee.
4. Any other use of the property will require approval of an amendment to this Ordinance by the Board of County Commissioners.

**B. Open Space, Impervious Surface Ratio, and Building Height.**

1. The Maximum Building height is forty (40) feet.
2. The maximum Impervious Surface Ratio (ISR) will be 0.60 for the overall development. The preliminary plat must calculate the maximum ISR allowed on each platted lot.
3. The development shall provide a minimum of 25% open space of the net developable area.
4. All other development standards must be in accordance with the Comprehensive Plan and Land Development Regulations (LDR), as amended.

**C. Development Standards/Design Criteria.**

- ~~1. Development shall adhere to architectural design standards in accordance with the Town of Montverde Neighborhood Standards and Guidelines Manual for New Subdivision, as amended.~~
1. Building Design: Single-Family Residential (SFR) units shall be designed utilizing Contemporary Modern Craftsman, Frame Vernacular, Colonial Revival, Tuscan, Mediterranean Revival, Mission, Prairie, or Florida Cracker style architectural design standards.
2. General Architectural Standards:

Ordinance #2023-\_\_\_\_\_, RZ-22-28-2, Vista Grande Properties

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- a. Windows: All front, street-facing facades shall have windows covering at least 15% of the façade's area.
- b. Exterior Finishes: Exterior finishes should be hardy board, brick, rock, masonry, brick veneer, stone veneer, and stucco.
- c. Garages
  - (1) Single family residences shall be designed and built with a two-car garage minimum.
  - (2) Where lots are 50-ft or less in width, garages must be alley loaded.
  - (3) A front-loaded lot with a side-facing door(s) must incorporate windows and trim on the wall facing the front street.
  - (4) Front loaded garages cannot exceed 55% of the front façade.
  - (5) No more than 50% of the lots in proposed subdivision (all phases) are permitted to contain front loaded garages.
  - (6) To avoid monotony, the same home plan and elevation for SFR homes will not be duplicated directly across the street, or on either side of a particular plan and elevation.
  - (7) Two car garages with a minimum interior size of 360-square feet are required.
  - (8) Different house sizes and styles shall be integrated architecturally to give the development a harmonious appearance.
  - (9) All roofs must be architectural shingles or concrete tile. Metal roof accents are permitted. Roof pitch shall be a minimum of five (5) to twelve (12).
  - (10) Front yard fencing is not permitted.
  - (11) RV storage on lots with a SFR is prohibited.

Ordinance #2023-\_\_\_\_\_, RZ-22-28-2, Vista Grande Properties

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(12) Entry/monument signage for the main and secondary (if any) project entrances shall feature stone, stucco, or similar materials, and the project name.

(13) All SFR units shall be designed and built with a 2-car garage minimum.

d. Accessory Structures greater than 150-square feet must be consistent with the architectural style, color, and building materials of the primary residential structure.

e. Color

(1) Accent colors for entry doors and window trims, such as white, grey, and earth colors are encouraged.

(2) Bright and florescent colors are prohibited.

f. Approved Elevations: Development shall be consistent with the elevations attached hereto as Exhibit "C".

g. The Architectural Design Standards listed herein shall be incorporated into the Homeowners' or Property Owners' Restrictive Covenants or other applicable documents.

**E. Setbacks.** The minimum setback for residential development will be as specified below, as measured from the property line:

Development	Front	Side <sup>1</sup>	Rear <sup>1</sup>	Multiple/Secondary Frontage(s)
Single Family Residence	Twenty-five (25) Feet	<del>Ten (10) Feet</del> Five (5) Feet	<del>Ten (10) Feet</del> Five (5) Feet	Fifteen (15) feet
Note 1: Pools, pool enclosures, screen rooms, sheds and similar accessory structures shall have a five (5) foot side and rear setback.				

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1. Driveways for single family lots shall be setback a minimum of five (5) feet from the side property lines.

2. Any setback not specified herein must be in accordance with the Lake County Land Development Regulations, as amended.

**F. Parking Requirements.** Off-street parking must be provided in accordance with the Lake County Land Development Regulations (LDR), as amended.

Ordinance #2023-\_\_\_\_\_, RZ-22-28-2, Vista Grande Properties

1                   **G. Landscaping, Buffering, and Screening.**  
2

- 3                   1. Trees within the residential lots and other parcels, including common areas, shall  
4                   be a minimum distance of eight (8) feet from right-of-way or sidewalk, whichever  
5                   is greater.  
6  
7                   2. Drought tolerant, native trees and vegetation shall be utilized for all landscape  
8                   buffers, and stormwater retention/detention areas.  
9  
10                  3. Best Management Practices for native landscaping and "right plant – right place"  
11                  landscaping techniques shall be utilized in the design and installation of  
12                  landscaping. Installation of invasive exotic plant species in all landscape  
13                  plantings is prohibited.  
14                  4. Smart Irrigation Best Management Practices shall be utilized for all landscape  
15                  irrigation and shall incorporate soil moisture and rain sensors into the irrigation  
16                  design.  
17                  5. Landscaping and screening shall be in accordance with the Lake County Land  
18                  Development Regulations (LDR), as amended.

19                   **H. Environmental Requirements.**  
20

- 21                  1. An environmental assessment no more than six (6) months old will be required  
22                  at the time of the Preliminary Plat submittal. The environmental assessment will  
23                  need to indicate the presence of vegetation, soils, threatened and endangered  
24                  species that may exist on the site. Any State permitting or mitigation will be  
25                  required before development can commence.  
26  
27                  2. Environmental resources shall be protected in accordance with the  
28                  Comprehensive Plan and Land Development Regulations (LDR), as amended.  
29

30                  **I. Noise:** Compliance must be in accordance with the Lake County Land Development  
31                  Regulations, as amended.  
32

33                   **J. Transportation Improvements.**  
34

- 35                  1. All access management shall be in accordance with the Comprehensive Plan and  
36                  Land Development Regulations, as amended.  
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38                  2. Additional right-of-way will be required for Fosgate Road.  
39  
40                  3. Fosgate Road must be improved to county paved road standards.  
41

Ordinance #2023-\_\_\_\_\_, RZ-22-28-2, Vista Grande Properties

1           **K. Future Road Maintenance.** If the subdivision roads are public roads, future road  
2 maintenance will be funded using a municipal services taxing unit (MSTU) or municipal  
3 service benefit unit (MSBU) as authorized under Section 125.01(1)(q), Florida Statutes.  
4 Before or concurrent with any final plat approval, the Owner shall provide documentation  
5 required by the County to impose an MSTU or MSBU, at the County's discretion, on the  
6 platted or commercial lots. Additionally, Owner acknowledges and agrees that the MSTU  
7 or MSBU shall be collected as a non-ad valorem assessment using the uniform method  
8 of collection set forth under Section 197.3632, Florida Statutes.

9  
10           **L. Utilities.** The development shall be served with central potable water and central  
11 sewer, in accordance with the Comprehensive Plan and Land Development Regulations  
12 (LDR), as amended.

13  
14           **M. Stormwater Management.** The stormwater management system must be designed  
15 in accordance with all applicable Lake County and St. Johns River Water Management  
16 District requirements.

17  
18           **N. Floodplain Management.** The Owners will be responsible for any flood studies  
19 required for developing the site and to comply with Federal Emergency Management  
20 Agency (FEMA) regulations, the Comprehensive Plan, and the Land Development  
21 Regulations. Any development within the floodplain as identified on the FEMA maps will  
22 require compensating storage.

23  
24           **O. Lighting.**

- 25  
26           1. All development will adhere to the dark-sky principles set forth in Section  
27 3.09.00, Land Development Regulations, as amended. These same  
28 provisions shall apply to lighting on individual lots as well as to the common  
29 areas. In situations where Lighting Standards conflict with Dark-Sky  
30 Principles, Dark-Sky Principles shall take precedence.  
31  
32           2. All streetlighting must meet FDOT street lighting standards, Dark-Sky  
33 Principles, and warm white glow correlated color temperature (CCT) not to  
34 exceed 3000k.  
35  
36           3. All streetlighting shall be owned and maintained by a Homeowners' or  
37 Property Owners' Association.  
38

39           **P. Signage.** All signage must be in accordance with the Lake County Land  
40 Development Regulations, as amended.

41  
42           **Q. Concurrency Management Requirements.** Any development must comply with the  
43 Lake County Concurrency Management System, as amended.

Ordinance #2023-\_\_\_\_\_, RZ-22-28-2, Vista Grande Properties

1                   **R. Development Review and Approval.**  
2

- 3                   1. Prior to the issuance of any permits, the Applicant shall be required to submit a  
4                   preliminary plat, construction plans, and final plat generally consistent with  
5                   EXHIBIT "B" - Conceptual Plan for review and approval in accordance with the  
6                   Comprehensive Plan and LDR, as amended.  
7  
8                   2. PUD Expiration: Physical development shall commence within three (3) years  
9                   from the date of this Ordinance approval. Failure to commence construction  
10                  within three (3) years of approval shall cause the revocation of this ordinance, in  
11                  accordance with the Comprehensive Plan or superseding documents amended.  
12                  Prior to expiration of the three-year time frame, the Board of County  
13                  Commissioners may grant, via a Public Hearing, one (1) extension of the time  
14                  frame for a maximum of two (2) years upon a showing that reasonable efforts  
15                  have been made towards securing the required approvals and commencement  
16                  of work. Notwithstanding the foregoing, if at any time the developer is granted an  
17                  extension of time pursuant to Section 252.363, Florida Statutes, or Section 7-5,  
18                  Lake County Code, to the preliminary plat, construction plans, or final plat,  
19                  commencement of physical development shall be equally extended so long as  
20                  the development is proceeding in good faith and does not allow the originally  
21                  extended development order to expire.  
22

23 **Section 2. Conditions.**  
24

- 25                  **A.** After establishment of the facilities as provided in this Ordinance, the property may  
26                  only be used for the purposes identified in this Ordinance. Any other proposed use  
27                  must be specifically authorized by the Lake County Board of County Commissioners.  
28  
29                  **B.** No person, firm, or corporation may erect, construct, enlarge, alter, repair, remove,  
30                  improve, move, convert, or demolish any building structure, add other uses, or alter  
31                  the land in any manner within the boundaries of the above-described land without  
32                  first obtaining the necessary approvals in accordance with the Lake County Code, as  
33                  amended, and obtaining the permits required from the other appropriate  
34                  governmental agencies.  
35  
36                  **C.** This Ordinance will inure to the benefit of, and will constitute a covenant running with  
37                  the land, and the terms, conditions, and provisions of this Ordinance will be binding  
38                  upon the present Owners and any successor and will be subject to each and every  
39                  condition set out in this Ordinance.  
40  
41                  **D.** The transfer of ownership or lease of any or all of the property described in this  
42                  Ordinance must include in the transfer or lease agreement, a provision that the  
43                  purchaser or lessee is made good and aware of the conditions established by this

Ordinance #2023-\_\_\_\_\_, RZ-22-28-2, Vista Grande Properties

1 Ordinance and agrees to be bound by these conditions. The purchaser or lessee may  
2 request a change from the existing plans and conditions by following the procedures  
3 contained in the Land Development Regulations, as amended.  
4

5 **E. Action by the Lake County Code Enforcement Special Master.** The Lake County  
6 Code Enforcement Special Master will have authority to enforce the terms and  
7 conditions set forth in this Ordinance and to recommend that the ordinance be  
8 revoked.  
9

10 **Section 3. Severability.** If any section, sentence, clause, or phrase of this Ordinance is held to be  
11 invalid or unconstitutional by any court of competent jurisdiction, the holding will in no  
12 way affect the validity of the remaining portions of this Ordinance.  
13

14 **Section 4. Filing with the Department of State.** The clerk is hereby directed to send a copy of this  
15 Ordinance to the Secretary of State for the State of Florida in accordance with Section  
16 125.66, Florida Statutes.  
17

18 **Section 5. Effective Date.** This Ordinance will become effective as provided by law.  
19

20 ENACTED this \_\_\_\_\_ day of \_\_\_\_\_, 2023

21  
22 FILED with the Secretary of State \_\_\_\_\_, 2023.

23  
24 EFFECTIVE \_\_\_\_\_, 2023.  
25

26 BOARD OF COUNTY COMMISSIONERS  
27 LAKE COUNTY, FLORIDA

28  
29 \_\_\_\_\_  
30 KIRBY SMITH, CHAIRMAN

31 ATTEST:

32  
33  
34  
35 \_\_\_\_\_  
36 GARY J. COONEY, CLERK OF THE  
37 BOARD OF COUNTY COMMISSIONERS  
38 LAKE COUNTY, FLORIDA

39 APPROVED AS TO FORM AND LEGALITY:

40  
41  
42  
43 \_\_\_\_\_  
MELANIE MARSH, COUNTY ATTORNEY

Ordinance #2023-\_\_\_\_\_, RZ-22-28-2, Vista Grande Properties

### EXHIBIT A – Legal Description

Tract 39, East 1/2 of Tract 40, Tract 41, Tract 42, of the Lake Highlands Company Plat, Section 10, Township 22 South, Range 26 East, Public Records of Lake County, Florida.

Also:

That part of the East 1/2 of the East 1/2 of the Southeast 1/4 of Section 9, Township 22 South, Range 26 East, lying North and East of the Sunshine State Parkway.

And that part of the West 1/2 of the NW 1/4 of the NW 1/4, of the SW 1/4 of Section 10, Township 22 South, Range 26 East, lying North and East of the Sunshine State Parkway.

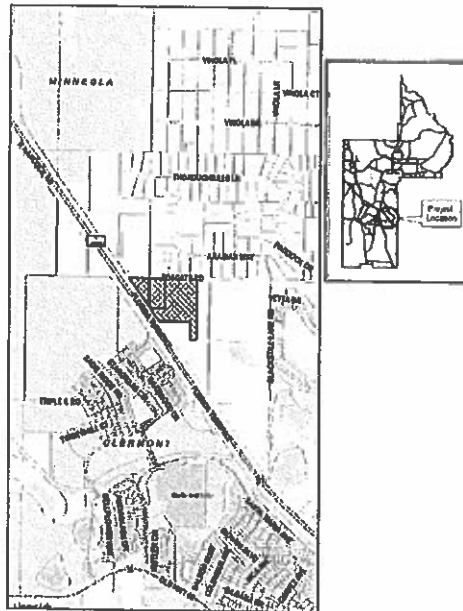
Less and Except:

That part of Tract 41 in Lake Highlands Company's Subdivision in Section 10, Township 22 South, Range 26 East, as per Plat thereof recorded in Plat Book 3, Page 51, Public Records of Lake County, Florida, described as follows: Beginning on the West line of said Section 10 at a point S. 0 degrees 25' 28" W. a distance of 670.90 feet from the Northwest corner of the SW 1/4 thereof and run S. 35 degrees 37' 32" E. a distance of 810.03 feet, thence N. 89 degrees 34' 02" W. a distance of 371.10 feet, thence N. 35 degrees 37' 32" W. a distance of 179.44 feet, to the aforesaid West line of Section 10, thence N. 0 degrees 25' 28" E. along said line a distance of 509.78 feet to the point of Beginning. Less existing Right-of-Way.

Also Less and Except:

That part of: Tract 41 in Lake Highlands Company's Subdivision in Section 10, Township 22 South, Range 26 East, as per plat thereof recorded in Plat Book 3, Page 51 Public Records of Lake County, Florida described as follows: Begin on the West line of said Section 10 at a point S. 0 degrees 25' 28" W. a distance of 1180.68 feet from the NW corner of the SW 1/4 thereof and continue thence S. 0 degrees 25' 28" W. a distance of 145.06 feet; run thence S. 89 degrees 34' 02" E. a distance of 105.60 feet; run thence N. 35 degrees 37' 32" W. a distance of 179.44 feet to the point of beginning. Less existing right-of-way.

Depicted as follows:

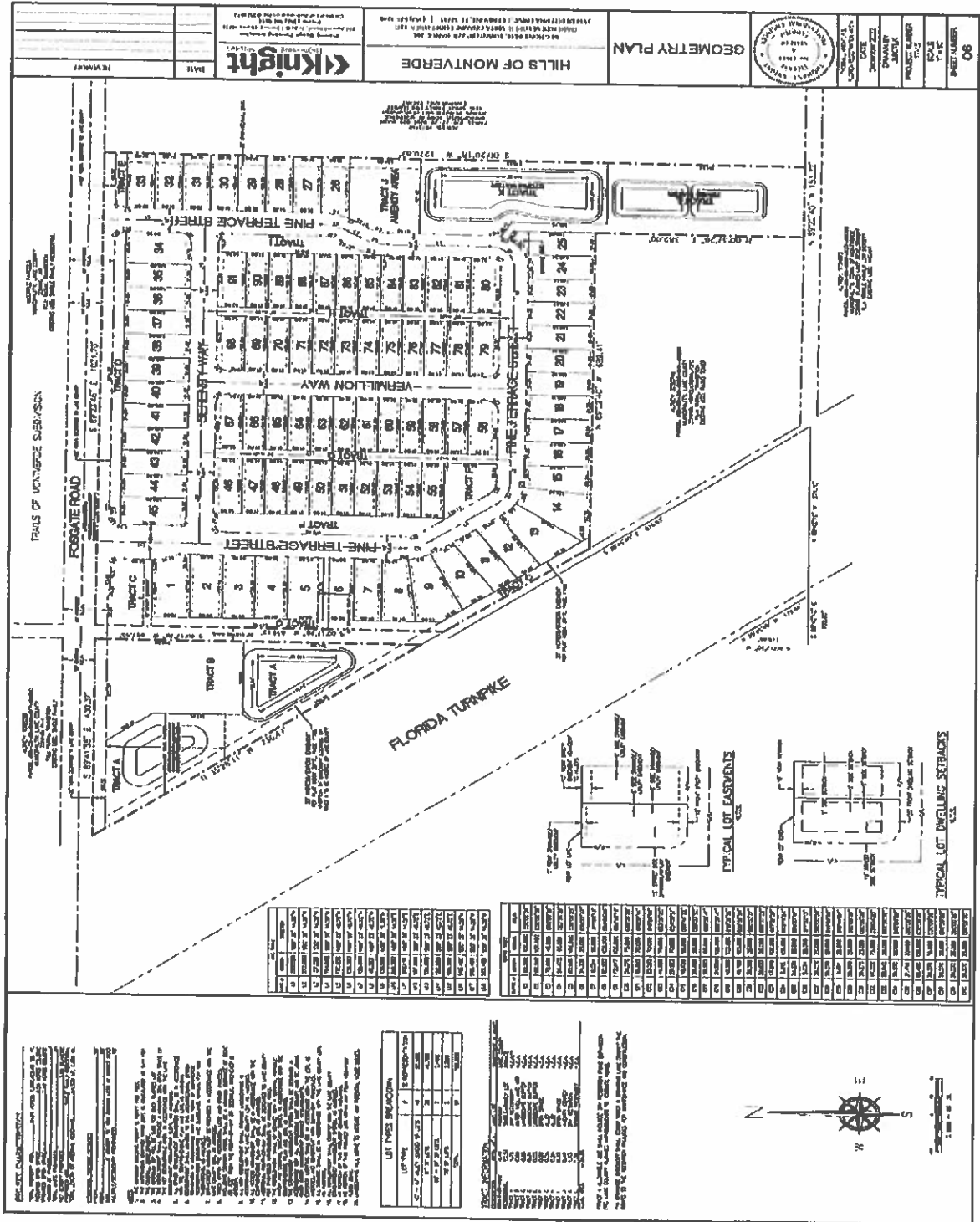




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1  
2

### EXHIBIT B – Concept Plan



3

## **DISCUSSION ON FISCAL YEAR 2023-2024 BUDGET**

## **REVIEW OF DRAFT COUNCIL HANDBOOK**