

This instrument prepared by:
Sandra B. Howard, Esq.
Polk County Attorney's Office
330 W. Church St.
Bartow, FL 33830

INFRASTRUCTURE AGREEMENT FOR IMPROVEMENTS ON BUCKEYE LOOP

This INFRASTRUCTURE AGREEMENT (the “**AGREEMENT**”) is made and entered into on the Effective Date (as defined in Section 9, below), by and between PDMG Buckeye, LLC, , whose address is 6604 N 12th Street Tampa,, Florida 33604 (hereinafter referred to as “**DEVELOPER**”), its successors in title and assigns, and POLK COUNTY, a political subdivision of the State of Florida, whose address is 330 West Church Street, Bartow, Florida 33830 (hereinafter referred to as “**POLK COUNTY**” or the “**COUNTY**”). DEVELOPER and POLK COUNTY are hereinafter referred to individually as a “**Party**” and collectively as the “**Parties.**”

WITNESSETH:

WHEREAS, DEVELOPER is under contract to purchase and then develop that certain real property located in Polk County, Florida, described and depicted on the attached Exhibit “A” (“**Property**”) which is adjacent to and has access to Buckeye Loop Road; and

WHEREAS, the Property is currently situated within the boundaries of POLK COUNTY, 1.41 acres on the Northwest Corner of Dundee Road & Buckeye Loop Road in Winter Haven, Florida; and

WHEREAS, Buckeye Loop Road is a public roadway owned and maintained by POLK COUNTY for public use; and

WHEREAS, the DEVELOPER is actively seeking transportation concurrency (access approval) to Buckeye Loop Road from the County’s Land Development Division, via project LDROW-2024-58, for development and use of the Property as a fuel station with convenience store (“Circle K Buckeye Loop”); and

WHEREAS, DEVELOPER has commissioned a traffic study by Lincks & Associates, LLC, dated December 2024 (the “Traffic Study”), which is incorporated herein by this reference, to evaluate project-related impacts on current transportation facilities and identify certain improvements necessary to alleviate existing infrastructure deficiencies and maintain the functionality of the transportation network (See **Exhibits “B” & “C”**); and

WHEREAS, to address the findings of the Traffic Study, DEVELOPER proposes to construct certain roadway and access improvements to the County road system and provide access to Circle K Buckeye Loop; and

WHEREAS, the POLK COUNTY laws and policies governing access to the County road system at the time of the execution of this Agreement are referenced in Chapter 7 of the Polk County Land Development Code (LDC); and

WHEREAS, the Parties desire to enter into this Agreement to establish the respective rights and obligations of DEVELOPER and POLK COUNTY in accordance with the terms and conditions of this Agreement.

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

RECITALS AND AGREEMENT CONDITIONS

1. **Recitals** The Recitals stated above are an integral part of this AGREEMENT and are incorporated herein by reference as if fully set forth herein.
2. **Construction** DEVELOPER shall design, engineer, permit, and construct roadway improvements in accordance with the approved plans incorporated into this AGREEMENT as Exhibit "B" (the "**Transportation Improvements**"). DEVELOPER shall bear the full responsibility for payment of all financial obligations for the Transportation Improvements, including design and permitting costs that are project site related. All construction activities shall be inspected by the COUNTY prior to acceptance and ownership.
3. **Plans, Specifications, and Permits**
 - 3.1. Prior to construction of the Transportation Improvements, DEVELOPER shall be responsible for preparing and submitting to the COUNTY plans and specifications for the Transportation Improvements ("**Plans and Specifications**"). The COUNTY will review the Plans and Specifications and will advise DEVELOPER in writing of any proposed changes to the Plans and Specifications within thirty (30) days of submission by DEVELOPER. Any resubmittals of the Plans and Specifications as a result of changes required by the COUNTY shall be reviewed and responded to by the COUNTY within twenty (20) days after such resubmittal by DEVELOPER. Once approved in writing by the County's Roads and Drainage Division Director, the final Plans and Specifications shall become a material part of this AGREEMENT and part of Exhibit "B" attached hereto and shall be used by DEVELOPER to obtain bids for construction of the Transportation Improvements.

3.2. The Plans and Specifications for the Transportation Improvements may be modified through the mutual agreement of DEVELOPER and the COUNTY through the permitting processes, and by change order as actual construction of the Transportation Improvements progresses. Proposed modifications will be provided by DEVELOPER to the COUNTY for review. To be effective and binding against the COUNTY, however, any and all such modifications and change orders must be in writing, executed by the COUNTY and DEVELOPER. The COUNTY's Roads and Drainage Division Director is hereby authorized to execute such modifications and change orders on behalf of the COUNTY.

3.3 DEVELOPER shall design and construct the Transportation Improvements in a manner sufficient to satisfy the applicable government permitting requirements. It will be the responsibility of DEVELOPER to obtain any permits from any other governmental entity required for the construction of the Transportation Improvements.

3.4 It will be the responsibility of DEVELOPER, at DEVELOPER'S expense, to obtain any and all environmental survey, environmental permits, and environmental mitigation for the Transportation Improvements, if necessary.

4. Construction of Transportation Improvements

4.1 DEVELOPER agrees to use a competitive bidding process in retaining a contractor to construct the Transportation Improvements. The COUNTY will have the right to review the competitive bidding process utilized by DEVELOPER and shall additionally have the right to review all bids received. In the event that the COUNTY reasonably determines that the bidding process is insufficient or that the proposed number of construction days to complete the Transportation Improvements is not reasonable, the COUNTY may require DEVELOPER to reject all bids and re-bid all or a portion thereof as applicable. If DEVELOPER refuses to reject the bids and re-bid, the COUNTY shall have the option to terminate this AGREEMENT including terminating any obligation of the COUNTY to reimburse or provide Credits to DEVELOPER. After receipt of responsive bids, DEVELOPER shall select the lowest priced responsive and responsible bidder, notify the COUNTY of the bidder selected, and enter into a Contract for Construction of the Improvements (the "**Construction Contract**") with the selected contractor. Upon execution of a final Construction Contract, DEVELOPER will provide a copy of the Construction Contract to the Polk County Roads and Drainage Department.

4.2. DEVELOPER shall not begin construction on the Transportation Improvements until a written Notice to Proceed has been provided to DEVELOPER which shall not be unreasonably withheld, conditioned or delayed.

4.3. Prior to the commencement of construction and after the written Notice to Proceed has been provided to DEVELOPER, DEVELOPER shall schedule, notice, and attend a pre-construction conference with DEVELOPER'S engineer, DEVELOPER'S contractor, Polk County Roads and Drainage Department, and all involved utility companies. The

DEVELOPER agrees to provide notice of the meeting at least seven (7) days in advance of such meeting so as to allow the relevant parties and entities to attend.

4.4 The COUNTY may periodically inspect and monitor the work site during construction of the Transportation Improvements. If, during construction, the COUNTY finds the work, materials, or equipment are defective, the COUNTY will give DEVELOPER written notice of the defect and DEVELOPER agrees to correct the defective condition, if commercially reasonable, within thirty (30) days of DEVELOPER'S receipt of such notice. If DEVELOPER fails to correct the deficiency the COUNTY may take any action necessary on DEVELOPER'S behalf, including correcting the deficiency, removing deficiencies, or utilizing COUNTY'S contractor to complete the work.

4.5 Upon completion of the work in accordance with the Plans and Specifications, DEVELOPER shall furnish a set of record drawings certified by the Engineer of Record that the Transportation Improvements have been completed in general conformance with the Plans and Specifications, as the same may be modified in accordance with the terms of this AGREEMENT. This certification shall include a statement that necessary inspections, tests, and physical measurements have been made, and that to the best of their knowledge, information and belief all materials entering into the work are in general conformance with the plans, or otherwise conform to or meet generally accepted professional practices. DEVELOPER shall also prepare and submit, at its cost, any required certifications to permitting agencies. In addition, DEVELOPER shall, at such time, provide the COUNTY with copies of records from the Transportation Improvement Project as each may request, including, but not limited to, Engineer of Record sealed Record Drawings.

4.6 The Transportation Improvements shall be completed within one year of the Effective Date, unless a later date, not to exceed an additional twelve-month period, is mutually agreed to in writing by the parties, which agreement shall not be unreasonably withheld. DEVELOPER shall provide the COUNTY a monthly construction management status report during the term of this AGREEMENT. DEVELOPER shall notify the COUNTY in writing when construction delays of 14 days or more are anticipated or occur. In such event, DEVELOPER shall provide a letter to the COUNTY identifying the cause of the construction delay and the proposed course of action to mitigate any further delay. Upon completion of the Transportation Improvements, DEVELOPER shall notify the COUNTY, in writing, of the completed construction and proposed acceptance by the COUNTY.

5. **Reimbursement**

5.1 POLK COUNTY and DEVELOPER have estimated the total costs for the Transportation Improvements to be \$780,615.39, as set forth and further detailed on Exhibit "C", Cost Estimate of Improvement, attached hereto and incorporated herein by reference.

5.2 POLK COUNTY shall reimburse DEVELOPER up to a maximum cash amount not to exceed \$705,676.39 for the Transportation Improvements.

5.3 DEVELOPER shall submit invoices to the COUNTY with backup documentation justifying the request for payment on the invoice, including, without limitation, detailed construction costs, copies of payments to the contractor and subcontractors, release of liens, etc. Upon receipt of an invoice, POLK COUNTY shall review the invoice and may request any additional documentation that is needed to ensure that the invoice is complete. Once the COUNTY determines the invoice and backup documentation to be complete, the COUNTY shall have 45 days to submit payment to DEVELOPER in accordance with the COUNTY's Reimbursement Requirements set forth in Exhibit "D", attached hereto and incorporated herein by reference. The DEVELOPER may submit an invoice to the COUNTY for each payment the DEVELOPER makes to the contractor performing the Transportation Improvements. DEVELOPER'S final or last invoice for the Transportation Improvements shall indicate it is the last invoice being submitted for the Transportation Improvements.

6 Completion; Ownership

6.1 Upon completion of the Transportation Improvements, DEVELOPER shall submit all construction and financial information necessary to ensure that Transportation Improvements have been properly constructed in accordance with COUNTY standards and all the contractors and subcontractors have been paid in full. Such documentation shall include, without limitation, acceptable "as-built" drawings, detailed construction costs and invoices, copies of payments to the contractor, release of liens, etc. Additionally, this written documentation shall be in accordance with the requirements of the approval given by POLK COUNTY for the Circle K Buckeye Loop. Upon receipt of all such documentation, POLK COUNTY shall have 30 days to review this documentation to ensure that it is complete; and may request any additional documentation that is reasonably necessary, in the County's discretion. Once the documents have been determined to be complete, the documents for the Transportation Improvements will be presented to the Polk County Board of County Commissioners for acceptance and ownership.

6.2 It is hereby agreed by the parties that this Agreement creates a permissive use only and all improvements resulting from this Agreement shall become the property of POLK COUNTY. Neither granting of the permission to use POLK COUNTY right of way nor the placing of facilities upon POLK COUNTY property shall operate to create or vest any property right to or in the DEVELOPER. The DEVELOPER shall not acquire any right, title, interest or estate in POLK COUNTY right of way, of any nature or kind whatsoever, by virtue of the execution, operation, effect, or performance of this Agreement including,

without limitation, the DEVELOPER'S use, occupancy or possession of POLK COUNTY right of way.

- 7 **Warranty Period** DEVELOPER shall warrant the Transportation Improvements from any and all defects for a period of one year from the date in which POLK COUNTY accepts these improvements for ownership and maintenance through a written instrument acceptable to the COUNTY. If the warranty period has not been completed prior to the expiration of this Agreement, the warranty period shall survive the expiration and shall continue until the one-year period is completed.
- 8 **Notices** Whenever either party desires to give notice to the other, it must be given by written notice delivered: (i) in person, (ii) via registered or certified United States mail, postage prepaid with return receipt requested, or (iii) via nationally recognized overnight delivery service, and addressed to the party for whom it is intended at the place last specified by each party. The place for giving notice shall remain such until it is changed by written notice delivered in compliance with the provisions of this Section 8. For the present, the parties designate the following as the respective places for giving of notice:

Notice to POLK COUNTY shall be:

Chairman
Polk County Board of County Commissioners
330 West Church Street
Bartow, FL 33830

with a copy to:

County Attorney
Polk County Board of County Commissioners
330 West Church Street
Bartow, FL 33830

Polk County Office of Planning and Development
ATT: Concurrency & Entitlements Manager
330 West Church Street
Bartow, FL 33830

Polk County Roads & Drainage Division
ATT: Roads & Drainage Director
3000 Sheffield Road
Winter Haven, FL 33880

Notice to DEVELOPER shall be:

PDMG Buckeye, LLC
6604 N 12th Street
Tampa, FL 33604

With a copy to:
Schreeder, Wheeler & Flint, LLP
1100 Peachtree Street, NE
Suite 800
Atlanta, GA 30309-4516
Attn: Carole Hord

- 9 **Effective Date** The Effective Date of this Agreement shall be the date in which POLK COUNTY executes this AGREEMENT, provided the DEVELOPER has closed on its acquisition of the Property. In the event the COUNTY signs the Agreement but the DEVELOPER has not yet closed on the Property, the Effective Date shall be the first business day after the DEVELOPER acquires the Property, and the DEVELOPER shall immediately notify the COUNTY of such date. In the event the DEVELOPER fails to close on the Property as contemplated herein by December 31, 2025, this Agreement shall automatically be null and void.
- 10 **Expiration** This AGREEMENT shall automatically expire 30 days after POLK COUNTY has issued the reimbursement to DEVELOPER for the Transportation Improvements. The date on POLK COUNTY'S final reimbursement check shall be the date on which the 30-day time period begins.
- 11 **Default and Remedy** If either Party materially defaults in its obligations under this AGREEMENT and fails to cure the same within thirty (30) days after the date the Party receives written notice of the default from the other non-defaulting Party, then the non-defaulting Party shall have the right to (i) immediately terminate this AGREEMENT by delivering written notice to the materially defaulting Party, and (ii) pursue any and all remedies available in law, equity, and under this AGREEMENT.
- 12 **Termination** POLK COUNTY may terminate this Agreement during any fiscal year if an annual appropriation is not made to cover the expenditure of funds hereunder in such fiscal year, or because of the failure of the DEVELOPER to fulfill its obligations under this Agreement, subject to the cure period set forth in Section 11, by delivering written notice to the DEVELOPER. Upon receipt of such notice, DEVELOPER shall:

12.1 Immediately discontinue construction of all affected Transportation Improvements unless the notice directs otherwise; and

12.2 Deliver to the County all data, reports, summaries, and any and all such other information and materials of whatever type or nature as may have been accumulated by the DEVELOPER in performing this Agreement, whether completed or in process.

12.3 Unless in dispute or subject to POLK COUNTY'S right of set-off or other remedy, DEVELOPER shall be paid for the construction of Transportation Improvements actually rendered through the date of termination.

12.4 The rights and remedies of POLK COUNTY provided for in this Section 12 are in addition and supplemental to any and all other rights and remedies provided by law or under this Agreement.

13 **Limitation of Liability** IN NO EVENT, SHALL POLK COUNTY BE LIABLE TO DEVELOPER FOR INDIRECT, INCIDENTAL, CONSEQUENTIAL, SPECIAL, EXEMPLARY, OR PUNITIVE DAMAGES OF ANY KIND OR NATURE, INCLUDING LOSS OF PROFIT, WHETHER FORESEEABLE OR NOT, ARISING OUT OF OR RESULTING FROM THE NONPERFORMANCE OR BREACH OF THIS CONTRACT BY POLK COUNTY WHETHER BASED IN CONTRACT, COMMON LAW, WARRANTY, TORT, STRICT LIABILITY, CONTRIBUTION, INDEMNITY OR OTHERWISE.

14 **Indemnification** DEVELOPER shall indemnify, defend (by counsel reasonably acceptable to POLK COUNTY), protect and hold harmless POLK COUNTY and its officers, employees and agents from and against any and all claims, demands, actions, causes of action, suits, liabilities, penalties, forfeitures, damages, losses, and expenses whatsoever (including, without limitation, attorneys' fees, costs, and expenses incurred during negotiation, through litigation and all appeals therefrom) arising out of or resulting from the design, permitting and installation of the Transportation Improvements that are caused in whole or in part by an act or omission of DEVELOPER, its engineers, designers, contractors, subcontractors, material suppliers, anyone directly or indirectly employed by any of them, or anyone for whose acts any of them may be liable. The provisions of this Section 14 shall survive the expiration or earlier termination of this AGREEMENT.

15 **Insurance**

15.1. DEVELOPER shall maintain or cause its agents and contractors who participate in the design, permitting and installation of the Transportation Improvements to acquire and maintain, Professional Liability Insurance in the amount of \$2,000,000.00 per occurrence,

exclusive of defense costs, and the Commercial General Liability, Comprehensive Auto Liability, and Workers Compensation coverages stated in Section 15.2., below.

15.2. DEVELOPER shall maintain or cause its agents and contractors who participate in the design, permitting and installation of the Transportation Improvements to acquire and maintain the following types of insurance with at least the following minimum limits of liability: Commercial General Liability: \$2,000,000.00 per occurrence; Comprehensive Automobile Liability \$1,000,000.00 per occurrence; and Workers Compensation Statutory Limits; and Employers Liability \$1,000,000.00.

15.3. All insurance must be provided by a carrier licensed to do business in the State of Florida having an A.M. Best rating of at least the "A" category and size category of VIII. POLK COUNTY shall be named as an additional insured on General Liability and Automobile Liability policies. The General Liability and Workers' Compensation policies shall contain a waiver of subrogation in favor of POLK COUNTY.

15.4. DEVELOPER shall provide POLK COUNTY original Certificates of Insurance satisfactory to the COUNTY to evidence such coverage before any work commences. POLK COUNTY must be identified on the Certificates as follows: "Polk County, a political subdivision of the State of Florida."

16 **Waiver** A waiver by either Party of any breach of this AGREEMENT shall not be binding upon the waiving Party unless such waiver is in writing. In the event of a written waiver, such a waiver shall not affect the waiving Party's rights with respect to any other or further breach of this Agreement. The making or acceptance of a payment by either Party with the knowledge of the other party's existing default or breach of this AGREEMENT shall not waive such default or breach, or any subsequent default or breach of this Agreement, and shall not be construed as doing so.

17 **Release** For and in consideration of the mutual agreements set forth herein, the DEVELOPER agrees the terms and conditions of this AGREEMENT are reasonable under the totality of the circumstances, and DEVELOPER for itself, and on behalf of its successors, assigns or trustees, and anyone claiming by, through, or under any of them, do hereby fully waive, release and forever discharge the COUNTY from and against any claims for inverse condemnation, regulatory takings, U.S.C. Section 1983, or claims under Chapter 70, Florida Statutes, arising out of or resulting from the terms and conditions hereof. DEVELOPER acknowledges and agrees that its agreement to this release is a material inducement to the COUNTY to enter into this AGREEMENT. The Parties agree that this release is to the specific causes of action listed and not be deemed a release of any non-listed causes of action to which the DEVELOPER may be entitled.

- 18 **Attorney's Fees and Cost** Except as noted in Section 14 above, each Party shall be responsible for its own legal and attorneys' fees, costs and expenses incurred in connection with any dispute or any litigation arising out of, or relating to this AGREEMENT, including attorneys' fees, costs, and expenses incurred for any appellate or bankruptcy proceedings.
- 19 **Recordation** Within fourteen (14) days after the Effective Date of this Agreement, the COUNTY shall record this AGREEMENT in the Public Records of Polk County, Florida. If this AGREEMENT is amended, canceled, modified, or extended, the COUNTY shall also record such action in the public records of Polk County.
- 20 **Modification** This AGREEMENT may only be modified by a written amendment properly executed by the Parties. No oral modifications will be effective or binding.
- 21 **Integration** This AGREEMENT sets forth the entire agreement between the Parties with respect to its subject matter and that there are no promises or understandings other than those stated herein.
- 22 **Counterparts** This AGREEMENT may be executed in multiple counterparts each of which shall be an original, but which collectively shall form a single agreement.
- 23 **Attachments** All attachments or exhibits attached hereto contain additional terms of this Agreement and are incorporated herein by reference.
- 24 **Governing Law; Venue** This Agreement and the rights and obligations of the Parties hereunder shall be interpreted, governed by, construed under, and enforced in accordance with the applicable laws of the State of Florida, and the ordinances, rules and regulations of Polk County including, but not limited to the Polk County Comprehensive Plan, Land Development Code and Utility Code, and any amendments thereto in effect as of the Effective Date of this Agreement. The Parties hereby consent to the sole and exclusive jurisdiction and venue for any action relating to the construction, interpretation, or enforcement of this Agreement to be in or for the Tenth Judicial Circuit, in Polk County, Florida.
- 25 **Binding Effect; Assignment** This Agreement shall be binding upon and inure to the benefit of all successors and/or assigns of the Parties hereto. DEVELOPER may not assign, pledge or transfer any of the rights, duties and obligations provided in this Agreement without the prior written consent of POLK COUNTY. POLK COUNTY has the sole discretion and authority to grant or deny proposed assignments, with or without cause.

- 26 **Days** The term days in this Agreement shall mean calendar days, unless otherwise so noted. If a date for performance falls on a Saturday, Sunday or legal State of Florida or federal holiday, the date for performance shall be extended until the next calendar day that is not a Saturday, Sunday or legal holiday.
- 27 **Severability** If any section, phrase, sentence or portion of this Agreement is, for any reason, held to be invalid by any court of competent jurisdiction, such portion shall be deemed as a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions hereof.
- 28 **Public Records** In accordance with Section 119.0701, Florida Statutes, DEVELOPER (the “Contractor” for purposes of this section) agrees to comply with the following public records laws:
- (a) The Contractor acknowledges the COUNTY’S obligations under Article I, Section 24, of the Florida Constitution and under Chapter 119, Florida Statutes, to release public records to members of the public upon request and comply in the handling of the materials created under this AGREEMENT. The Contractor further acknowledges that the constitutional and statutory provisions control over the terms of this AGREEMENT. In association with its performance pursuant to this AGREEMENT, the Contractor shall not release or otherwise disclose the content of any documents or information that is specifically exempt from disclosure pursuant to all applicable laws.
 - (b) Without in any manner limiting the generality of the foregoing, to the extent applicable, the Contractor acknowledges its obligations to comply with Section 119.0701, Florida Statutes, with regard to public records, and shall:
 - (1) keep and maintain public records required by the COUNTY to perform the services required under this AGREEMENT;
 - (2) upon request from the COUNTY’S Custodian of Public Records or his/her designee, provide the COUNTY with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in Chapter 119, Florida Statutes, or as otherwise provided by law;
 - (3) ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the term of this AGREEMENT and following completion of this AGREEMENT if the Contractor does not transfer the records to the COUNTY; and
 - (4) upon completion of this AGREEMENT, transfer, at no cost, to the COUNTY all public records in possession of the Contractor or keep and maintain public

records required by the COUNTY to perform the service. If the Contractor transfers all public records to the COUNTY upon completion of this AGREEMENT, the Contractor shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the Contractor keeps and maintains public records upon completion of this AGREEMENT, the Contractor shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the COUNTY, upon request from the COUNTY'S Custodian of Public Records, in a format that is compatible with the information technology systems of the COUNTY.

(c) IF THE CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, CONTACT THE COUNTY'S CUSTODIAN OF PUBLIC RECORDS AT:

**RECORDS MANAGEMENT LIASON OFFICER
POLK COUNTY
330 WEST CHURCH ST.
BARTOW, FL 33830
TELEPHONE: (863) 534-7527
EMAIL: RMLO@POLK-COUNTY.NET**

29. Employment Eligibility Verification (E-Verify).

29.1. Unless otherwise defined herein, terms used in this Section which are defined in Section 448.095, Florida Statutes, as may be amended from time to time, shall have the meaning ascribed in said statute.

29.2. Pursuant to Section 448.095(5), Florida Statutes, the DEVELOPER, and any subcontractor thereof, must register with and use the E-Verify system to verify the work authorization status of all new employees of the DEVELOPER or subcontractor. The DEVELOPER acknowledges and agrees that (i) the County and the DEVELOPER may not enter into this Agreement, and the DEVELOPER may not enter into any subcontracts hereunder, unless each party to this Agreement, and each party to any subcontracts hereunder, registers with and uses the E-Verify system; and (ii) use of the U.S. Department of Homeland Security's E-Verify System and compliance with all other terms of this Certification and Section 448.095, Fla. Stat., is an express condition of this Agreement, and the County may treat a failure to comply as a material breach of this Agreement.

29.3. By entering into this Agreement, the DEVELOPER becomes obligated to comply with the provisions of Section 448.095, Fla. Stat., "Employment Eligibility," as amended from time to time. This includes but is not limited to utilization of the E-Verify System to verify the work authorization status of all newly hired employees, and requiring all subcontractors to provide an affidavit attesting that the subcontractor does not employ, contract with, or subcontract with, an unauthorized alien. The DEVELOPER shall maintain a copy of such affidavit for the duration of this Agreement. Failure to comply will lead to termination of this Agreement, or if a subcontractor knowingly violates the statute or Section 448.09(1), Fla. Stat., the subcontract must be terminated immediately. If this Agreement is terminated pursuant to Section 448.095, Fla. Stat., such termination is not a breach of contract and may not be considered as such. Any challenge to termination under this provision must be filed in the Tenth Judicial Circuit Court of Florida no later than 20 calendar days after the date of termination. If this Agreement is terminated for a violation of Section 448.095, Fla. Stat., by the DEVELOPER, the DEVELOPER may not be awarded a public contract for a period of 1 year after the date of termination. The DEVELOPER shall be liable for any additional costs incurred by the County as a result of the termination of this Agreement. Nothing in this Section shall be construed to allow intentional discrimination of any class protected by law.

30. **Letter of Credit.** Within sixty (60) days of the Effective Date, Developer shall provide an irrevocable standby Letter of Credit ("**LOC**") payable to Polk County in the amount of one hundred ten percent (110%) of the cost to construct the Transportation Improvements, as stated in Exhibit "C." The LOC shall be issued by a financial institution qualified to do business in the State of Florida with a branch office in Polk County having normal banking business hours. The LOC's initial expiration date must not be less than one year from the Effective Date of this AGREEMENT and must contain a provision for automatic renewal until the Transportation Improvements have been accepted for ownership and maintenance by Polk County. Polk County shall release the LOC upon Developer satisfactorily completing the Transportation Improvements and providing all record drawings to Polk County or in the event the AGREEMENT is terminated pursuant to paragraph 19 herein. In the event Developer fails to complete the Transportation Improvements, Polk County shall have the right but not the obligation to draw on the LOC in the amount of the costs incurred by the COUNTY to complete the Transportation Improvements per the Plans and Specifications.

IN WITNESS WHEREOF, the Parties hereto, through their duly authorized representatives, have executed this Agreement on the day(s) and year set forth below.

DULY PASSED AND ADOPTED BY THE POLK COUNTY BOARD OF COUNTY COMMISSIONERS, THIS _____ DAY OF _____, 2025.

POLK COUNTY, a Political Subdivision of the State of Florida

(SEAL)

ATTEST:

Stacy M. Butterfield, County Clerk

By: _____
T.R. Wilson, Chair
Board of County Commissioners

By: _____
Deputy Clerk

Date: _____

Approved by County Attorney's Office
As To Form and Legal Sufficiency

By: _____

PDMG Buckeye, LLC,
a Florida limited liability company

WITNESSES

By: [Signature]
W. Curtis Scott, as manager

Date signed: 2/28/25

Address: 6604 N 12th Street
Tamps, FL 33604

Shanna N. Scott
Signature

Print name: Shanna Scott

Address: 402 Byron Pluckton
Albany, GA 31721

[Signature]
Signature

Print name: Luke C. Scott

Address: 402 Byron Pluckton Rd
Albany, GA 31721

STATE OF GEORGIA

COUNTY OF DOUGHERTY

The foregoing instrument is hereby acknowledged before me this 28 day of February, 2025, by W. Curtis Scott, as manager of PDMG Buckeye, LLC, a Florida limited liability company on behalf of said company by means of physical presence or () online notarization () who is personally known to me or () who has produced a driver's license as identification.

NOTARY PUBLIC: Carol A. Bailey

My Commission Expires: December 11, 2028

(Seal)



EXHIBIT LIST

Exhibit A – Legal Description

Exhibit B – Transportation Improvements Depiction and Initial Plans and Specifications (to be finalized after Effective Date)

Exhibit C – Cost Estimate of Improvement

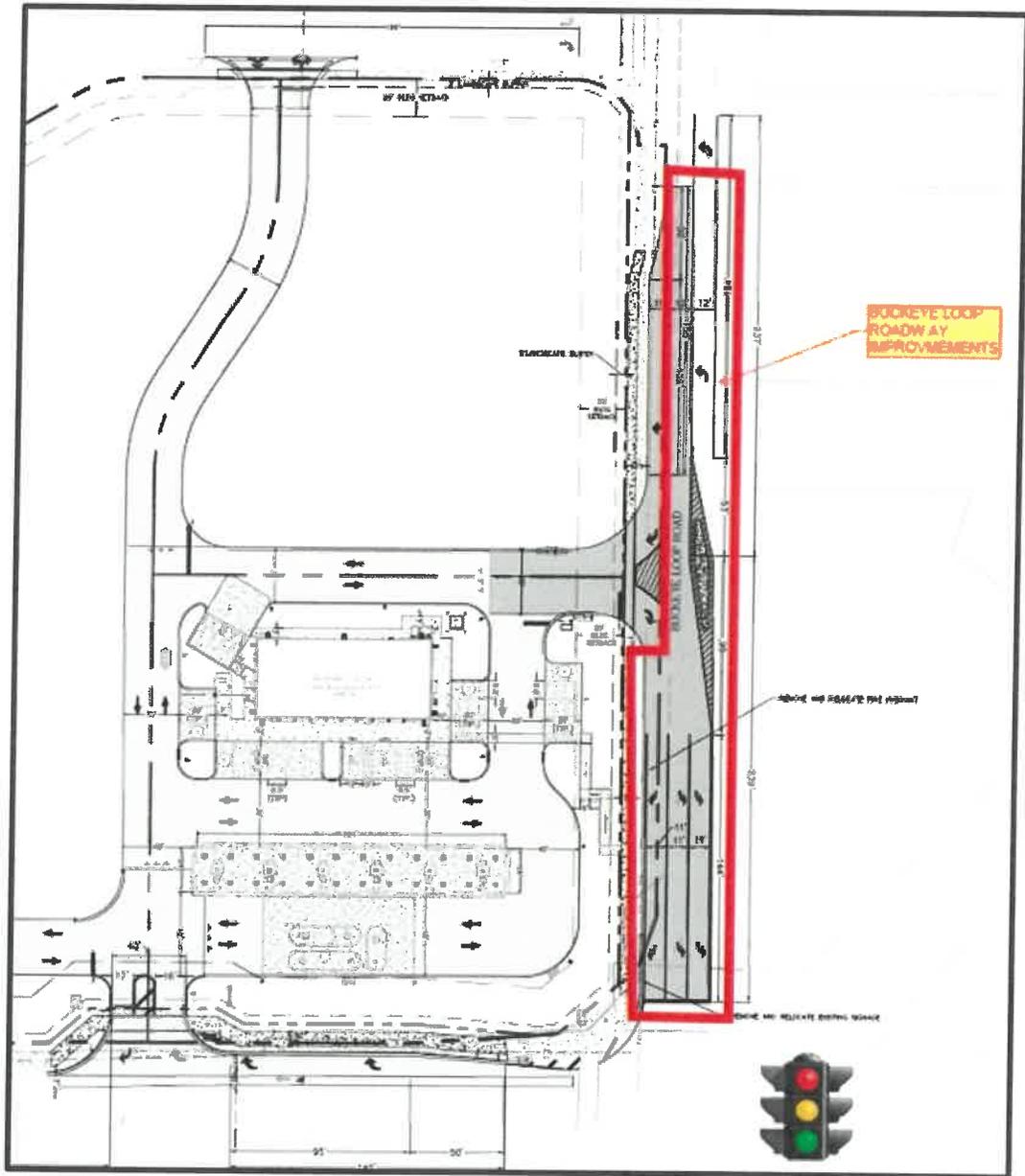
Exhibit D – County Reimbursement Requirements

Exhibit E – Human Traffic Affidavit

Exhibit "A" – Legal Description

COMMENCE AT THE NORTHEAST CORNER OF THE NORTHEAST 1/4 OF THE NORTHEAST 1/4 OF SECTION 27, TOWNSHIP 28 SOUTH, RANGE 26 EAST, POLK COUNTY, FLORIDA; RUN THENCE S89°44'40"W, ALONG THE NORTH LINE OF SAID NORTHEAST 1/4 OF THE NORTHEAST 1/4 OF SECTION 27, A DISTANCE OF 25.00 FEET TO THE WEST RIGHT-OF-WAY LINE OF BUCKEYE LOOP ROAD; THENCE S00°06'13"E, ALONG SAID WEST RIGHT-OF-WAY LINE, A DISTANCE OF 784.29 FEET TO ITS INTERSECTION WITH THE SOUTH RIGHT-OF-WAY LINE OF SALISBURY DRIVE PER THE PLAT OF DUNDEE STATION, AS RECORDED IN PLAT BOOK 143, PAGES 45 AND 46, PUBLIC RECORDS OF POLK COUNTY, FLORIDA; THENCE S89°53'47"W, ALONG SAID SOUTH RIGHT-OF-WAY LINE, A DISTANCE OF 20.00 FEET TO A POINT ON A LINE LYING 20.00 FEET WEST OF AND PARALLEL WITH SAID WEST RIGHT-OF-WAY LINE OF BUCKEYE LOOP ROAD; THENCE S00°06'13"E, ALONG SAID PARALLEL LINE, A DISTANCE OF 249.98 FEET FOR A POINT OF BEGINNING; THENCE CONTINUE S00°06'13"E, ALONG SAID PARALLEL LINE, A DISTANCE OF 219.08 FEET TO THE NORTH RIGHT-OF-WAY LINE OF STATE ROAD 542, AS RECORDED IN OFFICIAL RECORDS BOOK 9520, PAGE 555, PUBLIC RECORDS OF POLK COUNTY, FLORIDA; THENCE S50°49'33"W, ALONG SAID NORTH RIGHT-OF-WAY LINE, A DISTANCE OF 41.94 FEET; THENCE S85°56'20"W, CONTINUING ALONG SAID NORTH RIGHT-OF-WAY LINE, A DISTANCE OF 79.16 FEET; THENCE S89°48'48"W, CONTINUING ALONG SAID NORTH RIGHT-OF-WAY LINE, A DISTANCE OF 139.17 FEET; THENCE N00°06'13"W A DISTANCE OF 251.17 FEET; THENCE N89°53'47"E A DISTANCE OF 250.70 FEET TO THE POINT OF BEGINNING.

Exhibit "B" – Transportation Improvements



INITIAL PLANS AND SPECIFICATIONS

(to be finalized after Effective Date)

The purpose of the proposed right-of-way improvements is to install an additional southbound right-turn lane and channelized median on Buckeye Loop Road. The scope of work includes, but not limited to; demolition of existing improvements, relocation of underground utilities and above ground structures (signage, electrical boxes, etc.) as needed, construction of a sidewalk to provide pedestrian connectivity, as well as paving, grading and drainage improvements and pavement marking and signage for the new turn lane. Landscape improvements will be required to resod disturbed areas due to the new improvements.

Exhibit "C" – Cost Estimate of Improvement

Kimley-Horn and Associates, Inc.

1530 Cornerstone Blvd.
Daytona Beach, FL 32117
Ph: 386-672-0282

Project: Dundee & Buckeye Loop
Permit No.: Polk County Driveway Permit
BUCKEYE LOOP IMPROVEMENTS
KHA Project No. 2493430E5

Date: 3/11/2025

Quantities for construction are based on the turn lane improvement on Buckeye Loop per the Dundee & Buckeye Loop Concept Plan CP-09 dated 01/06/2025. This concept is not final and has not been through formal review by the necessary permitting agencies and is subject to change.

Project Description

Note: The Engineer has no control over the cost of labor, materials, equipment, or over the Contractor's methods of determining prices or over competitive bidding or market conditions. Opinions of probable costs provided herein are based on the information known to Engineer at this time and represent only the Engineer's judgment as a design professional familiar with the construction industry. The Engineer cannot and does not guarantee that proposals, bids, or actual construction costs will not vary from its opinions of probable costs.

DEMOLITION					
Item No	Description	Quantity	Unit	Unit Price	TOTAL
1	Mobilization / Demobilization	1	LS	\$20,000.00	\$20,000.00
2	Polk County Performance and Payment Bond coordination	1	LS	\$5,000.00	\$5,000.00
3	Inlet Protection	2	EA	\$50.00	\$100.00
4	Maintenance of Traffic	1	LS	\$15,000.00	\$15,000.00
5	Clearing and Grubbing	0.306	AC	\$250.00	\$21.32
6	Saw cut and remove existing Type 'F' curb	40	LF	\$20.00	\$800.00
7	Milling and Resurfacing (2'-3' 1/2" average depth)	750	SY	\$4.20	\$3,150.00
8	Remove and Relocate Fire Hydrant	1	EA	\$5,000.00	\$5,000.00
9	Removal of existing force main (Utility pipe, remove & Dispose 5-7.9")	340	LF	\$50.00	\$17,000.00
10	Remove and relocate fiber optic box	1	EA	\$1,500.00	\$1,500.00
11	Remove and relocate existing single sign and post	1	EA	\$370.00	\$370.00
12	Remove and relocate existing street light pole	1	EA	\$5,500.00	\$5,500.00
				Sub-Total	\$74,441.12

SITE WORK					
Item No	Description	Quantity	Unit	Unit Price	TOTAL
1	9" Limerock Base (Optional base Group 15) (Type B-12.5)	250	SY	\$105.00	\$26,250.00
2	12" Stabilized Subgrade	360	SY	\$5.00	\$1,800.00
3	3" Asphalt Structural Course (Traffic C) (2 LIFTS)	500	SY	\$158.00	\$79,000.00
4	1.5" Asphalt Friction Course FC-12.5 (Traffic C) (1 LIFTS)	250	SY	\$180.00	\$45,000.00
5	4" Concrete Sidewalk (Class I, 3,000 psi)	110	SY	\$80.00	\$8,800.00
6	Type B Stabilization	250	SY	\$13.00	\$3,250.00
7	Concrete curb and gutter (Type F)	50	LF	\$48.50	\$2,425.00
8	Concrete Traffic Separator (Type 1, Option II)	60	LF	\$160.00	\$9,600.00
9	Resod / restore right of way	250	SY	\$4.50	\$1,125.00
10	Construction Admin	1	LS	\$7,500.00	\$7,500.00
	Maintenance of Traffic	1	LS	\$100,000.00	\$100,000.00
				Sub-Total	\$284,750.00

Pavement Markings and Signage					
Item	Description	Quantity	Unit	Unit Price	TOTAL
1	Thermoplastic, standard open graded asphalt surfaces, white, solid 6"	0.097	GM	\$6,700.00	\$647.16
2	Thermoplastic, standard open graded asphalt surfaces, yellow, solid 6"	0.095	GM	\$6,800.00	\$654.55
3	Thermoplastic, standard, yellow, solid, 19" for diagonals and chevrons	60	LF	\$6.00	\$360.00
4	Directional Arrows (thermoplastic)	6	EA	\$95.00	\$570.00
5	Thermoplastic, standard, white solid, 24" for stop bar	35	LF	\$8.00	\$280.00
6	Testing (density, thickness, etc.)	1	LS	\$8,000.00	\$8,000.00
7	As-Built Documentation	1	LS	\$5,000.00	\$5,000.00
				Sub-Total	\$15,521.70

SANITARY					
Item No	Description	Quantity	Unit	Unit Price	TOTAL
1	Compaction of Trenches	1	LS	\$5,000.00	\$5,000.00
2	6" Sanitary Force Main Installation (include fittings, restraints, adapters, etc.)	180	LF	\$290.00	\$52,200.00
3	Testing (pressure, etc.)	1	LS	\$5,000.00	\$5,000.00
4	As-Built Documentation	1	LS	\$3,000.00	\$3,000.00
				Sub-Total	\$65,200.00
GRADING					
Item No	Description	Quantity	Unit	Unit Price	TOTAL
1	*Earthwork (fill)	0	CY	\$0.00	\$0.00
2	*Export CUT	350	CY	\$20.00	\$7,000.00
				Sub-Total	\$7,000.00
CIVIL ENGINEERING AND PERMITTING FEES					
Item No	Description	Quantity	Unit	Unit Price	TOTAL
1	Engineering Design & Services Fee	1	LS	\$182,800.00	\$182,800.00
2	Construction Phase Services	1	LS	\$20,000.00	\$20,000.00
				Sub-Total	\$202,800.00
TOTAL					\$650,512.82
CONTINGENCY (20%)					\$130,102.56
GRAND TOTAL					\$780,615.39

*NOTE: The earthwork quantities listed above are an estimate based on available information at the time of completion and are subject to change based on engineering design, agency permitting, master developer coordination, and site plan revisions. Earthwork above assumes that fill needed on-site will be hauled to the site.

Jared C. Stubbs, P.E.
FL P.E. # 89387

TABLE 1
INTERSECTION PROPORTIONATE SHARE DETERMINATION

	<u>Improvement</u>	<u>Improvement Cost (1)</u>	<u>Percentage Capacity Consumed by Project Traffic (2)</u>	<u>Proportionate Share</u>
Dundee Rd and Buckeye Loop Rd	Intersection Modification	\$780,615.39	9.60%	\$74,939

(1) Source: Kimley-Horn Cost Estimates dated 2/7/25.

(2) Percent Capacity Consumed - See Table 2.

Exhibit “D” – County Reimbursement Requirements

COUNTY REIMBURSEMENT REQUIREMENTS

1. The developer will be required to register with the County as a Vendor to allow for payment. Registration can take place as the following website:

www.polk-county.net/business/procurement/vendor-information/

2. The Developer must submit pay requests that matches the fee schedule or exhibit that corresponds with agreement.
3. Back-up documentation must include copies of invoices or pay apps from contractor and or subcontractors.
4. The Developer must submit cleared payments. The County will only accept copy of cleared checks or bank statements as proof of payment. Any identifying bank information such as bank account numbers shall be blacked out prior to submission. If more than one invoice is paid out of one check or ACH transaction, the Developer shall provide an explanation that links the individual payments to the invoices being submitted i.e. via internal document or spreadsheet, so the payment is easily identifiable to the auditor.
5. The County has 45 days from receipt of pay request to make payment. If the pay request is returned due to errors or incomplete documentation, the 45 day clock will start over again from the date of resubmission.
6. Impact Fee Credits: If impact fee credits are included in the agreement, Roads and Drainage will initially review the pay application. Once review is complete, the pay application will be forwarded to the Office of Planning and Development Fiscal Manager for issuance of impact fee credits. For further information, the Office of Planning and Development Fiscal Manager can be reached at 863-534-6460.

Any questions can be directed to the Roads and Drainage Fiscal Section by calling 863-535-2200 and ask for the Developer Agreement Reimbursement Coordinator.

Exhibit “E” – Human Traffic Affidavit

Affidavit Regarding the Use of Coercion for Labor or Services

In compliance with Section 787.06(13), Florida Statutes, this attestation must be completed by an officer or representative of a nongovernmental entity that is executing, renewing, or extending a contract with Polk County, a political subdivision of the State of Florida.

The undersigned, on behalf of the entity listed below (the “Nongovernmental Entity”), hereby attests under penalty of perjury as follows:

1. I am over the age of 18 and I have personal knowledge of the matters set forth herein.
2. I currently serve as an officer or representative of the Nongovernmental Entity.
3. The Nongovernmental Entity does not use coercion for labor or services, as those underlined terms are defined in Section 787.06, Florida Statutes.
4. This declaration is made pursuant to Section 92.525, Fla. Stat. and Section 787.06, Fla. Stat. I understand that making a false statement in this declaration may subject me to criminal penalties.

Under penalties of perjury, I _____ (Signatory Name and Title), declare that I have read the foregoing Affidavit Regarding the Use of Coercion for Labor and Services and that the facts stated in it are true. Further Affiant sayeth naught.

NONGOVERNMENTAL ENTITY

SIGNATURE

PRINT NAME

TITLE

DATE