

**INFRASTRUCTURE AGREEMENT
FOR
WALMART ENTRANCE AT DAUGHTERY ROAD**

This INFRASTRUCTURE AGREEMENT (the “**AGREEMENT**”) is made and entered into on the Effective Date (as defined in Section 9, below), by and between LAKE GIBSON OWNER, LLC, whose address is c/o Carter & Associates, L.L.C., 39 Georgia Avenue SE, Suite 200, Atlanta, Georgia 30312 (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**”). DEVELOPER and POLK COUNTY are hereinafter referred to individually as a “Party” and collectively as the “Parties.”

WITNESSETH:

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

WHEREAS, DEVELOPER is the owner and developer of certain real property (“Story Lake Gibson”) located in Polk County, Florida, described and depicted on the attached Exhibit “A,” which is located at 6120 Burnett Street, Lakeland, Florida 33809 and which is adjacent to and has access to Daughtery Road; and

WHEREAS, POLK COUNTY and DEVELOPER have agreed that DEVELOPER shall complete the Roadway Improvements (as defined in Section 2 below) in Daughtery Road, which Roadway Improvements are adjacent to Story Lake Gibson and the Walmart located at 5800 US Hwy 98 N, Lakeland, Florida 33809 (the “Daughtery Walmart”); 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.**

2.1 DEVELOPER shall construct certain roadway improvements in Daughtery Road (the “Roadway Improvements”) in accordance with the approved plans and specifications incorporated into this AGREEMENT as Exhibit “B” (the “Plans and Specifications”). DEVELOPER shall bear the full responsibility for payment of all

financial obligations for the Roadway Improvements, including design and permitting costs, subject to being reimbursed therefor as set forth in Section 5 below. The Roadway Improvements include, without limitation, (a) removing the existing paving located within the curb cut providing entry to the Daughtery Walmart, (b) pouring a new concrete valley gutter as shown on Exhibit "B", and (c) repaving the affected area to tie-in with the existing grade of Daughtery Road. All construction activities will need to be inspected by the COUNTY prior to DEVELOPER being reimbursed for the costs of the Roadway Improvements.

3. **Plans, Specifications, and Permits.** 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. The final Plans and Specifications are a material part of this AGREEMENT and shall be used by DEVELOPER to obtain bids for construction of the Roadway Improvements.

3.2. The Plans and Specifications for the Roadway Improvements may be modified through the mutual agreement of DEVELOPER and the COUNTY, and by change order as actual construction of the Roadway 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.

3.3 DEVELOPER shall design and construct the Roadway Improvements in a manner sufficient to satisfy the applicable government permitting requirements.

3.4 It will be the responsibility of DEVELOPER to obtain any and all environmental survey, environmental permits, and environmental mitigation for the Roadway Improvements, if required by applicable law. The cost and expense of the foregoing shall be shared by DEVELOPER and the COUNTY with DEVELOPER paying twenty-five percent (25%) of such costs, and COUNTY paying seventy-five percent (75%) of such costs.

4 **Construction of Roadway Improvements.**

4.1 DEVELOPER shall enter into a construction contract for the Roadway Improvements (the "Construction Contract"). 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. Prior to the commencement of construction, 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.

4.3 The COUNTY may periodically inspect and monitor the work site during construction of the Roadway 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.

4.4 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 Roadway 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 and Specifications, or otherwise conform to or meet generally accepted professional practices.

4.6 The Roadway Improvements shall be completed within one year of the Effective Date, unless a later date is mutually agreed to 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. Upon completion of the Roadway Improvements, DEVELOPER shall notify the COUNTY, in writing, of the completed construction and acceptance by the COUNTY.

5 **Reimbursement.**

5.1 The COUNTY and DEVELOPER have estimated the total costs for the Roadway Improvements to be \$190,135.77, as stated in Exhibit "C."

5.2 The COUNTY shall reimburse DEVELOPER in the amount of \$142,601.83 for the Roadway Improvements, which amount is seventy-five percent (75%) of the overall estimated cost of the Roadway Improvements. If the cost to design, engineer and construct the Transportation Improvements costs more than \$190,135.77 but less than \$209,149.35 (i.e., 110% of \$190,135.77), then DEVELOPER and the COUNTY shall split any costs over \$190,135.77 with DEVELOPER paying twenty-five percent (25%) of such costs, and the COUNTY paying the remainder of such costs. If the cost to design, engineer and construct the Transportation Improvements exceeds \$209,149.35, then DEVELOPER will cease design, engineering and construction on the Transportation Improvements until the COUNTY agrees in an amendment to this AGREEMENT reasonably acceptable to DEVELOPER to reimburse DEVELOPER for the increased costs thereof.

5.3 Upon completion of the Roadway Improvements, DEVELOPER shall submit an invoice that includes all construction and financial information necessary to ensure the Roadway 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 and release of liens. Additionally, DEVELOPER shall follow the requirements set forth in Exhibit “D.” 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 needed.

6 **Ownership.**

6.1 It is hereby agreed by the parties that this Agreement creates a permissive use only and all improvements resulting from this Agreement shall be 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.** DEVELOPER shall warrant that the Roadway Improvements be constructed in accordance with Plans and Specifications, through a written instrument acceptable to the COUNTY, for a period of one year from the date in which the COUNTY accepts the Roadway Improvements for ownership and maintenance. 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

with a copy to:

Office of Planning and Development
330 West Church Street
Bartow, FL 33830

with a copy to:

Roads and Drainage Divison
330 West Church Street
Bartow, FL 33830

Notice to DEVELOPER shall be:

c/o Carter & Associates, L.L.C.
39 Georgia Avenue SE
Suite 200
Atlanta, Georgia 30312
Attention: President

- 9 **Effective Date.** The Effective Date of this Agreement shall be the date in which POLK COUNTY executes this AGREEMENT.
- 10 **Expiration.** This AGREEMENT shall automatically expire 30 days after POLK COUNTY has issued the reimbursement to DEVELOPER for the roadway improvements. The date on the POLK COUNTY check shall be the date in 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, in whole or in part, 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, if DEVELOPER agrees that DEVELOPER has failed to fulfill its obligations under this Agreement, DEVELOPER shall:
- 12.1 Immediately discontinue construction of all affected Roadway 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 Roadway 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.**

13.1 IN NO EVENT, SHALL EITHER POLK COUNTY OR DEVELOPER BE LIABLE TO THE OTHER PARTY HERETO 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 EITHER PARTY 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 the COUNTY), protect and hold harmless the 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, reasonable attorneys' fees, costs, and expenses incurred during negotiation, through litigation and all appeals therefrom) arising out of or resulting from the negligence or willful misconduct 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 foregoing indemnification obligation shall not apply to the extent of the negligence of the COUNTY.

15 **Insurance.**

15.1. DEVELOPER shall maintain, or cause its agents and contractors who participate in the design, permitting and installation of the Roadway 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 Roadway 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 POLK 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 **Omitted.**
- 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 **Force Majeure**. Should the performance of this AGREEMENT by the DEVELOPER be prevented or delayed by any Act of God or other cause beyond the reasonable control of DEVELOPER, including but not limited to, floods, storm, fire, war, total or partial failure of transportation or delivery facilities, interruption of power, or by any law, regulation or order of any federal, state or local authority, DEVELOPER'S performance shall be excused to the extent it is thus prevented or delayed. Neither the lack of financial resources, budgetary requirements, crop revenues, harvesting schedules, nor such other errors, shall constitute a force majeure event sufficient to excuse nonperformance hereunder. DEVELOPER shall inform COUNTY in writing within 10 days of its knowledge that such performance is (or may be) prevented or delayed due to such uncontrollable circumstances. Failure to notify COUNTY of such delay beyond applicable notice and cure periods shall be considered a breach of this Agreement subject to the default and remedy provisions set forth in Section 11 above.
- 29 **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**

30. **Employment Eligibility Verification (E-Verify).**

30.1. 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.

30.2. 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.

30.3. 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.

31. **Letter of Credit.** The letter of credit (LOC Number: 211763771-27871801) provided by DEVELOPER in connection with that certain Impact Fee Credit Agreement (W. Daughtery Road Lighted Intersection), with an effective date of May 2, 2023, shall be used by the COUNTY as security that DEVELOPER shall complete the Roadway Improvements as provided herein. The Letter of Credit must contain a provision for automatic renewal until the Roadway Improvements have been accepted for ownership and maintenance by Polk County.

[Remainder of the page left intentionally blank; signatures on the next page.]

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 _____, 2024.

POLK COUNTY, a Political Subdivision of the State of Florida

(SEAL)

ATTEST:

Stacy M. Butterfield, County Clerk

By: _____
W.C. Braswell, Chairperson

By: _____
Deputy Clerk

Date: _____

Approved by County Attorney as to Form and Legal Sufficiency

By: _____

WITNESSES

[Signature]
Signature

John Murphy
Print Name

537 Spring Valley Rd NW
Address

[Signature]
Signature

Grant Turner
Print Name

39 Georgia Ave, SE
Address

[Signature]

LAKE GIBSON OWNER, LLC

Scott D. Stringer, Authorized Signatory
Name/Title

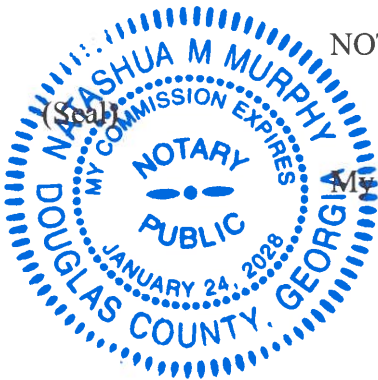
39 Georgia Avenue SE, Suite 200, Atlanta, Georgia 30312
Address

Date: 6/26/24

Georgia
STATE OF ~~FLORIDA~~

COUNTY OF Douglas

The foregoing instrument is hereby acknowledged before me this 26th day of June, 2024, by Scott D. Stringer, as Authorized Signatory of Lake Gibson Owner, LLC, a Delaware 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. [Signature]

My Commission Expires: 1/24/28

Exhibit "A" – Legal Description and the Survey of the Property

A portion of land located in the southeast quarter of the northeast quarter of Section 23, Township 27 South, Range 23 East, Polk County, Florida. Said parcel being more particularly described as follows:

COMMENCE at the southeast corner of the southeast quarter of the northeast quarter of said Section 23, being a found Rail Road Spike; thence South 89° 54' 42" West, along the South line of the northeast quarter of said Section 23 a distance of 724.08 feet; thence leaving the South line of the northeast quarter of said Section 23, run North 00° 13' 02" East, 32.98 feet to a point on the northerly right of way line of W Daughter Road (RIGHT OF WAY VARIES), said point being a found 5/8" Iron Rod, no identification, also being the POINT OF BEGINNING; thence South 89° 54' 42" West, along the northerly right of way line 609.02 feet to a found 5/8" Iron Rod and Cap LB 7001; thence leaving said northerly right of way line, run North 00° 25' 29" East, 1298.63 feet to a 5/8" Iron Rod and Cap LB 7153; thence South 89° 58' 08" East, 604.31 feet to a found 1/2" Iron Rod, no identification; thence South 00° 13' 02" West, 1297.34 feet to the POINT OF BEGINNING.

Said parcel contains 18.08 acres, more or less.

Less than and except the following:

A portion of land located in the southeast quarter of the northeast quarter of Section 23, Township 27 South, Range 23 East, Polk County, Florida. Said parcel being more particularly described as follows:

COMMENCE at the southeast corner of the southeast quarter of the northeast quarter of said Section 23, being a found Rail Road Spike; thence South 89° 54' 42" West, along the South line of the northeast quarter of said Section 23 a distance of 724.08 feet; thence leaving the South line of the northeast quarter of said Section 23, run North 00° 13' 02" East, 1040.34 feet; thence North 89° 58' 39" West, 5.00 feet to a found 5/8" Iron Rod, no identification, said point being the POINT OF BEGINNING; thence North 89° 58' 39" West, 90.00 feet to a found 5/8" Iron Rod and Cap illegible; thence North 00° 13' 02" East, 90.00 feet to a found 5/8" Iron Rod and Cap LB 4207; thence South 89° 58' 39" East, 90.00 feet to a found 5/8" Iron Rod and Cap LB 4207; thence South 00° 13' 02" West, 90.00 feet to the POINT OF BEGINNING.

Said parcel contains 0.19 acres, more or less.

Exhibit “B” – Roadway Improvements Design Depiction

Exhibit "C" – Cost Estimate

SUMMIT CONTRACTING GROUP, INC.

PROPOSED CHANGE ORDER NUMBER: 52R2

To:	Lake Gibson Owner, LLC	From:	Palmer Hunt
Attn:	Cody Blackburn	Project:	Story Lake Gibson
Address:	39 Georgia Ave. SE, Suite 200	Project #	21-0235
	Atlanta, GA 30312		
Date:	May 29, 2024		

This proposed change order is for : Walmart Apron Work for the amount of \$190,135.77
 A Time Extension of (5) Calendar Days is associated with this P.C.O. This Time Extension is (compensatory/non-compensatory) and the daily General Conditions associated with this P.C.O. is \$2,938.00 per day. This Time Extension and General Conditions dollars will only be change ordered if the project duration exceeds 711 days. Breakdown is as follows:

Forrest Excavating: Cost to regrade the Walmart Shipping/Receiving Entrance and pour a valley gutter to divert standing water at the base of their entrance. Cost includes demo of existing area, haul off, surveying, additional limerock base, regrading, pouring concrete for new curb/valley gutter, asphalt repave, striping, and MOT for the duration.	\$ 172,028.37
Summit: Cost to cover time for supervision and coordination of additional work outside of original contract. 5 days of additional GC's @ \$1,469.00/Day. Half of contract GC's due to minimal staff onsite for follow up and coordination.	\$ 7,345.00
Subtotal	\$ 179,373.37
Summit Fee 5%	\$ 8,968.67
General Liability 1%	\$ 1,793.73
TOTAL PROPOSED CHANGE ORDER AMOUNT:	\$ 190,135.77

SUMMIT CONTRACTING GROUP, INC.

By execution of the Proposed Change Order, Summit Contracting Group, Inc. is authorized to proceed and is guaranteed payment and/or time extension of (5) calendar days as shown above.

DATE ACCEPTED: _____

ACCEPTED BY: _____

(Authorized Agent)

Copy: Patti Neal, Carter USA
 Michael Bressler, Summit Contracting Group, Inc.

Exhibit “D”—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 at 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. Backup 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 except 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.
5. 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.