



Agenda Report

2725 Judge Fran Jamieson
Way
Viera, FL 32940

Consent

F.13.

5/18/2021

Subject:

Adopt Resolution and Release Performance Bond: Lake Andrew Drive - Segment E and Pineda Boulevard
Segment I, Phase 1 - District 4
Developer: The Viera Company

Fiscal Impact:

None

Dept/Office:

Public Works/Engineering

Requested Action:

In accordance with Section 62-2844(b), it is requested that the Board of County Commissioners adopt the attached Resolution and authorize the Chair to sign the Resolution releasing the Contract and Surety Performance Bond dated August 4, 2020 for the above referenced project.

Summary Explanation and Background:

The Lake Andrew Drive - Segment E and Pineda Boulevard Segment I, Phase 1 subdivision plat is located within the Viera Development of Regional Impact (DRI) west of I-95 and Pineda Causeway, connecting Lake Andrew Drive and Pineda Boulevard. The proposed subdivision plat contains three lots on 92.96 acres.

The Lake Andrew Drive - Segment E and Pineda Boulevard Segment I, Phase 1 subdivision plat received approval of its preliminary plat and final engineering plans on March 27, 2020, and final plat and contract approval on August 4, 2020. The developer posted a Surety Performance Bond for guarantee of the completion of the infrastructure improvements according to the approved plans.

Per Section 62-2809(b)(2), "Construction after final plat recordation: ...the applicant shall provide security required in Section 62-2844 for the performance of such construction..." Section 62-2844(a) states: "An applicant shall be required to secure its performance security of the construction required under this article by a surety bond, letter of credit, savings account, certificate of deposit or execution of a tri-party escrow agreement. Such security shall not be required if a certificate of completion has been issued for all the subdivision improvements prior to final plat recordation." Because the applicant chose to plat the subdivision prior to completion of construction, the applicant entered into Contract with the Board and posted a Surety Performance Bond to guarantee the completion of the infrastructure improvements according to the approved plans.

As of May 5, 2021, the Lake Andrew Drive - Segment E and Pineda Boulevard Segment I, Phase 1 subdivision plat infrastructure improvements have been completed and we are in receipt of a two-year maintenance

bond.

Reference: 19SD00016

Contact: Christine Verrett, Special Projects Coordinator III, Extension 58328

Clerk to the Board Instructions:

Please forward the Board action to the Public Works Department and provide 2 originals of the Resolution.



Kimberly Powell, Clerk to the Board, 400 South Street • P.O. Box 999, Titusville, Florida 32781-0999

Telephone: (321) 637-2001
Fax: (321) 264-6972
Kimberly.Powell@brevardclerk.us

May 19, 2021

MEMORANDUM

TO: Marc Bernath, Public Works Director Attn: Christine Verrett

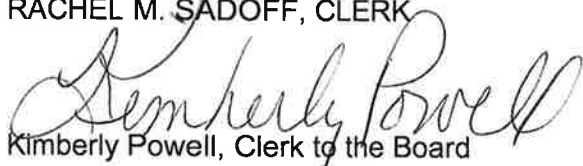
RE: Item F.13., Adopted Resolution and Release Performance Bond: Lake Andrew Drive-Segment E and Pineda Boulevard Segment I, phase 1

The Board of County Commissioners, in regular session on May 18, 2021, Adopted Resolution No. 21-062; and authorized the Chair to sign the Resolution releasing the Contract and Surety Performance Bond dated August 4, 2020, for the above referenced project. Enclosed is a fully-executed Resolution.

Your continued cooperation is greatly appreciated.

Sincerely yours,

BOARD OF COUNTY COMMISSIONERS
RACHEL M. SADOFF, CLERK


Kimberly Powell, Clerk to the Board

/ns

Encl. (1)

RESOLUTION 21- 061

WHEREAS, the Board of County Commissioners of Brevard County, Florida and The Viera Company entered into a contract to guarantee the construction of improvements on property commonly known as Lake Andrew Drive Segment E & Pineda Boulevard Segment I, Phase 1.

WHEREAS, by execution of the Contract, the Board of County Commissioners of Brevard County, Florida agreed to accept said improvements for public use at such time as said improvements were satisfactorily completed; and

WHEREAS, The Viera Company completed all of the infrastructure improvements and has requested that the executed contract approved on August 4th, 2020 be released and release of all undisbursed funds referenced in the Contract hereinabove described.

NOW, THEREFORE, be it resolved by the Board of County Commissioners of Brevard County, Florida that:

1. The Board of County Commissioners of Brevard County, Florida hereby acknowledges that there is satisfactory completion of all improvements to that certain real property commonly known as Lake Andrew Drive Segment E & Pineda Boulevard Segment I, Phase 1.
2. The Board of County Commissioners of Brevard County, Florida hereby releases the contract and performance bond executed on August 4th, 2020.
3. This Resolution shall take effect immediately upon adoption.

DONE, ORDERED, AND ADOPTED in Regular Session the 18th day of May 2021.

ATTEST:



Rachel Sadoff, Clerk of the Court

BOARD OF COUNTY COMMISSIONERS
BREVARD COUNTY, FLORIDA

By: 

Rita Pritchett, Chair

As approved by the Board on May 18, 2021

Subdivision No. 19SD00016

Project Name Lake Andrew Drive South Extension

Phase 3 & Pineda Boulevard Extension

**Subdivision Infrastructure
Contract**

THIS CONTRACT entered into this 4th day of August, 2020, by and between the Board of County Commissioners of Brevard County, Florida, hereinafter referred to as "COUNTY," and The Viera Company, hereinafter referred to as "PRINCIPAL."

WITNESSETH:

IN CONSIDERATION of the mutual covenants and promises herein contained, the parties hereto agree as follows:

1. The PRINCIPAL agrees to construct the improvements described below:

and all other improvements depicted in subdivision number 19SD00016. A copy of said plat to be recorded in the Plat Books of the Public Records of Brevard County.

2. Principal agrees to construct the improvements strictly in accordance with the plans and specifications on file in the Land Development Division (which construction is hereinafter referred to as the "Work"). Such plans and specifications (hereinafter referred to as the "Plans") are hereby incorporated into this Agreement by reference and made a part hereof. Principal warrants to County that the Work will conform to the requirements of the Plans and other requirements specified in the County's approval of the Work. Principal also warrants to County that the Work will be free from faults and defects. Work not conforming to these requirements, including substitutions not properly approved and authorized, may be considered to be defective. All defective Work, whether or not in place, may be rejected, corrected or accepted as provided in this paragraph 2.

If within two (2) years after approval and acceptance of the improvements by County, any Work is found to be defective, Principal shall promptly, without cost to County, either correct such defective Work, or, if it has been rejected by County, remove it from the site and replace it with nondefective Work. If Principal does not promptly comply with the terms of such instructions, County may elect any of the remedies provided for in paragraph 6 herein below. Corrective Work shall be warranted to be free from defects for a period of six (6) months. Any defect in such Work shall be corrected again by Principal promptly upon notice of the defect from County. In the event the maintenance bond given by Principal in connection with County's acceptance of the improvements is extended, the two (2) year warranty period provided for herein shall be extended for a like period.

To the extent assignable, Principal assigns to County all of Principal's warranty rights under its construction contract with the contractor constructing the improvements (including all warranties provided by law of in equity with respect to such construction contract), which warranties may be asserted by County on behalf of Principal in the event Principal fails to perform its warranty obligations hereunder. Where warranties granted hereunder overlap, the more stringent requirement shall control."

3. The PRINCIPAL agrees to complete said construction on or before the 31 day of July, 2021

4. In order to guarantee performance of PRINCIPAL'S obligations herein contained, PRINCIPAL shall furnish cash, letter of credit, certificate of deposit or surety bond in a form approved by the COUNTY, in the amount of \$ 15,866,341.25 . If such bond is a cash bond or a certificate of deposit, said amount shall be deposited with the Board of County Commissioners within five (5) business days of the County's acceptance of this contract. Said bond shall be 125% of the estimated cost of construction, as determined by the Land Development Division. PRINCIPAL shall maintain such records and accounts, including property, personnel, financial records, as are deemed necessary by the COUNTY to ensure proper accounting for all funds expended under the agreement. Said records shall be made available upon request for audit purposes to Brevard County and its auditors.
5. The COUNTY agrees to accept said plat above described for recording in the public records of Brevard County, Florida and to accept the areas depicted thereon as dedicated for public use, including but not limited to streets and parks, at such time as said improvements are satisfactorily completed. Satisfactory completion in accordance with the plans and specifications shall be determined by written approval of the County Development Engineer or designated assistant.
6. In the event, PRINCIPAL fails to complete said improvements within the time prescribed, the COUNTY may elect to take all or any of the following actions:
 - A. Vacate all or part of such recorded plat where improvements have not Been completed in accordance with the plans and specifications,
 - B. Complete the improvements utilizing COUNTY employees and materials and request payment from the bond or the PRINCIPAL,
 - C. Request the surety on said performance bond to complete such improvements, or
 - D. Contract for completion of said improvements.
7. The PRINCIPAL and Surety on said performance bond shall be liable for all costs, expenses, and damages incurred by the COUNTY, including attorney's fees, in the event the PRINCIPAL defaults on this contract.
8. In the performance of this Agreement, the PRINCIPAL shall keep books, records, and accounts of all activities, related to the agreement, in compliance with generally accepted accounting procedures. Books, records and accounts related to the performance of this agreement shall be open to inspection during regular business hours by an authorized representative of the Office and shall be retained by the PRINCIPAL for a period of three years after termination of this agreement. All records, books and accounts related to the performance of this agreement shall be subject to the applicable provisions of the Florida Public Records Act, Chapter 119 of the Florida Statutes.
9. No reports, data, programs or other materials produced, in whole or in part for the benefit and use of the County, under this agreement shall be subject to copyright by PRINCIPAL in the United States or any other country.

IN WITNESS WHEREOF, the parties hereto have set their hands and seals the day and year first above written.

ATTEST:

Scott Ellis, Clerk

BOARD OF COUNTY COMMISSIONERS
OF BREVARD COUNTY, FLORIDA

Bryan Andrew Lober
Bryan Lober, Chair

As approved by the Board on: August 4, 2020.

WITNESSES:

Mary Ellen McKibben
Mary Ellen McKibben

K. P. Prosser
KAREN P. PROSSER

PRINCIPAL: The Viera Co.

Todd J. Pokrywka, as President

7-6-20
DATE

State of: Florida

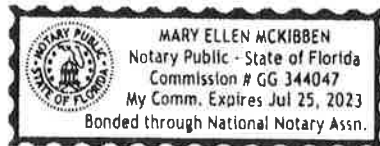
County of: Brevard

The foregoing instrument was acknowledged before me this 6th day of July 20 20, by Todd J. Pokrywka, Pres who is personally known to me or who has produced as identification and who did (did not) take an oath.

My commission expires:

S E A L

Commission Number:



Mary Ellen McKibben
Notary Public

Mary Ellen McKibben
Notary Name printed, typed or stamped

SURETY PERFORMANCE BOND

KNOW ALL MEN BY THESE PRESENTS:

That we, THE VIERA COMPANY, hereinafter referred to as "Owner" and, TRAVELERS CASUALTY AND SURETY COMPANY OF AMERICA, hereinafter referred to as "Surety", are held and firmly bound unto the BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA, hereinafter referred to as "County", in the sum of \$15,866,341.25 for the payment of which we bind ourselves, our heirs, executors, successors and assigns, jointly and severally, firmly by these presents:

WHEREAS, Owner has entered into a contract with the County dated the 4th day of August, 2020, which contract is made a part hereof by reference.


NOW THEREFORE, the condition of this obligation is such that if Owner shall promptly and faithfully perform said contract and complete the work contemplated therein by July 31, 2021 then this obligation shall be null and void, otherwise it shall remain in full force and effect.

If the Owner shall be declared in default of said contract by the County, the Surety shall have sixty (60) days from the date of said default within which to take whatever action it deems necessary in order to insure performance. If, at the expiration of sixty (60) days from the date of said default, no arrangements have been made by the Owner or surety satisfactory to the County for the completion of said contract, then the County shall have the right to complete said contract and the Owner and Surety jointly and severally, shall pay all costs of completing said contract to the County, including but not limited to engineering, legal and other costs, together with any damages, either direct or consequential, which the County may sustain on account of the Owner's default of said contract. After the expiration of the aforesaid grace period, the County shall have the additional right to contract for the completion of said contract upon which the Owner has defaulted and upon the County's acceptance of the lowest responsible bid for the completion of said contract, the Owner and Surety shall become immediately liable for the amount of said bid and in the event the County is required to commence legal proceedings for the collection thereof, interest shall accrue at the rate of six percent (6%) per annum beginning with the commencement of such legal proceedings. The County, in its discretion, may permit the Surety to complete said contract, in the event of Owner's default.

In the event that the County commences suit for the collection of any sums due hereunder, the obligors and each of them agree to pay all costs incurred by the County, including attorney's fees.

EXECUTED this 6th day of July, 2020.

OWNER: THE VIERA COMPANY


Todd J. Pokrywa, President

SURETY:


Christine Payne, Attorney-in-Fact





Travelers Casualty and Surety Company of America
Travelers Casualty and Surety Company
St. Paul Fire and Marine Insurance Company

POWER OF ATTORNEY

KNOW ALL MEN BY THESE PRESENTS: That Travelers Casualty and Surety Company of America, Travelers Casualty and Surety Company, and St. Paul Fire and Marine Insurance Company are corporations duly organized under the laws of the State of Connecticut (herein collectively called the "Companies"), and that the Companies do hereby make, constitute and appoint **Christine Payne** of **ORLANDO**

Florida, their true and lawful Attorney-in-Fact to sign, execute, seal and acknowledge any and all bonds, recognizances, conditional undertakings and other writings obligatory in the nature thereof on behalf of the Companies in their business of guaranteeing the fidelity of persons, guaranteeing the performance of contracts and executing or guaranteeing bonds and undertakings required or permitted in any actions or proceedings allowed by law.

IN WITNESS WHEREOF, the Companies have caused this instrument to be signed, and their corporate seals to be hereto affixed, this 17th day of January, 2019.



State of Connecticut

City of Hartford ss.

By: _____

Robert L. Raney

Robert L. Raney, Senior Vice President

On this the 17th day of January, 2019, before me personally appeared Robert L. Raney, who acknowledged himself to be the Senior Vice President of Travelers Casualty and Surety Company of America, Travelers Casualty and Surety Company, and St. Paul Fire and Marine Insurance Company, and that he, as such, being authorized so to do, executed the foregoing instrument for the purposes therein contained by signing on behalf of said Companies by himself as a duly authorized officer.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

My Commission expires the 30th day of June, 2021



Anna P. Nowik

Anna P. Nowik, Notary Public

This Power of Attorney is granted under and by the authority of the following resolutions adopted by the Boards of Directors of Travelers Casualty and Surety Company of America, Travelers Casualty and Surety Company, and St. Paul Fire and Marine Insurance Company, which resolutions are now in full force and effect, reading as follows:

RESOLVED, that the Chairman, the President, any Vice Chairman, any Executive Vice President, any Senior Vice President, any Vice President, any Second Vice President, the Treasurer, any Assistant Treasurer, the Corporate Secretary or any Assistant Secretary may appoint Attorneys-in-Fact and Agents to act for and on behalf of the Company and may give such appointee such authority as his or her certificate of authority may prescribe to sign with the Company's name and seal with the Company's seal bonds, recognizances, contracts of indemnity, and other writings obligatory in the nature of a bond, recognizance, or conditional undertaking, and any of said officers or the Board of Directors at any time may remove any such appointee and revoke the power given him or her; and it is

FURTHER RESOLVED, that the Chairman, the President, any Vice Chairman, any Executive Vice President, any Senior Vice President or any Vice President may delegate all or any part of the foregoing authority to one or more officers or employees of this Company, provided that each such delegation is in writing and a copy thereof is filed in the office of the Secretary; and it is

FURTHER RESOLVED, that any bond, recognizance, contract of indemnity, or writing obligatory in the nature of a bond, recognizance, or conditional undertaking shall be valid and binding upon the Company when (a) signed by the President, any Vice Chairman, any Executive Vice President, any Senior Vice President or any Vice President, any Second Vice President, the Treasurer, any Assistant Treasurer, the Corporate Secretary or any Assistant Secretary and duly attested and sealed with the Company's seal by a Secretary or Assistant Secretary; or (b) duly executed (under seal, if required) by one or more Attorneys-in-Fact and Agents pursuant to the power prescribed in his or her certificate or their certificates of authority or by one or more Company officers pursuant to a written delegation of authority; and it is

FURTHER RESOLVED, that the signature of each of the following officers: President, any Executive Vice President, any Senior Vice President, any Vice President, any Assistant Vice President, any Secretary, any Assistant Secretary, and the seal of the Company may be affixed by facsimile to any Power of Attorney or to any certificate relating thereto appointing Resident Vice Presidents, Resident Assistant Secretaries or Attorneys-in-Fact for purposes only of executing and attesting bonds and undertakings and other writings obligatory in the nature thereof, and any such Power of Attorney or certificate bearing such facsimile signature or facsimile seal shall be valid and binding upon the Company and any such power so executed and certified by such facsimile signature and facsimile seal shall be valid and binding on the Company in the future with respect to any bond or understanding to which it is attached.

I, Kevin E. Hughes, the undersigned, Assistant Secretary of Travelers Casualty and Surety Company of America, Travelers Casualty and Surety Company, and St. Paul Fire and Marine Insurance Company, do hereby certify that the above and foregoing is a true and correct copy of the Power of Attorney executed by said Companies, which remains in full force and effect.

Dated this 1st day of July, 2020



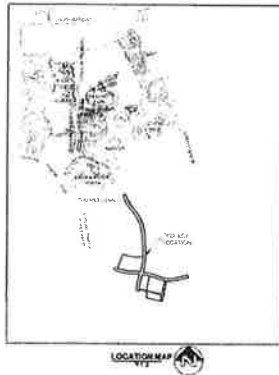
Kevin E. Hughes

Kevin E. Hughes, Assistant Secretary

To verify the authenticity of this Power of Attorney, please call us at 1-800-421-3880.
Please refer to the above-named Attorney-in-Fact and the details of the bond to which this Power of Attorney is attached.

**LAKE ANDREW DRIVE - SEGMENT E
AND PINEDA BOULEVARD SEGMENT I
PHASE 1
SECTIONS 21, 27, AND 28, TOWNSHIP 26 SOUTH,
RANGE 36 EAST BREVARD COUNTY, FLORIDA**

Journal of the American Statistical Association Volume 100, Number 473, December 2005 Published by the American Statistical Association

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© 2000 Blackwell Science Ltd *Journal of Internal Medicine* 247: 395–402

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NOTICE: THIS PLAN AS SUBMITTED IN ITS EXAMINED FORM IS THE OFFICIAL OPINION OF THE SURVEYED LANDS DEPARTMENT AND HAS NO OTHER PURPOSES. IT IS NOT TO BE USED IN ANY OTHER MANNER OR FOR ANY OTHER PURPOSE. THERE MAY BE ADDITIONAL INFORMATION THAT HAS NOT BEEN SUBMITTED IN THIS PLAN THAT MAY BE FOUND IN THE PUBLIC RECORDS OF THE COUNTY.

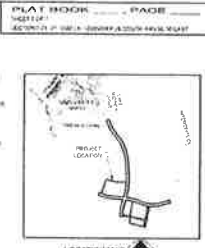
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**SECTIONS 21, 27, AND 28, TOWNSHIP 26 SOUTH,
RANGE 36 EAST BREVARD COUNTY, FLORIDA**

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**LAKE ANDREW DRIVE - SEGMENT E
AND PINEDA BOULEVARD SEGMENT I
PHASE 1**
SECTIONS 21, 27, AND 28, TOWNSHIP 26 SOUTH,
RANGE 36 EAST BREVARD COUNTY, FLORIDA

SURVEY SYMBOL LEGEND

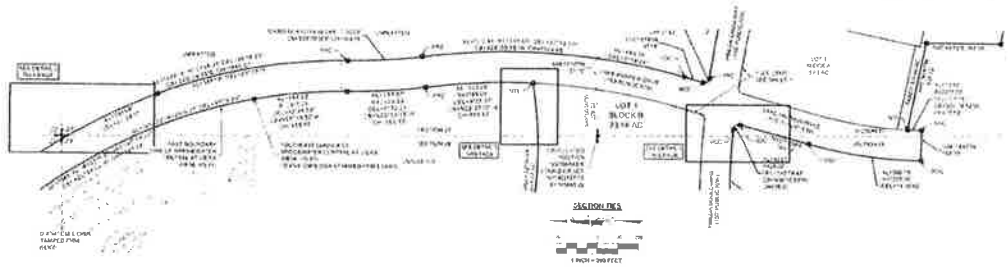
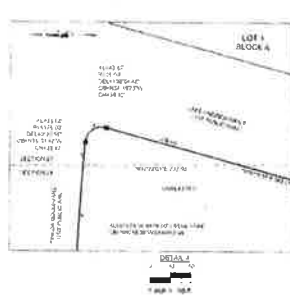
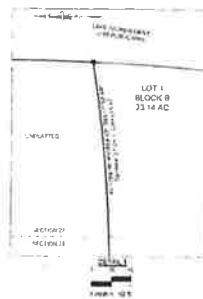
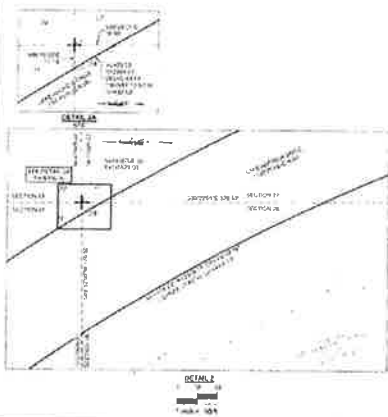
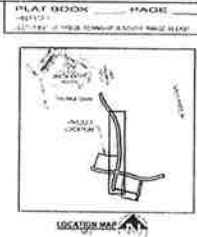
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ABBREVIATIONS

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ABBREVIATIONS

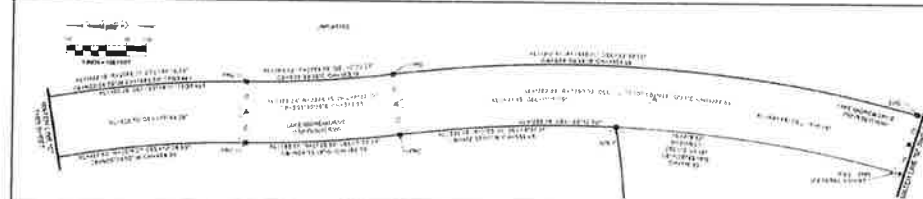
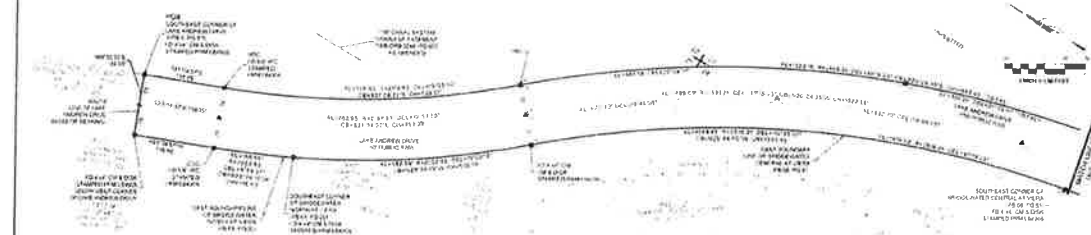
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SEE TO SECTION 4 IN SECTION CORNERS

SECTIONS 21, 27, AND 28, TOWNSHIP 26 SOUTH,
RANGE 36 EAST BREVARD COUNTY, FLORIDA

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SURVEY SYMBOL LEGEND

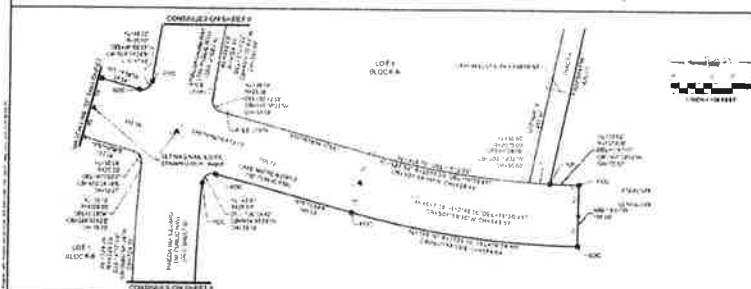
1. ELUTION COLUMN MAPS TO AS NOTED

2. SAMPLE REFERENCE NUMBERS (AS NOTED)

3. PARAMETER REFERENCE NUMBERS (AS NOTED)

4. PARAMETER CONTROL, POINTS TO BE SET

5. SET UP FROM PREVIOUS STATE



ABBREVIATIONS

ABBREVIATIONS

[illegible]

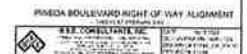
1. What is the main argument in the passage?
 2. What is the author's purpose?
 3. What is the author's tone?
 4. What is the author's attitude?
 5. What is the author's point of view?
 6. What is the author's perspective?
 7. What is the author's stance?
 8. What is the author's position?
 9. What is the author's opinion?
 10. What is the author's belief?
 11. What is the author's feeling?
 12. What is the author's emotion?
 13. What is the author's attitude?
 14. What is the author's perspective?
 15. What is the author's point of view?

LAKE ANDREW DRIVE RIGHT-OF-WAY ADJUSTMENT

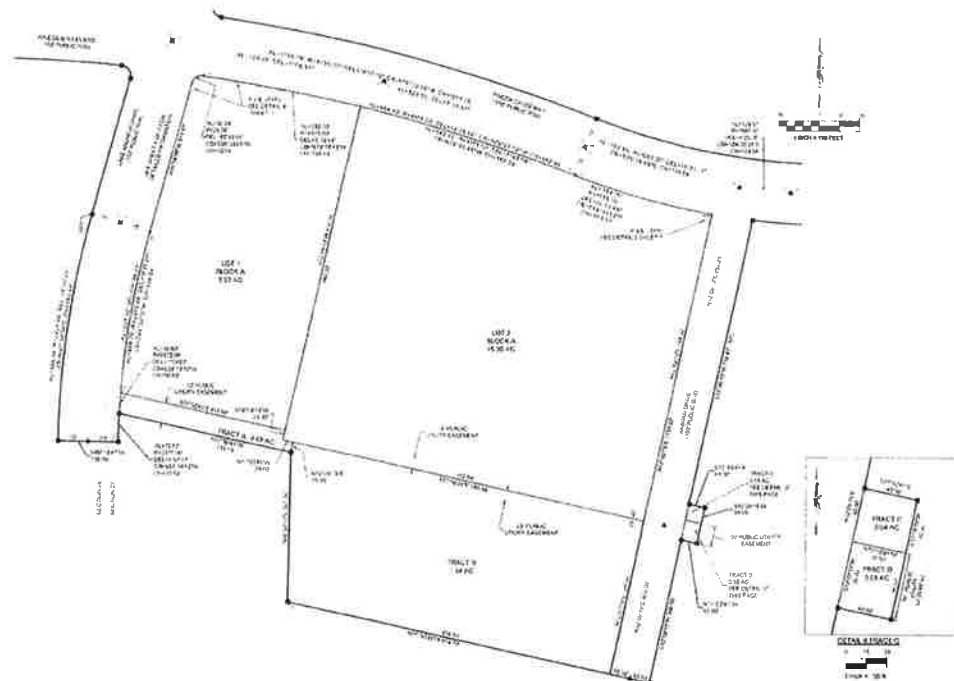


1974	1975	1976	1977	1978	1979	1980	1981	1982	1983	1984	1985	1986	1987	1988	1989	1990	1991	1992	1993	1994	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023	2024	2025	2026	2027	2028	2029	2030	2031	2032	2033	2034	2035	2036	2037	2038	2039	2040	2041	2042	2043	2044	2045	2046	2047	2048	2049	2050	2051	2052	2053	2054	2055	2056	2057	2058	2059	2060	2061	2062	2063	2064	2065	2066	2067	2068	2069	2070	2071	2072	2073	2074	2075	2076	2077	2078	2079	2080	2081	2082	2083	2084	2085	2086	2087	2088	2089	2090	2091	2092	2093	2094	2095	2096	2097	2098	2099	2100	2101	2102	2103	2104	2105	2106	2107	2108	2109	2110	2111	2112	2113	2114	2115	2116	2117	2118	2119	2120	2121	2122	2123	2124	2125	2126	2127	2128	2129	2130	2131	2132	2133	2134	2135	2136	2137	2138	2139	2140	2141	2142	2143	2144	2145	2146	2147	2148	2149	2150	2151	2152	2153	2154	2155	2156	2157	2158	2159	2160	2161	2162	2163	2164	2165	2166	2167	2168	2169	2170	2171	2172	2173	2174	2175	2176	2177	2178	2179	2180	2181	2182	2183	2184	2185	2186	2187	2188	2189	2190	2191	2192	2193	2194	2195	2196	2197	2198	2199	2200	2201	2202	2203	2204	2205	2206	2207	2208	2209	2210	2211	2212	2213	2214	2215	2216	2217	2218	2219	2220	2221	2222	2223	2224	2225	2226	2227	2228	2229	2230	2231	2232	2233	2234	2235	2236	2237	2238	2239	2240	2241	2242	2243	2244	2245	2246	2247	2248	2249	2250	2251	2252	2253	2254	2255	2256	2257	2258	2259	2260	2261	2262	2263	2264	2265	2266	2267	2268	2269	2270	2271	2272	2273	2274	2275	2276	2277	2278	2279	2280	2281	2282	2283	2284	2285	2286	2287	2288	2289	2290	2291	2292	2293	2294	2295	2296	2297	2298	2299	2300	2301	2302	2303	2304	2305	2306	2307	2308	2309	2310	2311	2312	2313	2314	2315	2316	2317	2318	2319	2320	2321	2322	2323	2324	2325	2326	2327	2328	2329	2330	2331	2332	2333	2334	2335	2336	2337	2338	2339	2340	2341	2342	2343	2344	2345	2346	2347	2348	2349	2350	2351	2352	2353	2354	2355	2356	2357	2358	2359	2360	2361	2362	2363	2364	2365	2366	2367	2368	2369	2370	2371	2372	2373	2374	2375	2376	2377	2378	2379	2380	2381	2382</
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**SECTIONS 21, 27, AND 28, TOWNSHIP 26 SOUTH,
RANGE 36 EAST BREVARD COUNTY, FLORIDA**



**SECTIONS 21, 27, AND 28, TOWNSHIP 26 SOUTH,
RANGE 36 EAST BREVARD COUNTY, FLORIDA**

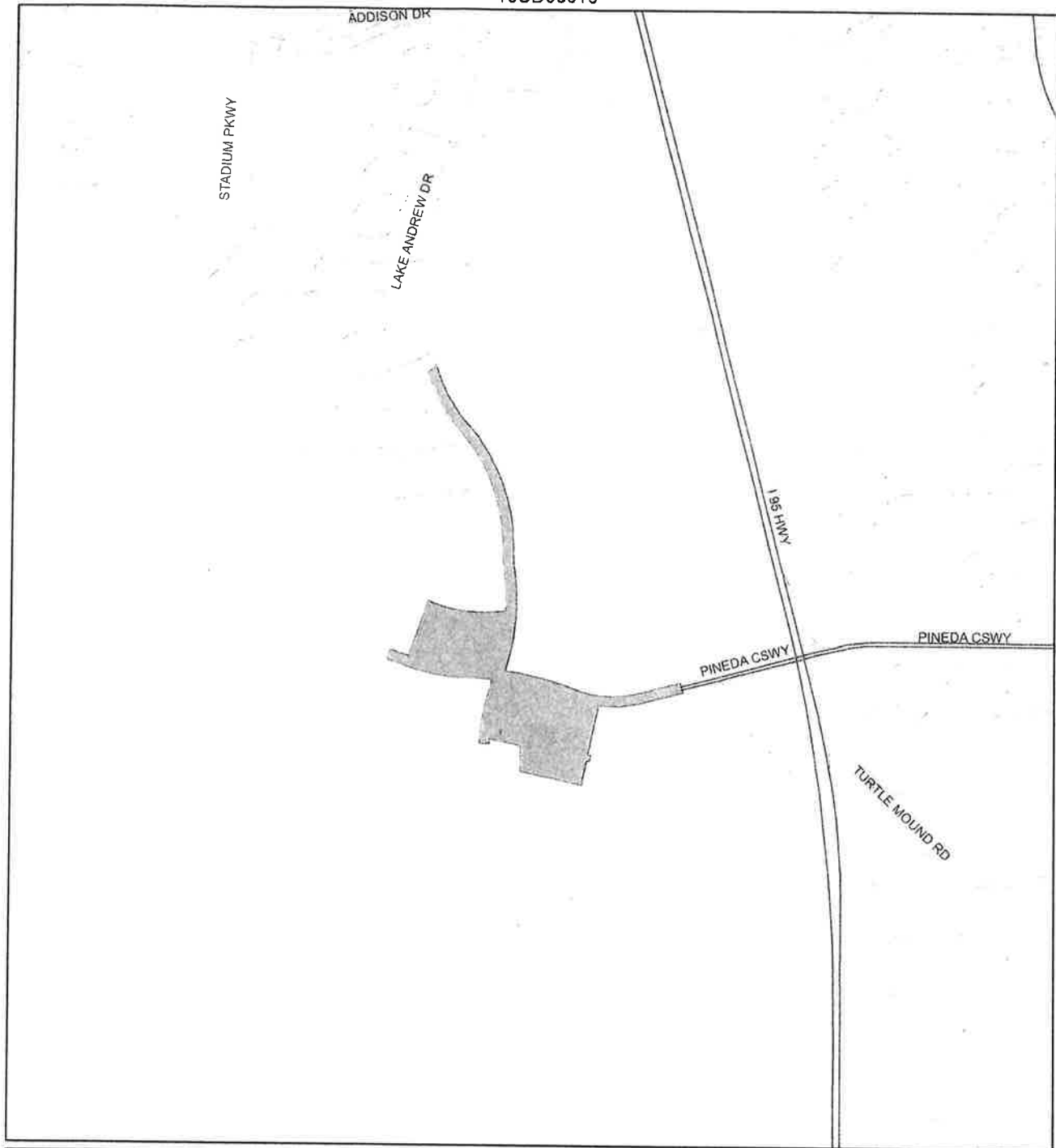
[illegible]

**SECTIONS 21, 27, AND 28, TOWNSHIP 26 SOUTH,
RANGE 36 EAST BREVARD COUNTY, FLORIDA**



LOCATION MAP

LAKE ANDREW DRIVE - SEGMENT E AND PINEDA BOULEVARD SEGMENT I PHASE 1
19SD00016



1:24,000 or 1 inch = 2,000 feet

 Subject Property

This map was compiled from recorded documents and does not reflect an actual survey. The Brevard County Board of County Commissioners does not assume responsibility for errors or omissions hereon.

Produced by BoCC - GIS Date: 7/14/2020