



Agenda Report

2725 Judge Fran Jamieson
Way
Viera, FL 32940

Consent

F.3.

1/25/2022

Subject:

Final Plat and Contract Approval, Re: Aripeka at Viera - Phase 2
Developer: The Viera Company District 4

Fiscal Impact:

None

Dept/Office:

Planning and Development

Requested Action:

In accordance with Section 62-2841(i) and Section 62-2844, it is requested that the Board of County Commissioners grant final plat approval and authorize the Chair to sign the final plat and contract for Aripeka at Viera - Phase 2.

Summary Explanation and Background:

There are three stages of review for subdivision plan approval: the pre-application conference, the preliminary plat/final engineering plan review, and the final plat review. The pre-application conference for the above project was held on June 4, 2020. The preliminary plat and final engineering plans, which is the second stage of approval, was approved on July 9, 2021. The third stage of review is the final plat approval for recordation. The applicant is posting a performance bond and contract for guarantee of the completion of the infrastructure improvements.

Staff has reviewed the final plat and contract for the Aripeka at Viera - Phase 2 subdivision, and has determined that it is in compliance with the applicable ordinances.

Aripeka at Viera - Phase 2 is located within the Viera DRI, east of the intersection at Lake Andrew Drive and Cuddington Drive. The proposed subdivision contains 51 lots on 41.73 acres.

This approval is subject to minor engineering changes as applicable. Board approval of this project does not relieve the developer from obtaining all other necessary jurisdictional permits.

Reference: 21FM00022, 20SD00011

Contact: Tania Ramos, Planner II, Ext. 58278

Clerk to the Board Instructions:

Please have the contract signed and return the original and a certified copy to Planning and Development.



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

January 26, 2022

MEMORANDUM

TO: Tad Calkins, Planning and Development Director

Attn: Tania Ramos

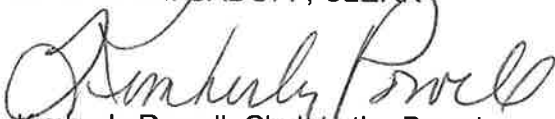
RE: Item F.3., Final Plat and Contract Approval for Aripeka at Viera – Phase 2
Developer: The Viera Company

The Board of County Commissioners, in regular session on January 25, 2022, granted final plat approval in accordance with Section 62-2841(i) and Section 62-2844; and authorized the Chair to sign the final plat and Contract for Aripeka at Viera – Phase 2, Developer: The Viera Company, subject to minor changes, if necessary, receipt of all documents required for recording, and developer responsible for obtaining all other necessary jurisdictional permits. Enclosed are fully-executed and certified copy of the Contract.

Your continued cooperation is always appreciated.

Sincerely,

BOARD OF COUNTY COMMISSIONERS
RACHEL M. SADOFF, CLERK


Kimberly Powell, Clerk to the Board

/sm

Encls. (2)

Subdivision No. 20SD00011

Project Name Aripeka Subdivision, Village 2,

Neighborhood 1 Phase 2

**Subdivision Infrastructure
Contract**

THIS CONTRACT entered into this 25th day of January 2022, 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 20SD00011 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 non-defective 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 30st day of December, 2023

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 \$5,525,818.25. 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:

BOARD OF COUNTY COMMISSIONERS
OF BREVARD COUNTY, FLORIDA


Rachel M. Sadoff, Clerk

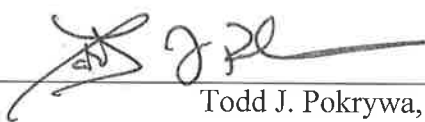

Rita Pritchett, Chair

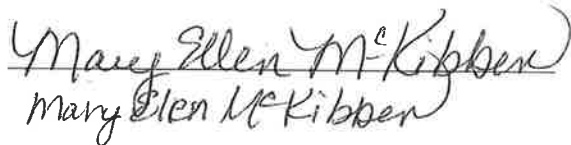
As approved by the Board on: Jan. 25, 2022.

WITNESSES:

PRINCIPAL: The Viera Company


Shawn Johnson


Todd J. Pokrywa, as President


Mary Ellen McKibben

DATE

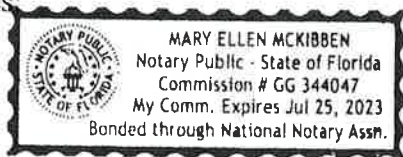
12-30-21

State of: Florida

County of: Brevard

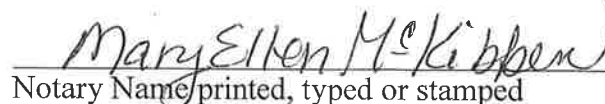
The foregoing instrument was acknowledged before me this 30th day of Dec. 2021, by Todd J. Pokrywa, Pres who is personally known to me ~~or who has produced~~ as identification and who ~~did~~ (did not) take an oath.

My commission expires:




Notary Public

Commission Number:


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 \$2,651,013.96 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 25th day of January, 2022, which contract is made a part hereof by reference.

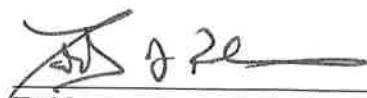
NOW THEREFORE, the condition of this obligation is such that if Owner shall promptly and faithfully perform said contract and complete the work contemplated therein by December 30th, 2023 then this obligation shall be null and void, otherwise it shall remain in full force and effect.

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 30th day of Dec, 2021.

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, 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, 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 27th day of December, 2021



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.

PLAT BOOK _____, PAGE _____
SHEET 2 OF 8
SECTION 22, TOWNSHIP 26 SOUTH, RANGE 38 EAST

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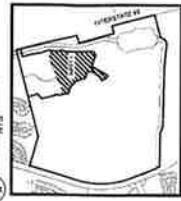
LOCATION MAP
NTS



KEY MAP
NTS

PANEL ID	AREA (ACRES)	DESCRIPTION	PANEL TABLE	OWNERSHIP
OS N-38	1.53	OPEN SPACE, SEWERAGE, LANDSCAPING, IRRIGATION, DRAINAGE AND RELATED IMPROVEMENTS, PCT PRESERVATION		AMPSA NEIGHBORHOOD ASSOCIATION
OS N-32	0.71	OPEN SPACE, SEWERAGE, LANDSCAPING, IRRIGATION, DRAINAGE AND RELATED IMPROVEMENTS, PCT PRESERVATION		AMPSA NEIGHBORHOOD ASSOCIATION
OS N-5A	0.25	OPEN SPACE, SEWERAGE, LANDSCAPING, IRRIGATION, DRAINAGE AND RELATED IMPROVEMENTS, PCT PRESERVATION		AMPSA NEIGHBORHOOD ASSOCIATION
OS N-5B	0.87	OPEN SPACE, SEWERAGE, LANDSCAPING, IRRIGATION, DRAINAGE AND RELATED IMPROVEMENTS, PCT PRESERVATION		AMPSA NEIGHBORHOOD ASSOCIATION
OS N-7A	0.38	OPEN SPACE, SEWERAGE, LANDSCAPING, IRRIGATION, DRAINAGE AND RELATED IMPROVEMENTS, PCT PRESERVATION AND COMMUNITY TRAIL IMPROVEMENTS		AMPSA NEIGHBORHOOD ASSOCIATION
TRACT 1-1	2.27	WSD DRAINAGE SYSTEM FACILITIES, LANDSCAPING, IRRIGATION, FENCING AND RELATED IMPROVEMENTS		WUSA STEWARDSHIP DISTRICT
TRACT 1-2	2.71	WSD DRAINAGE SYSTEM FACILITIES		AMPSA NEIGHBORHOOD ASSOCIATION
TRACT 1-3	0.59	WSD DRAINAGE SYSTEM FACILITIES		AMPSA NEIGHBORHOOD ASSOCIATION
TRACT 1-4	0.59	WSD DRAINAGE SYSTEM FACILITIES		AMPSA NEIGHBORHOOD ASSOCIATION
TRACT 1-5	2.67	WSD DRAINAGE SYSTEM FACILITIES		AMPSA NEIGHBORHOOD ASSOCIATION
TRACT 1M	1.14	SEWERAGE, LANDSCAPING, IRRIGATION, DRAINAGE AND RELATED IMPROVEMENTS		AMPSA NEIGHBORHOOD ASSOCIATION
TRACT 1N	1.34	WSD DRAINAGE SYSTEM FACILITIES		AMPSA NEIGHBORHOOD ASSOCIATION
TRACT 2	1.52	WSD DRAINAGE SYSTEM FACILITIES		AMPSA NEIGHBORHOOD ASSOCIATION
TRACT 3	1.08	WSD DRAINAGE SYSTEM FACILITIES		AMPSA NEIGHBORHOOD ASSOCIATION
TRACT 4	0.15	SEWERAGE, UTILITIES, DRAINAGE AND RELATED IMPROVEMENTS		AMPSA NEIGHBORHOOD ASSOCIATION
TRACT 5	0.19	SEWERAGE, UTILITIES, FENCING AND RELATED IMPROVEMENTS		AMPSA NEIGHBORHOOD ASSOCIATION
TRACT 2Z	6.20	INCREASED GREEN SPACE, PUBLIC & PRIVATE UTILITIES, FENCING, DRAINAGE AND RELATED IMPROVEMENTS		AMPSA NEIGHBORHOOD ASSOCIATION

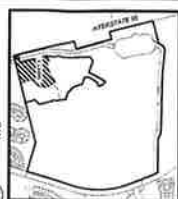
PLAT BOOK _____, PAGE _____
SHEET 4 OF 6
SECTION 22, TOWNSHIP 28 SOUTH, RANGE 36 EAST




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 CONSULTING ENGINEERS - LAND SURVEYORS
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 (303) 751-1100
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 e-mail: bse@bseconsultants.com

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PLAT BOOK _____, PAGE _____
SHEET OF _____
SECTION 22, TOWNSHIP 26 SOUTH, RANGE 36 EAST



SURVEY SYMBOL LEGEND

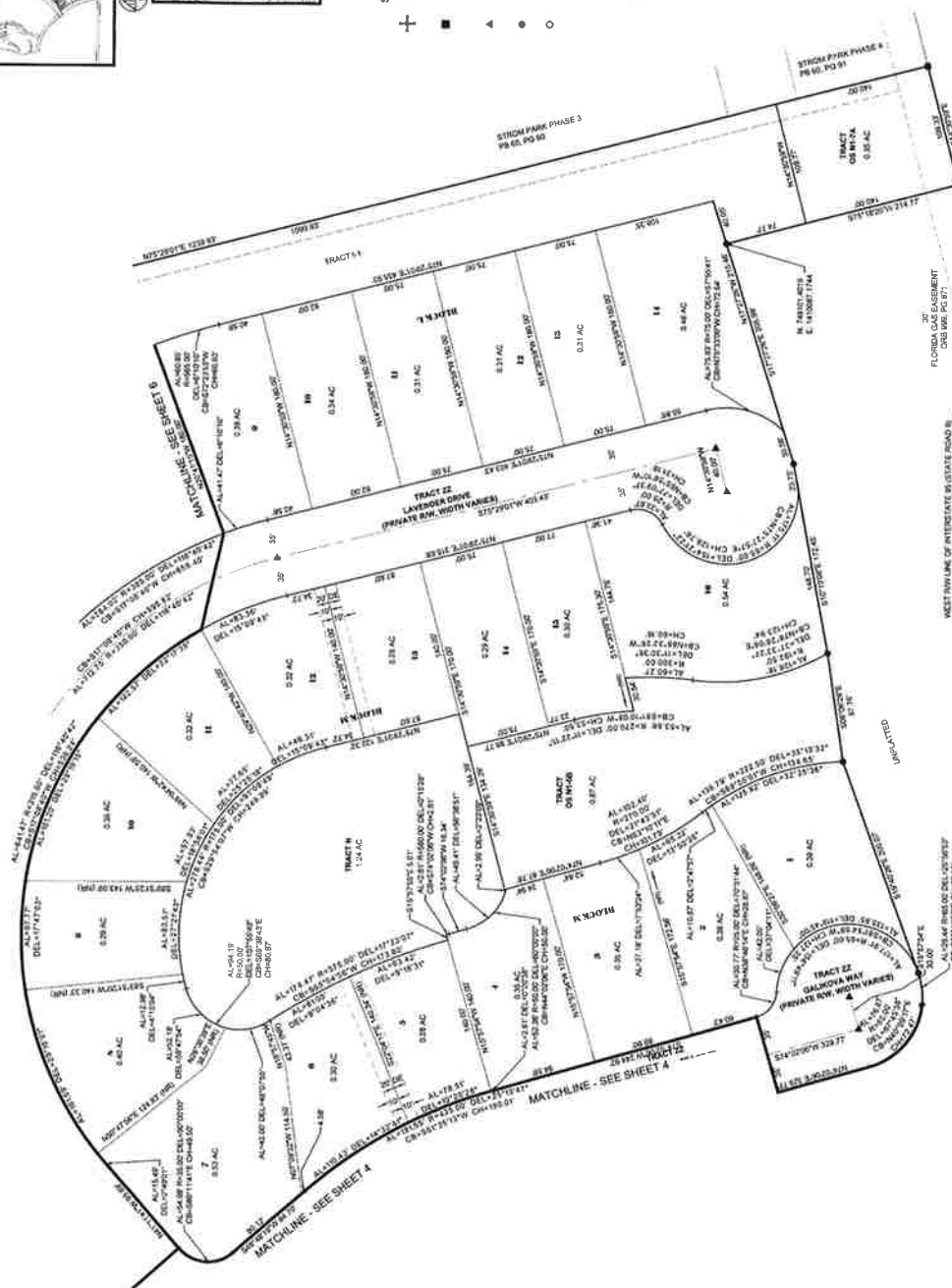
SECTION CORNER, MARKED AS NOTED

PERMANENT REFERENCE MONUMENT (PRM); SET 424 INCH CONCRETE MONUMENT WITH DISK STAMPED "PRM LB4905" UNLESS OTHERWISE NOTED

PERMANENT CONTROL POINT (PCP); MAG NAIL AND DISK STAMPED "PCP LB4905" UNLESS OTHERWISE NOTED

SET 5/8" IRON ROD AND CAP STAMPED "PRM LB4905" UNLESS OTHERWISE NOTED

SET 5/8" IRON ROD AND CAP STAMPED "LB4905" UNLESS OTHERWISE NOTED



ABBREVIATIONS

[illegible]


P.E. CONSULTANTS, INC.
 10000 West 10th Street, Suite 100, Denver, CO 80231
 (303) 751-1000 • Fax (303) 751-1001 • www.pengineers.com
 DATE: 11/04/2001
 DESIGNED BY: HMC/HF
 DRAWING: 1103_302_001
 1103_302_001

PLAT BOOK _____, PAGE _____
SHEETS OF 6
SECTION 22, TOWNSHIP 26 SOUTH, RANGE 36 EAST



SURVEY SYMBOL LEGEND

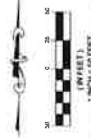
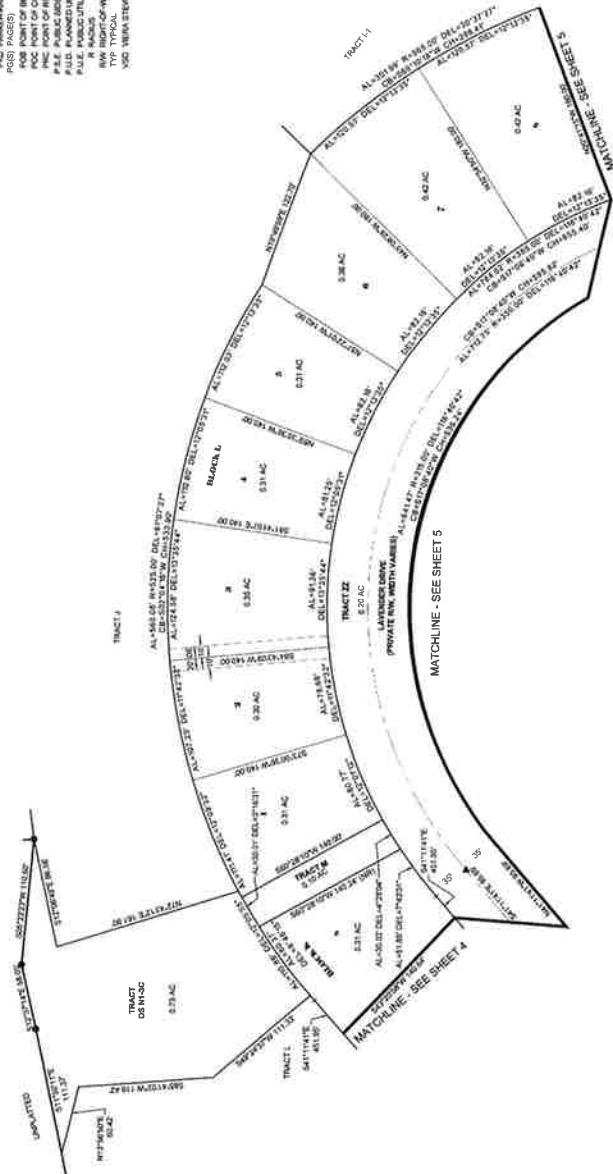
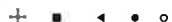
SECTION CORNER, MARKED AS NOTED

PERMANENT REFERENCE MONUMENT
PRL#1; SET .04 X INCH CONCRETE
MONUMENT WITH DECK STAMPED PRL
LABEL, UNLESS OTHERWISE NOTED

PERMANENT CONTROL POINT; SET
MAG NAIL AND DECK STAMPED PCP LBL#1
UNLESS OTHERWISE NOTED

SET .56" IRON ROD AND CAP STAMPED
PRL#1 UNLESS OTHERWISE NOTED

SET .56" IRON ROD AND CAP STAMPED
PRL#2 UNLESS OTHERWISE NOTED

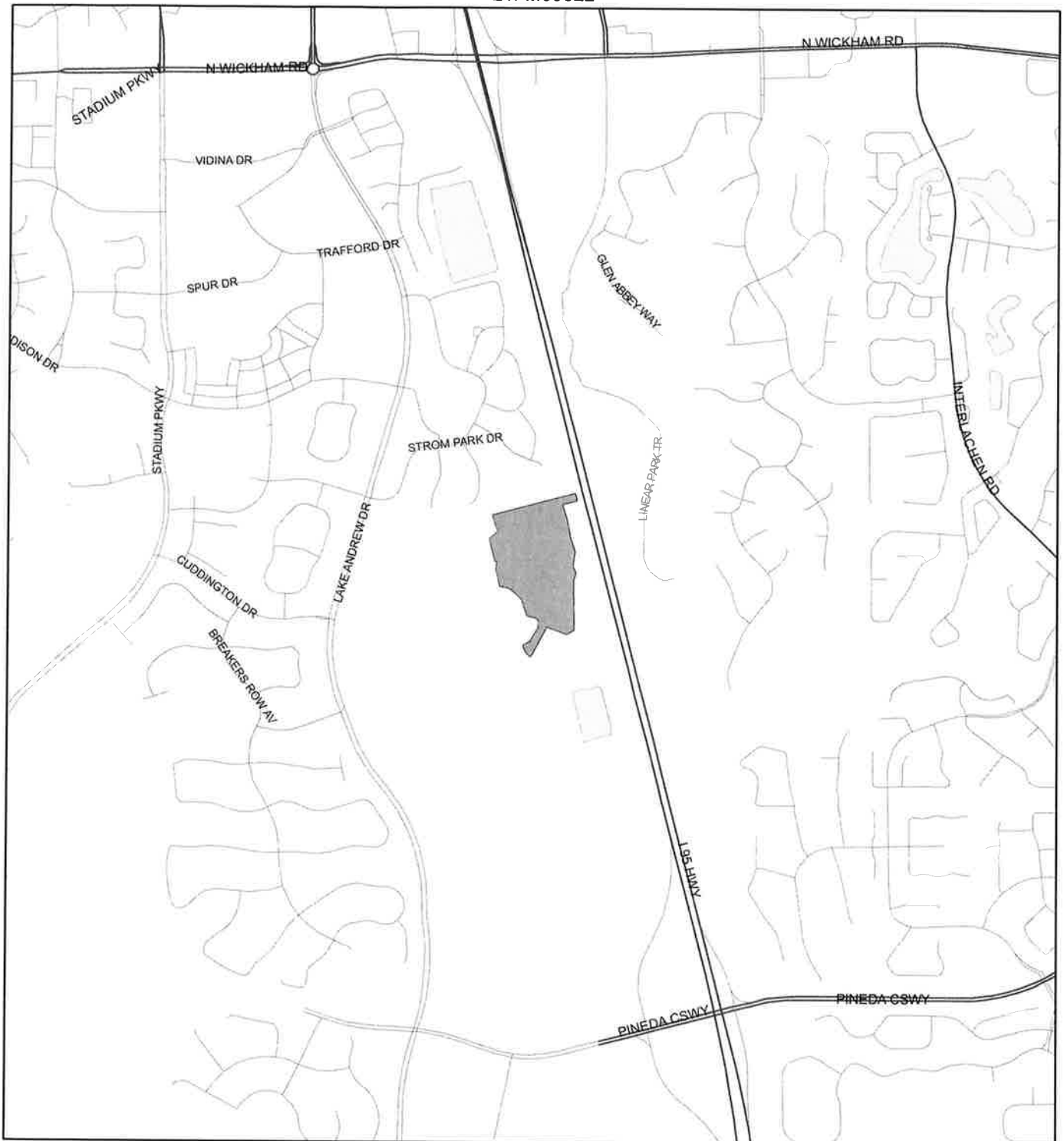



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 Telex 150000 B.E. CONSULTANTS INC
 CABLE B.E. CONSULTANTS INC
 B.E. CONSULTANTS, INC. IS AN EQUAL OPPORTUNITY FIRM

LOCATION MAP

ARIPEKA AT VIERA - PHASE 2

21FM00022



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: 12/21/2021