



# CITY OF AVON PARK

Highlands County, Florida

## CITY COUNCIL REGULAR MEETING

City Council Chamber  
123 E Pine St  
Avon Park, FL  
July 11, 2016 6:00 PM

- A. **OPENING**
1. Invocation
  2. Pledge of Allegiance
  3. Roll Call
- B. **CITIZENS/OUTSIDE AGENCIES**
4. TDC Recommended Logo Changes to Board of County Commissioners
- C. **CONSENT AGENDA:**
5. Approve Minutes of June 27, 2016 Regular City Council Meeting.
  6. Approve Minutes of July 5, 2016 Special Council Meeting
- D. **COMMITTEE REPORTS/ATTY UPDATES/ANNOUNCEMENTS/PRESENTATIONS**
8. Investigation Final Report Roy Pierce
  9. City Managers Report
- E. **ADMINISTRATIVE:**
10. Ordinance 17-16 Relating to Medical Cannabis Dispensing Facilities 2<sup>nd</sup> Reading  
Public Hearing
  11. Ordinance 19-16 Clarifying and Changing Qualification Periods 2<sup>nd</sup> Reading  
Public Hearing
  12. Resolution 16-18 Final Fire Assessment  
Public Hearing
  13. L. Cobb Construction Agreement
  14. Ordinance 06-16A (City Attorney)
  15. Nasgrass Lease Agreement
- F. **CITIZENS PARTICIPATION**

**H. ADJOURN**

Any person who might wish to appeal any decision made by the City Council of the City of Avon Park, Highlands County, Florida, in public hearing or meeting is hereby advised that he/she will need a record of the proceedings, and for such purpose, he/she may need to ensure that a verbatim record of the proceedings is made which will include the testimony and evidence upon which such appeal is to be based. Any person with disabilities requiring accommodations in order to participate should contact the City Manager prior to the meeting.

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LOCAL NEWS

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## TDC changes 'Visit Highlands County' to 'Visit Sebring'



Gary Pinnell | Highlands Today

Published: June 24, 2016

SEBRING – It's not official yet, but the Tourist Development Council adopted a logo Thursday morning that will say, "Visit Sebring" instead of "Visit Highlands County."

A month ago, the suggestion was the object of controversy. On Thursday, Highlands County Commissioner Don Elwell was surprised no one came to the meeting to speak against the move, even though Lake Placid City Councilor Ray Royce and Avon Park Chamber of Commerce Executive Director Melissa Hays was in the audience. Avon Park City Councilor Terry Heston sits on the nine-member TDC and objected at the May meeting, but this time said he preferred the logo with Avon Park mentioned last among the three cities.

<http://www.highlandstoday.com/hi/local-news/tdc-changes-visit-highlands-county-to-visit-s...> 7/7/2016

"Save the best for last?" Elwell joked.

However, Lake Placid Chamber of Commerce Executive Director Eileen May and Lake Placid Chamber board member Bill Brantley remain against the idea.

"Absolutely," May said in a telephone call after the meeting. "We just don't think it's right. It hasn't ended."

Brantley said the Lake Placid ZIP code takes in about \$86,000 in hotel-motel and temporary lodging taxes. He hopes to form a Lake Placid benefit district to collect the tax instead of the county, and form a Lake Placid TDC to spend the money on advertising.

The Highlands County TDC is advertising museums and Lake Placid murals during the summer months, and those ads are directed at Tampa, Orlando and Fort Myers, Brantley said. He believes the money would be better directed at South Florida – Miami, Fort Lauderdale and Naples – and that the focus should be on water skiing, swimming, fishing and beaches. The Lake Placid area includes Lake Istokpoga and Lake June.

"They have Sebring first at heart," Brantley said. "That's why we feel like we need to break it off."

"We're not competing with each other," Tourism Director Casey Hartt told the TDC. "We're competing with Tampa, Fort Lauderdale, Orlando and Jacksonville."

The idea to change from a logo that says, "Visit Highlands County" to "Visit Sebring," with Highlands County or Avon Park-Lake Placid came up about two month ago when Hartt attended a Visit Florida meeting. Attendees asked, "Where is Highlands County?"

Other county visitor's bureaus have switched to their names too. Hartt showed their logos: Osceola County is using Experience Kissimmee, Monroe County is Visit Florida Keys, Alachua County is Visit Gainesville. Polk County is Visit Central Florida.

Sebring is famous for the 12 Hours race and the Chrysler automobile, Hartt said, but Google "Highlands tourism" and Scotland, Indiana and Malaysia come up, Hartt said.

"I went to Charleston. I can't even tell you what county Charleston is in," she said. "You don't pack your bags and book a flight to a county. A county sounds like a government, not a vacation... The bottom line is if we get more people here."

Nothing will change but the logo, Elwell said. When computer users type, "Visit Sebring," VisitHighlandsCounty.com still pops up. Click on that site, and viewers are presented with three folders, "Avon Park," "Sebring," or "Lake Placid."

"I want to compliment Ms. Hartt for being sensitive to the concerns of this paranoia," said Royce. He and Hartt have spoken eight or nine times in the past few weeks. "Thank you for the work you're doing. There are about 30,000 people who call Lake Placid home, even though there are only about 2,000 in city limits. I like B3. I encourage you to use that."

Hartt had presented six possible logos. B3 showed "Visit Sebring," with "Lake Placid.Avon Park" underneath the main logo.

The TDC voted for an alphabetic arrangement, however, so if the county commission approves – possibly at the July 19 meeting – the logo would read "Visit Sebring" in large type, and "Avon Park.Lake Placid" in smaller type. FL or Florida would be added.

The council also voted to notify the chambers of commerce and city councils of the plans.

Hartt said website visitors have nearly tripled from last year, from 4,128 sessions to 12,105. Users have also tripled from 3,485 last year to 10,699 this year.

"We're pretty proud about this," Hartt said.

gpinnell@highlandstoday.com

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**CITY COUNCIL REGULAR MEETING MINUTES**  
Council Chambers – 123 E. Pine St., Avon Park, FL  
June 27, 2016  
6:00 PM

**Members Present:** Mayor Sharon Schuler, Deputy Mayor Brenda Giles, Councilman Parke Sutherland, Councilperson Dora Smith, Councilman Terry Heston.

**Members Absent:** None

**Others Present:** City Manager Julian Deleon, Acting City Clerk Bonnie Barwick, City Attorney Gerald Buhr, Public Service Director Jason Lister, Chief Schrader, Highland County Sheriff Office. Members of the press and audience.

Mayor Sharon Schuler called the meeting to order at 6:00 P.M. The invocation was given and the Pledge of Allegiance was recited. The roll was called and a quorum was present.

Chief Schrader with the Highlands County Sheriff's Office brought the proposed budget for the coming year. He explained that there would be a 7% increase. He stated that the outgoing Sheriff Susan Benton will encourage the incoming Sheriff to continue the highly successful agreement with the City of Avon Park. The Council agreed that they had been doing a good job of protecting the Citizens of Avon Park.

Rev. Ramos, pastor of Iglesia Cristiana Mounte Sion Church here in Avon Park. He is requesting an event for November 11<sup>th</sup> and 12<sup>th</sup>. Rev. Ramos stated he already had filled out an event form but he had to have the paper work for the road closure. He said he would have the road closure request filled out by the next meeting.

**Motion** Deputy Mayor Giles, Seconded by Councilman Parke Sutherland to approve the event request subject to the road closure paper work be all turned in. Motion passed unanimously.

City Manager Julian Deleon presented the Consent Agenda:

Approval of Minutes for June 13, 2016 Regular Council Meeting

Approval of Minutes for June 17, 2016 Emergency Meeting.

**Motion** by Deputy Mayor Brenda Giles, Seconded by Deputy Councilman Parke Sutherland to approve consent agenda as presented by City Manager Julian Deleon. Motion passed unanimously.

City Manager Julian Deleon announced that he had attended the grand opening Cornell Colony for the housing authority. He was impressed with the quality homes and the adjustment the housing authority had done.

Deputy Mayor Brenda Giles stated that she had attended the Chamber of Commerce Board Meeting Breakfast that was held on June 16<sup>th</sup>, 2016. She stated they had a new member to the Chamber Board. Romona Washington of the News Sun.

**Peter Powell Museum sign Redesign:** Fred Levett presented three sign designs. After discussion regarding the difference in the signs, **Motion** made by Councilman Terry Heston, Seconded by Councilperson Dora Smith to approve the sign ear marked as Number 1, which put Peter Powell Roberts Museum of Art and Cultural Center put on top. Motion passed unanimously.

**Investigators Report Roy Pierce:** Roy Pierce investigator gave a report. He stated it was not complete yet, but he should have the report done and ready for the Council to review by the Council Meeting held on July 11, 2016. He stated the one thing that he thought had been proven was the Mayor did not use any derogatory remarks after the meeting on October 14, 2015. He said he had a few people yet to interview, but for the most part the investigation was through. He stated that Mayor Schuler had taken a polygraph exam and had passed it when asked about any derogatory remarks at any City Event. He stated that City Manager Julian Deleon and Public Safety Director Jason Lister had taken a polygraph exam and failed. City Manager Julian Deleon stated that he and Public Safety Director Jason Lister had taken a polygraph exam that were administrated independent from was not Roy Pierce's control, and they both passed the exams which contradicted the Apollo investigation. There was further discussion between the Council and the City Staff and the audience.

At 8:05 PM Mayor Schuler asked for a 15 minute recess.

Mayor Schuler called the meeting back to order.

City Manager Julian Deleon asked that item E12, be move above the Budget Work Shop.

**Budget Adjustment Utility Fund and Authorization for Septage Equipment.**

City Manager presented a budget adjustment in the amount of \$150,000.00 for improvements for the Septage Process Facility and for the Sewer Revenue/Septage Revenue.

**Motion** made by Councilman Terry Heston, Seconded by Deputy Mayor Brenda Giles to approve the Budget Adjustment as presented. Motion passed unanimously.

**Motion** made by Councilman Terry Heston, Seconded by Deputy Mayor Brenda Giles to approve City Attorney be excused from the Budget work shop. Motion passed unanimously.

City Manager Julian Deleon stated that this was a draft budget. He said he was working on the revenue. He went on to state that this was the 4<sup>th</sup> year of **ZERO DEBT.** He explained that he was proud of that because when he came on board 5 years ago, the City was month to month and 8 Million in Debt in a matter of 5 years, you have added 20 Million to the balance sheet because of putting away the 8 million in debt bond and the 12 million you have now. He went on to explain the financial health of the City. The General Fund is sitting on 56% reserve. He went on to explain that we had the lowest mileage rate in the County and maybe the State. We had annexed in 3 square miles and we were now the largest City in Highlands County. He went on to explain, and showed charts regarding the fire assessment. He suggested we lower the fire assessment this year to \$80.00 per household this year. There was discussion regarding this issue, and would vote on it the next budget meeting which would be July 5, 2016.

Budget meeting adjourned at 9:45 PM

Recorded and transcribed by  
Bonnie Barwick, Interim City Clerk

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Attest: Bonnie Barwick, Interim Clerk

Mayor Sharon Schuler

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**CITY COUNCIL SPECIAL MEETING MINUTES  
AND BUDGET WORKSHOP  
Council Chambers – 123 E. Pine St., Avon Park, FL  
July 5, 2016  
6:00 PM**

**Members Present:** Mayor Sharon Schuler, Deputy Mayor Brenda Giles, Councilman Parke Sutherland, Councilperson Dora Smith, Councilman Terry Heston.

**Members Absent:** None

**Others Present:** City Manager Julian Deleon, Interim City Clerk Bonnie Barwick, City Attorney Gerald Buhr, Members of the press and audience.

Mayor Sharon Schuler called the meeting to order at 6:00 P.M. The invocation was given and the Pledge of Allegiance was recited.

The roll was called and a quorum was present.

**CONSENT AGENDA:**

City Manager Julian Deleon presented the application of John Pate to the Main Street CRA Advisory Board. Please note: John Palmer had not turned in an application.

**Motion** made by Councilman Terry Heston, Seconded by Councilman Parke Sutherland to approve the application of John Pate to the CRA Main Street Advisory Board. Motion passed unanimously.

City Manager presented the budget adjustment in the amount of \$20,268.00 for improvements to Lake Tulane & Lake Isis Storm Water and reduces the Improvements storm water projects.

**Motion** by Deputy Mayor Brenda Giles, Seconded by Councilman Terry Heston to approve the budget adjustment as presented. Motion passed unanimously.

**DISCUSSION OF INVESTIGATIONS – EXPENSES**

City Manager explained that Councilman Terry Heston asked him what the expenses were for the Investigator Roy Pierce. He went on to explain that other than the retainer we had paid, he had not had an invoice. He stated he contacted Mr. Pierce regarding an invoice and he did not have one yet, then he asked about a ledger that would document his time, and Mr. Pierce had not responded to that. City Manager Julian Deleon turned it over to Councilman Terry Heston. Councilman Terry Heston stated that he had been getting a lot of calls regarding the investigation. He said he had been asked to put an end to this investigation and get an invoice and get on with the business of the City. Mr. Pierce addressed the Council. Mr. Pierce stated that his bill would be under the \$20,000.00. It was discussed when he would have the report finished and Mr. Pierce responded he hoped it would be this weekend. He would have it prepared and try and meet with the Council one on one and give them the report so they could review it before it was released to the press. Mayor Schuler asked if the entire stuff going back and forth between the presses, would stop. Deputy Mayor Brenda Giles said that she had made up her mind as well as other citizens of the City of Avon Park. The majority of the Council agreed with her, but Councilman Parke Sutherland said he would wait for the final report.

City Manager Julian Deleon stated that this would open a budget work shop, but since it was being conducted with a Special Council Meeting, therefore motions could be made.

City Manager Deleon went over each line in the budget, he answered questions that the Council had.

The fire assessment was discussed in detail with Council and citizens commenting on it.

Motion made by Councilman Terry Heston, Seconded by Deputy Mayor Brenda Giles to accept the \$80.00 per household for the fire assessment as presented. Motion passed unanimously.

City Manager Deleon stated that this was a year to year resolution so it could be raised or lowered next year and the Council agreed upon.

There was further discussion regarding some line items. Each question was discussed.

After discussion regarding setting aside two million dollars for new water lines within the City, City Manager Deleon stated it would be easier and less costly to put water lines in the undeveloped area of Avon Park. Mayor Schuler stated that there were a lot of people wanting City water so she would like to see them get the water. **Motion** made by Councilman Terry Heston Seconded by Deputy Mayor Brenda Giles to set aside two million dollars for water improvements. After further discussion, motion passed 4 to 1 with Councilman Parke Sutherland voting no.

Budget work shop adjourned at 8:45 PM

Recorded and transcribed by Interim City Clerk Bonnie Barwick

Attest

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Bonnie Barwick, Interim City Clerk

Mayor Sharon Schuler

**E-10**

E10

ORDINANCE NO. 17-16

**AN ORDINANCE OF THE CITY OF AVON PARK FLORIDA, RELATING TO MEDICAL CANNABIS DISPENSING FACILITIES; AMENDING THE AVON PARK UNIFIED LAND DEVELOPMENT CODE, ARTICLE 2, SECTION 2.04.01, ZONING DISTRICT SUMMARY TABLES, TABLE 2.04.01(A) TO INCLUDE MEDICAL CANNABIS DISPENSING FACILITIES, ARTICLE 3, DEVELOPMENT DESIGN AND IMPROVEMENT STANDARDS, BY ADDING SECTION 3.10.03 MEDICAL CANNABIS DISPENSING FACILITIES, AND ARTICLE 9, DEFINITIONS, TO INCLUDE RELATED DEFINITIONS; REPEALING ALL ORDINANCES IN CONFLICT HERewith; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, Section 163.3167(c), Florida Statutes, empowers the City to adopt land development regulations to guide the growth and development of the City; and

**WHEREAS**, on June 16, 2014, Governor Scott signed the "Compassionate Medical Cannabis Act of 2014" into State law, which serves as an outline for its medical cannabis industry; and

**WHEREAS**, on March 25, 2016, Governor Scott signed the "Compassionate Use of Low-THC and Medical Cannabis" into State law; and

**WHEREAS**, the City Council of the City of Avon Park has determined that it is in the best interests of the citizenry and general public to regulate the location of medical cannabis dispensing facilities; and

**WHEREAS**, the City Council has the responsibility and authority to determine what uses are best suited to particular zoning categories as well as land use categories within the City; and

**WHEREAS**, the City Council of the City of Avon Park has determined that it is advisable and in the public interest to set certain distance and other siting standards in regard to the location and operation of medical cannabis dispensing facilities of dispensing organizations; and

**WHEREAS**, pursuant to Section 166.041(c)2, Florida Statutes, the Planning and Zoning Board and the City Council have held meetings and hearings to amend the **Unified Land Development Code as presented in the attached exhibit**, such exhibit attached as Exhibit "A" and made a part hereof; and, the meetings were advertised and held with due public notice, to obtain public comment; and having considered written and oral comments received during public hearings, find the changes necessary and appropriate to the needs of the City.

NOW, THEREFORE BE IT ENACTED BY THE PEOPLE OF THE CITY OF AVON PARK, FLORIDA that the Unified Land Development Code of the City of Avon Park is amended as set forth in Exhibit "A".

- (a) **Severability:** If any provision or portion of this Ordinance is declared by any court of competent jurisdiction to be void, unconstitutional, or unenforceable, then all remaining provisions and portions of this Ordinance shall remain in full force and effect.
- (b) **Codification:** This Ordinance shall be codified in the Code of Ordinances of the City of Avon Park, Florida.
- (c) **Effective Date:** This ordinance shall be effective 10 days after passage upon Second Reading.

INTRODUCED AND PASSED on First Reading this \_\_\_\_ day of \_\_\_\_\_, 2016.

PASSED AND DULY ADOPTED, on Second Reading with a quorum present and voting, by the City Council of Avon Park, Florida, this \_\_\_\_ day of \_\_\_\_\_, 2016.

CITY OF AVON PARK, FLORIDA

ATTEST:

\_\_\_\_\_  
Sharon Schuler, Mayor

\_\_\_\_\_  
Maria Sutherland, City Clerk

Approved as to form:

\_\_\_\_\_  
Gerald T. Buhr, City Attorney

Motion made by \_\_\_\_\_ seconded by \_\_\_\_\_.

The vote was \_\_\_\_ for \_\_\_\_ against with \_\_\_\_ abstentions and \_\_\_\_ absent

ORDINANCE 17-16

EXHIBIT "A"

Underlined text is proposed new text. ~~Strikeout text is text proposed to be deleted.~~

UNIFIED LAND DEVELOPMENT CODE

ARTICLE 2: REGULATIONS FOR SPECIFIC DISTRICTS

2.04.00 Establishment of Districts

2.04.01 Zoning District Summary Tables

The tables on the following pages present, in a quick-reference form, information regarding permitted and special exception land uses, and development standards for all zoning districts. These tables must be read in conjunction with the regulations for specific zoning districts in Section 2.04.02. The key to the table is as follows:

- P = Permitted Use
- D = Site Development Plan required, use is permitted upon approval of a site development plan
- S = Special Exception Use, Board action required
- C = Conditional Use, Board action required, City Council action required
- \*= Supplemental Development Standards apply (see Section 3.11.00)

Table 2.04.01(A), Table of Land Uses

Category/Use	R-1AA	R-1A	R-1	R-2	R-3	C-1	C-2	C-3	C-4	I-1	I-2	PI	PR	PC	PUD
<b>Office/Financial/Medical Facilities/Clubs</b>															
ATM Walk up or Drive up Unit						P	P	P	P						P
Bank/financial institution, no drive thru						D	P	P	D						P
Bank/financial institution, with drive thru							P	P							P
Business & Office Park								P		P					
Clinic, medical or dental							P	P	P						P
Hospital						D	P	D	D						P
Medical laboratory						D	P	P	D	P	P				P
<u>Medical Cannabis Dispensing Facilities</u>							<u>S</u>								
Non-Profit Organization						P	P	P	D	S					
Professional office						P	P	P	P						P
Real estate/business office						P	P	P	P						P

**ARTICLE 3: DEVELOPMENT DESIGN AND IMPROVEMENT STANDARDS**

**3.10.00 Development Standards for Special Exceptions**

**3.10.03 Medical Cannabis Dispensing Facilities**

(A) Compliance with Code Requirements.

All requests and approved uses must comply with the applicable requirements of Florida Statutes 381.986(6).

(B) Zoning Restrictions.

Medical cannabis dispensing facilities shall be permitted as special exceptions in only the C-2 zoning district throughout the City only through the special exception approval process required through Section 7.09.00.

(C) Single Addresses.

No other business, aside or separate from the dispensing of medical cannabis shall be permitted to be conducted from the same address where the medical cannabis dispensing facilities is located.

(D) Medical cannabis dispensing facilities Licensing and Compliance with Other Laws.

Medical cannabis dispensing facilities must be licensed by the state as required in Florida Statutes. All medical cannabis dispensing facilities shall at all times be in compliance with all federal and state regulations, and the City of Avon Park Land Development Code, as may be applicable and amended from time to time.

(E) Controlled Substances.

The onsite sale, provision, or dispensing of cannabis is prohibited except as specifically authorized by either federal or state law. The onsite cultivating and processing of cannabis shall be prohibited within the City limits.

(F) Definitions.

The City adopts by reference the definitions established in Florida Statutes 381.986 and Florida Administrative Code 64-4.001, as they may, from time

to time, be amended and those definitions included in Article 9 of the Avon Park Land Development Code.

(G) Zoning District Restrictions.

Table 2.04.01(A), Table of Land Uses, in the Land Development Code indicates the zoning districts where Medical Cannabis Dispensing Facilities are allowed.

(H) Separation Distances.

Medical cannabis dispensing facilities and all business signage shall meet the following separation distance requirements:

(1) No medical cannabis dispensing facilities shall be located within 500 feet of any property zoned Residential;

(2) No medical cannabis dispensing facilities shall be located within 1,000 feet of another medical cannabis dispensing facilities.

(3) No medical cannabis dispensing facilities shall be located within 2,000 feet of any day care center or public recreation facility;

(4) No medical cannabis dispensing facilities shall be located within 2,500 feet of any church or school.

This distance shall be measured by following the shortest route of ordinary pedestrian travel along the public thoroughfare from the nearest point of the licensee's place of business or proposed place of business to the nearest point of the property in use as part of the school, day care center, public recreation facility, or medical cannabis dispensing facilities or to the edge of the property zoned residential or agriculture.

(I) Hours of Operation for On-site Dispensing.

Medical cannabis dispensing facilities shall not dispense from its premises low-THC cannabis, medical cannabis, or a cannabis delivery service between the hours of 9:00 P.M. and 7:00 A.M., but may perform all other operations and deliver low-THC cannabis and medical cannabis to qualified patients 24 hours each day.

(J) No Drive-Thru Service.

No medical cannabis dispensing facilities shall have a drive-thru or drive-in service aisle. All dispensing, payment for and receipt of said cannabis shall occur from within or inside the medical cannabis dispensing facilities.

(K) Parking.

Any parking demand created by a medical cannabis dispensing facilities shall not exceed the parking spaces located or allocated on site, as required by the City's parking regulations. An applicant shall be required to demonstrate that on-site traffic and parking attributable to the medical cannabis dispensing facilities will be sufficient to accommodate traffic and parking demands generated by the medical cannabis dispensing facilities, based upon a current traffic and parking study prepared by a certified professional.

(L) Queuing of Vehicles.

The medical cannabis dispensing facilities shall ensure that there is no queuing of vehicles in the rights-of-way. The medical cannabis dispensing facilities shall take all necessary and immediate steps to ensure compliance with this paragraph.

(M) No On-Site Consumption of Cannabis and/or Intoxicating Beverages.

No consumption of cannabis or intoxicating beverages shall be allowed on the premises, including in the parking areas, sidewalks, or rights-of-way. The medical cannabis dispensing facilities shall take all necessary and immediate steps to ensure compliance with this paragraph.

(N) No Loitering.

A medical cannabis dispensing facilities shall provide adequate seating for its patients and business invitees. The medical cannabis dispensing facilities shall not direct or encourage any patient or business to stand, sit (including in a parked car), or gather or loiter outside of the building where the dispensary/treatment center operates, including in any parking areas, sidewalks, rights-of-way, or neighboring properties for any period of time longer than reasonably required for patients to conduct their official business and depart. The medical cannabis dispensing facilities shall post conspicuous signs on at least three (3) sides of the building stating that no loitering is allowed on the property.

(O) Safety and Security Measures.

In addition and support of the safety and security requirements of Florida Statutes 381.986(6), the following safety and security measures are required.

1. Storage. During non-business hours, all stock must be kept in a locked, one-half (1/2) ton or greater safe, with a minimum TL-15 rating, which is bolted to the floor. During business hours, all stock not on display, will be kept in the same locked safe.

2. Alarm or Video Monitoring System. Medical cannabis dispensing facilities shall be equipped with, and the operators of such dispensaries/treatment centers shall maintain in working order at all times, a security alarm system or 24-hour video monitoring system as required by Florida Statutes 381.986(6).

3. Lighting. All lights shall be shielded to focus and direct light onto the uses established, and away from adjacent property, but may be of sufficient intensity to discourage vandalism and theft.

4. Manager on Premises. All operations shall have a responsible person who shall be at least twenty-one (21) years of age and shall be on the premises to act as manager at all times during which any dispensary/treatment center is open to the public or any portion thereof.

5. Two Employees on Premises: As required by Florida Statutes 381.986, two employees or two employees of a contracted security firm must be on premises at all times.

(P) Minors.

It shall be unlawful for any permittee, operator, or other person in charge of any medical cannabis dispensing facilities to employ any person who is not at least eighteen (18) years of age. Persons under the age of eighteen (18) shall not be allowed on the premises of a dispensary/treatment center unless they are a qualified patient or they are in the presence of their parent, legal guardian, legal representative as defined in Florida Statutes 381.986, or a primary caregiver. The entrance to a medical cannabis dispensing facilities shall be clearly and legibly posted with a notice indicating that persons under the age of eighteen (18) are precluded from entering the premises unless they are a qualified patient or a primary caregiver and they are in the presence of their parent or guardian.

**ARTICLE 9: DEFINITIONS**

**Cannabis Delivery Device:** An object used, intended for use, or designed for use in preparing, storing, ingesting, inhaling, or otherwise introducing low-THC cannabis or medical cannabis into the human body.

**Dispensing Organization:** An organization approved by the Department of Health to cultivate, process, transport, and dispense low-THC cannabis or medical cannabis pursuant to Florida Statutes Section 381.986.

**Low-THC Cannabis:** A plant of the genus Cannabis, the dried flowers of which contain 0.8 percent or less of tetrahydrocannabinol and more than 10 percent of cannabidiol weight for weight; the seeds thereof; the resin extracted from any part of such plant; or any compound, manufacture, salt, derivative, mixture, or preparation of such plant or its seeds or resin that is dispensed only from a dispensing organization.

**Medical Cannabis:** All parts of any plant of the genus Cannabis, whether growing or not; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, sale, derivative, mixture, or preparation of the plant or its seeds or resin that is dispensed only from a dispensing organization for medical use by an eligible patient as defined in s. 499.0295.

**Medical Cannabis Dispensing Facility:** A facility that is operated by an approved dispensing organization holding all necessary licenses and permits from which medical cannabis, cannabis based products, or cannabis plants as permitted through Florida Statutes 381.986 are delivered, purchased, possessed, or dispensed for medical purposes and operated in accordance with all local, federal, and state laws. Per Florida Administrative Code Rule 64-4.001(11)(c) "any area designated in the application where Derivative Product is dispensed at retail." Medical cannabis dispensing facilities do not include cultivation facilities or processing facilities as defined in Florida Administrative Code Rule 64-4.001(11)(c).

E-111

E 11

ORDINANCE NO. 19-16

AN ORDINANCE OF THE CITY OF AVON PARK, FLORIDA, AMENDING THE CITY CODE, CHAPTER 34, SECTION 34-2 REGARDING CANDIDATE QUALIFICATION DATES; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING A REPEALER; PROVIDING FOR AN EFFECTIVE DATE THAT DOES NOT AFFECT THE QUALIFICATION DATES FOR THE ELECTIONS IN NOVEMBER, 2016.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF AVON PARK, FLORIDA:

Additions to the City Code are shown by underline and redline, and deletions are shown by ~~strikethrough~~.

Section 1. Section 34-2 of the Code of Ordinances of the City of Avon Park, Florida is hereby amended to read as follows:

Sec. 34-2. - Qualification of candidates; fee.

Any person, duly qualified, desiring to become a candidate for the office of mayor or member of the city council of the city for any special or regular election in said city shall qualify by filing the required qualifying documents with the City Clerk of Avon Park and paying to said clerk a qualification fee of \$25.00. The qualification period shall commence at 8:00 a.m. on Monday of the last full week of July, ~~whether a full or partial week~~, and shall end at 5:00 p.m. on Friday of the following week.

Section 2. Inclusion in the Code. It is the intention of the City Council, and it is hereby provided, that the provisions of this Ordinance shall become and be made a part of the Code of Ordinances of the city. Section numbering may be revised, if necessary, to fit the Code.

Section 3. Repealer. All ordinances or portions of ordinances in conflict herewith are repealed.

Section 4. Effective Date. This Ordinance shall become effective on September 1, 2016, allowing the election qualifications for the year 2016 to remain under the previous code provision.

This Ordinance was read for the first time at the regular session of the City Council held on June 13, 2016. The vote was as follows:

	<u>Yes</u>	<u>No</u>	<u>Abstain</u>	<u>Absent</u>
Commissioner/Mayor Schuler	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Commissioner/ Deputy Mayor Giles	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Commissioner Heston	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Commissioner Sutherland	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Commissioner Smith	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

The final reading was held on the \_\_\_\_\_ day of \_\_\_\_\_, at a regular  special  session of the City Council, and this Ordinance was adopted  rejected . The vote was as follows:

	<u>Yes</u>	<u>No</u>	<u>Abstain</u>	<u>Absent</u>
Commissioner/Mayor Schuler	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Commissioner/Deputy Mayor Giles	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Commissioner Heston	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Commissioner Sutherland	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Commissioner Smith	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

**CITY OF AVON PARK, FLORIDA**

By: \_\_\_\_\_

**Sharon Schuler, Mayor**

**ATTEST:**

\_\_\_\_\_  
**Bonnie Barwick, City Clerk**

**Approved as to Form and Content:**

\_\_\_\_\_  
**Gerald T. Buhr, City Attorney**

# Highlands Today

Published Daily

Sebring, Highlands County, Florida

Please take notice that the City of Avon Park Council will hold public hearings on, July 11, 2016 at 6:00 p.m. in the City of Avon Park Council Chambers, 123 E. Pine St. Avon Park, Florida to hear the following items:

**ORDINANCE NO. 17-16**

AN ORDINANCE OF THE CITY OF AVON PARK FLORIDA, RELATING TO MEDICAL CANNABIS DISPENSING FACILITIES; AMENDING THE AVON PARK UNIFIED LAND DEVELOPMENT CODE, ARTICLE 2, SECTION 2.04.01, ZONING DISTRICT SUMMARY TABLES, TABLE 2.04.01(A) TO INCLUDE MEDICAL CANNABIS DISPENSING FACILITIES, ARTICLE 3, DEVELOPMENT DESIGN AND IMPROVEMENT STANDARDS, BY ADDING SECTION 3.10.03 MEDICAL CANNABIS DISPENSING FACILITIES, AND ARTICLE 9, DEFINITIONS, TO INCLUDE RELATED DEFINITIONS; REPEALING ALL ORDINANCES IN CONFLICT HEREWITH; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

State of Florida }  
County of Highlands } SS.

Before the undersigned authority personally appeared C. Pugh, who on oath says that she is the Advertising Billing Analyst of Highlands Today daily newspapers published at Sebring in Highlands County, Florida, that the attached copy of advertisement being a

Legal Ads IN THE Highlands Today

AND

In the matter of Legal Notices

**ORDINANCE NO. 19-16**

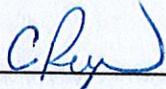
AN ORDINANCE OF THE CITY OF AVON PARK, FLORIDA, AMENDING THE CITY CODE, CHAPTER 34, SECTION 34-2 REGARDING CANDIDATE QUALIFICATION DATES; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING A REPEALER; PROVIDING FOR AN EFFECTIVE DATE THAT DOES NOT AFFECT THE QUALIFICATION DATES FOR THE ELECTIONS IN NOVEMBER, 2016.

was published in said newspaper in the issues of

06/16/2016

The full documents are available at the City Clerk's office, located at 110 E. Main Street, Avon Park, FL 33825. Any person who might wish to appeal any decision made by the City of Avon Park Board of Adjustment, Highlands County, Florida, in public hearing or meeting is hereby advised that he/she will need a record of the proceedings, and for such purpose, he/she may need to ensure that a verbatim record of the proceedings is made which will include the testimony and evidence upon which such appeal is to be based. In compliance with the American Disabilities Act (ADA), anyone who needs a special accommodation for this meeting should contact the City Clerk's Office at (863) 452-4403 at least 48 hours in advance of this meeting. At said hearing any person, his Agent or Attorney, may appear and be heard.

Affiant further says that the said Highlands Today newspapers published at Sebring in said Highlands County, Florida, and that the said newspapers have heretofore been continuously published in said Highlands County, Florida, each day and have been entered as second class mail matter at the post office in Sebring, in said Highlands County, Florida for a period of one year next preceding the first publication of the attached copy of advertisement; and affiant further says that she has neither paid nor promised any person, this advertisement for publication in the said newspaper.



Sworn to and subscribed by me, this 24 day of June, A.D. 2016

#T/H 1069

06/16/2016

Personally Known  or Produced Identification   
Type of Identification Produced \_\_\_\_\_



**E-12**

E12

RESOLUTION NO. 16-18

A RESOLUTION OF AVON PARK, FLORIDA, RELATING TO THE PROVISION OF FIRE RESCUE SERVICES, FACILITIES AND PROGRAMS IN THE CITY; ESTABLISHING THE RATE OF ASSESSMENT FOR THE FISCAL YEAR COMMENCING OCTOBER 1, 2016; IMPOSING FIRE RESCUE ASSESSMENTS AGAINST ASSESSED PROPERTY LOCATED WITHIN THE CITY; APPROVING THE ASSESSMENT ROLL AND DIRECTING DELIVERY THEREOF TO THE TAX COLLECTOR; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City Council of Avon Park, Florida, has enacted Ordinance No. 01-00 (the "Assessment Ordinance"), which authorizes the imposition of Fire Rescue Assessments for fire rescue services, facilities, and programs against Assessed Property located within the City of Avon Park (the "City"); and

WHEREAS, the reimposition of a Fire Rescue Assessment for fire rescue services, facilities, and programs each Fiscal Year is an equitable and efficient method of allocating and apportioning the Fire Rescue Assessed Cost among parcels of Assessed Property; and

WHEREAS, the City Council desires to continue its Fire Rescue Assessment program within the City using the tax bill collection method for the Fiscal Year beginning on October 1, 2016 ("Fiscal Year 2016-17"); and

WHEREAS, the City Council adopted Resolution No. 16-17 on June 13, 2016 (the "Preliminary Rate Resolution"), which, among other things, described the method of

apportioning the Fire Rescue Assessed Cost among real property specially benefitted by fire rescue services, facilities, and programs, estimated the assessment rates for Fiscal Year 2016-17, and directed preparation of the Assessment Roll and provision of notices required by the Assessment Ordinance; and

**WHEREAS**, pursuant to the provisions of the Assessment Ordinance, the City is required to confirm or repeal the Preliminary Rate Resolution, with such amendments as the City Council deems appropriate, after hearing comments and objections of all interested parties; and

**WHEREAS**, the Assessment Roll for the Fire Rescue Assessments has heretofore been made available for inspection by the public; and

**WHEREAS**, notice of a public hearing to consider adoption of the Assessment Roll has been provided in accordance with the requirements of the Assessment Ordinance, the affidavit of mailing and proof of publication being attached hereto as Appendices A and B, respectively; and

**WHEREAS**, a public hearing was held on July 11, 2016, and comments and objections of all interested persons have been heard and considered.

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF AVON PARK, FLORIDA, AS FOLLOWS:**

**SECTION 1. AUTHORITY.** This Resolution is adopted pursuant to the Assessment Ordinance, City Resolution No. 15-12 (and together with City Resolution

No. 15-20, the "Initial Assessment Resolution"), sections 166.021 and 166.041, Florida Statutes, and other applicable provisions of law.

**SECTION 2. DEFINITIONS.** This Resolution constitutes the Annual Rate Resolution as defined in the Assessment Ordinance. All capitalized terms in this Resolution shall have the meanings defined in the Assessment Ordinance, the Initial Assessment Resolution and the Preliminary Rate Resolution.

**SECTION 3. REIMPOSITION OF FIRE RESCUE ASSESSMENTS.**

(A) The parcels of Assessed Property described in the Assessment Roll as updated pursuant to the Preliminary Rate Resolution, which is hereby approved, are hereby found to be specially benefited by the provision of the fire rescue services, facilities, and programs described in the Preliminary Rate Resolution in the amount of the Fire Rescue Assessment set forth in the updated Assessment Roll, a copy of which was present or available for inspection at the above referenced public hearing and is incorporated herein by reference.

(B) It is hereby ascertained, determined and declared that each parcel of Assessed Property within the City will be benefited by the City's provision of fire rescue services, facilities, and programs in an amount not less than the Fire Rescue Assessment for such parcel, computed in the manner set forth in the Preliminary Rate Resolution. Adoption of this Annual Rate Resolution constitutes a legislative determination that all parcels assessed derive special benefits, as set forth in the Assessment Ordinance, the

Initial Assessment Resolution and the Preliminary Rate Resolution, from the fire rescue services, facilities, and programs to be provided and a legislative determination that the Fire Rescue Assessments are fairly and reasonably apportioned among the properties that receive the special benefits as set forth in the Initial Assessment Resolution and the Preliminary Rate Resolution.

(C) The method for computing Fire Rescue Assessments described in the Initial Assessment Resolution and the Preliminary Rate Resolution is hereby approved.

(D) For Fiscal Year 2016-17, the Fire Rescue Assessed Cost to be assessed is approximately \$402,435. The rates for the Fire Rescue Assessments to be assessed and apportioned among benefited parcels to generate such Fire Rescue Assessed Cost are as follows:

Property Use Category	Assessment Unit	Assessment Rate for FY 2016-17 and beyond
Residential	Dwelling Unit	\$80.00 per dwelling unit
Commercial	Square Foot	\$0.043 per square foot
Industrial/Warehouse	Square Foot	\$0.007 per square foot
Government/Institutional	Square Foot	\$0.018 per square foot

(E) Such rates were used in preparation of the Assessment Roll for Fiscal Year 2016-17 and are hereby approved. The maximum rates of assessment set forth in the Initial Assessment Resolution are hereby confirmed and may be used for preparation of the Assessment Roll for any subsequent Fiscal Year.

(F) The Rescue Assessments for fire rescue services, facilities, and

programs in the amounts set forth in the Assessment Roll, as herein approved, are hereby levied and imposed on all parcels of Assessed Property described in the Assessment Roll.

(G) Any shortfall in the expected Fire Rescue Assessment proceeds due to any reduction or exemption from payment of the Fire Rescue Assessments required by law or authorized by the City Council shall be supplemented by any legally available funds, or combination of such funds, and shall not be paid for by proceeds or funds derived from the Fire Rescue Assessments. In the event a court of competent jurisdiction determines any exemption or reduction by the City Council is improper or otherwise adversely affects the validity of the Fire Rescue Assessment imposed for this Fiscal Year, the sole and exclusive remedy shall be the imposition of a Fire Rescue Assessment upon each affected Tax Parcel in the amount of the Fire Rescue Assessment that would have been otherwise imposed save for such reduction or exemption afforded to such Tax Parcel by the City Council.

(H) As authorized in the Assessment Ordinance, interim Fire Rescue Assessments are also levied and imposed against all property for which a Certificate of Occupancy is issued after adoption of this Annual Rate Resolution based upon the rate of assessment approved herein.

(I) Fire Rescue Assessments shall constitute a lien upon the Assessed Property so assessed equal in rank and dignity with the liens of all state, county, district or municipal taxes and other non-ad valorem assessments. Except as otherwise

provided by law, such lien shall be superior in dignity to all other liens, titles and claims, until paid.

(J) The Assessment Roll as herein approved, together with the correction of any errors or omissions, shall be delivered to the Tax Collector for collection using the tax bill collection method in the manner prescribed by the Assessment Ordinance. The Assessment Roll, as delivered to the Tax Collector, shall be accompanied by a Certificate to Non-Ad Valorem Assessment Roll in substantially the form attached hereto as Appendix C.

**SECTION 4. EFFECT OF ADOPTION OF RESOLUTION.** The adoption of this Annual Rate Resolution shall be the final adjudication of the issues presented (including, but not limited to, the determination of special benefit and fair apportionment to the Assessed Property, the method of apportionment and assessment, the rate of assessment, the Assessment Roll and the levy and lien of the Fire Rescue Assessments), as provided by Section 2.08(G) of the Assessment Ordinance.

**SECTION 5. SEVERABILITY.** If any clause, section or other part of this Resolution shall be held by any court of competent jurisdiction to be unconstitutional or invalid, such unconstitutional or invalid part shall be considered as eliminated and in no way affecting the validity of the other provisions of this Resolution.

**SECTION 6. EFFECTIVE DATE.** This Annual Rate Resolution shall take effect

immediately upon its passage and adoption.

**PASSED, ADOPTED AND APPROVED THIS 11TH DAY OF JULY, 2016.**

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Manager

APPENDIX A

AFFIDAVIT OF MAILING

AFFIDAVIT

BEFORE ME, personally appeared the undersigned affiant, who after being duly sworn depose and say:

(1) Julian Deleon is the City Manager of the City of Avon Park (the "City").

(2) On or before June 20, 2016, the City provided mailed notices in accordance with Section 2.08(F) of City Ordinance No. 01-00 to each owner of real property which was not included on the fire services non-ad valorem assessment roll approved for the prior fiscal year at the addresses shown on the real property assessment tax roll database maintained by the Highlands County Property Appraiser for the purpose of the levy and collection of ad valorem taxes.

FURTHER AFFIANT SAYETH NAUGHT.

\_\_\_\_\_  
Julian Deleon, affiant

STATE OF FLORIDA  
COUNTY OF HIGHLANDS

The foregoing Affidavit of Mailing was sworn to and subscribed before me this \_\_\_\_\_ day of July, 2016, by Julian Deleon. He is personally known to me or has produced \_\_\_\_\_ as identification and did take an oath.

(SEAL)

\_\_\_\_\_  
Printed/Typed Name: \_\_\_\_\_  
Notary Public-State of \_\_\_\_\_  
Commission Expires: \_\_\_\_\_

**APPENDIX B**

**PROOF OF PUBLICATION**

APPENDIX C

FORM OF CERTIFICATE TO  
NON-AD VALOREM ASSESSMENT ROLL

I HEREBY CERTIFY that, I am the City Manager of the City of Avon Park, Florida (the "City") and an authorized agent of the City; as such I have satisfied myself that all property included or includable on the non-ad valorem assessment roll for fire rescue services (the "Non-Ad Valorem Assessment Roll") for the City is properly assessed so far as I have been able to ascertain; and that all required extensions on the above described roll to show the non-ad valorem assessments attributable to the property listed therein have been made pursuant to law.

I FURTHER CERTIFY that, in accordance with the Uniform Assessment Collection Act, this certificate and the herein described Non-Ad Valorem Assessment Roll will be delivered to the Highlands County Tax Collector by September 15, 2016.

IN WITNESS WHEREOF, I have subscribed this certificate and directed the same to be delivered to the Highlands County Tax Collector and made part of the above described Non-Ad Valorem Assessment Roll this \_\_\_\_ day of \_\_\_\_\_, 2016.

AVON PARK, FLORIDA

By: \_\_\_\_\_

[to be delivered to Tax Collector prior to September 15, 2016]

# NOTICE OF HEARING TO IMPOSE AND PROVIDE FOR COLLECTION OF FIRE RESCUE SPECIAL ASSESSMENTS

Notice is hereby given that the City Council of the City of Avon Park will conduct a public hearing to consider the imposition of annual fire rescue special assessments for the provision of fire rescue services within the municipal boundaries of the City of Avon Park.

The hearing will be held at 6:00 p.m. on July 11, 2016, in the Council Chambers, 123 East Pine Street, Avon Park, Florida, for the purpose of receiving public comment on the proposed assessments. All affected property owners have a right to appear at the hearing and to file written objections with the City Council within 20 days of this notice. If a person decides to appeal any decision made by the City Council with respect to any matter considered at the hearing, such person will need a record of the proceedings and may need to ensure that a verbatim record is made, including the testimony and evidence upon which the appeal is to be made. In accordance with the Americans with Disabilities Act, persons needing a special accommodation or an interpreter to participate in this proceeding should contact the City Manager's Office at (863) 452-4400, at least three days prior to the date of the hearing.

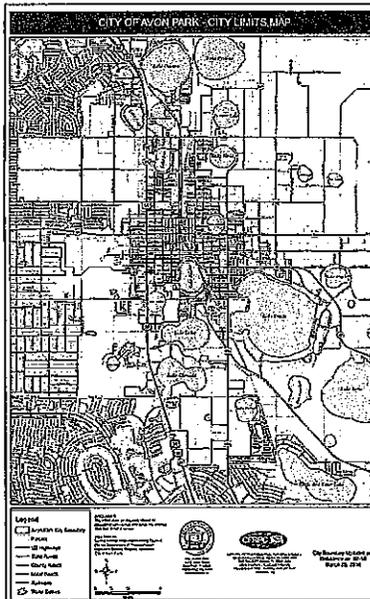
The assessment for each parcel of property will be based upon each parcel's use category and the number of dwelling units for residential property and square footage for non-residential property. The following table reflects the proposed fire rescue assessment rate schedule for the parcel use categories:

Property Use Category	Assessment Unit	Assessment Rate for FY 2016-17 and beyond
Residential	Dwelling Unit	\$140.00 per dwelling unit
Commercial	Square Foot	\$0.093 per square foot
Industrial/Warehouse	Square Foot	\$0.014 per square foot
Government/Institutional	Square Foot	\$0.035 per square foot

Copies of the Assessment Ordinance, the Initial Assessment Resolution, the Final Assessment Resolution, the Preliminary Rate Resolution for Fiscal Year 2016-17, and the updated Assessment Roll are available for inspection at City Hall, located at 110 East Main Street, Avon Park, Florida.

The assessments will be collected on the ad valorem tax bill to be mailed in November 2016, as authorized by section 197.3632, Florida Statutes. Failure to pay the assessments will cause a tax certificate to be issued against the property which may result in a loss of title.

If you have any questions, please contact the City Manager at (863) 452-4400, Monday through Friday between 9:00 a.m. and 5:00 p.m.  
CITY COUNCIL  
CITY OF AVON PARK,  
FLORIDA



00035972-45-0



**Tampa Tribune Order Confirmation for Ad #0003592243-01**

<b>Client</b>	CITY OF AVON PARK	<b>Payor Customer</b>	CITY OF AVON PARK	<b>Acct. Exec</b>	jsnowde1
<b>Client Phone</b>	863-452-4400	<b>Payor Phone</b>	863-452-4400		
<b>Account#</b>	1011570	<b>Payor Account</b>	1011570		
<b>Address</b>	110 E MAIN ST, AVON PARK FL 33825-3945 USA	<b>Payor Address</b>	110 E MAIN ST, AVON PARK FL 33825-3945	<b>Ordered By</b>	Julian Deleon
<b>Fax</b>	863-452-0750				
<b>Email</b>	jdeleon@avonpark.cc				

<b>Total Amount</b>	\$74.20	<b>Status</b>		<b>Materials</b>	
<b>Payment Amt</b>	\$0.00				
<b>Amount Due</b>	\$74.20	<b>Tear Sheets</b>	0	<b>Proofs</b>	0
		<b>Blind Box</b>	1	<b>Affidavits</b>	1
		<b>PO Number</b>			

**Payment Method**  
Text:  
Order Notes: Sent to V Dancer

<b>Ad Number</b>	0003592243-01	<b>Ad Type</b>	CLS ROP	<b>Color</b>	<NONE>	<b>Production Color</b>	
<b>Pick Up Number</b>	0003579188-01	<b>Ad Size</b>	2.0 X 10.0000"	<b>Production Method</b>	Creative (In House)	<b>Production Notes</b>	

<b>Product</b>	Run Schedule Invoice Text	<b>Placement/Class</b>		<b>Position</b>		<b># Inserts</b>		<b>Cost</b>	
<b>Run Dates</b>									
<b>Tag Line</b>									

Highlands Today: Legal Notices ROP 1 \$64.20

PUBLIC HEARING NTOICE CITY OF AVON PARK TUESDAY MARCH 8, 2016  
6/14/2016

**E-13**

E13

**AGREEMENT**

THIS AGREEMENT is made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2016, by and between **L. Cobb Construction, Inc.**, a Florida corporation whose business address is 401 S. 6th Ave, Wauchula, FL 33873 (hereinafter referred to as "**Contractor**"), and **The City of Avon Park, Florida**, a Florida municipal corporation whose business address is 110 East Main Street, Avon Park, FL 33825, and its successors and assigns (hereinafter referred to as "**City**").

**WITNESS:**

City and Contractor, in consideration of the mutual covenants set forth below, agree as follows:

**ARTICLE 1**  
**SCOPE OF WORK**

1.1. Contractor shall complete all work as specified in this Agreement and the bid documents provided by the City, including all addendums. The "Bid Documents" include all of the city's documents provided to bidders in the request for bids, and all of the Contractor's documents submitted in response to the request for bids, and such documents are attached as Exhibit "A". This Agreement along with all Exhibits, shall be hereinafter referred to as the "Contract Documents." The work is generally described as follows:

1.1.1 City issued an Invitation to Bid for Streetscape Improvements to include but not limited to, "turn-key" construction of a new sidewalks, underground utilities, road work in and around the area of the intersection of Hal McRae Blvd. and South Delaney Ave. in the Southside Community Redevelopment Agency ("CRA") district of the City of Avon Park, pursuant to a Florida State Community Development Block Grant ("CDBG").

1.1.2 Services within the City. The specifications for these services are included as part of this contract. The City has reviewed the bids and has determined that the Contractor's bid was the lowest and best bid and would like for the Contractor to do the work as shown in the bid specifications and the Contractor would like to do so.

1.2. The project described above is the work more specifically described under the Contract Documents (hereinafter, the "Project"), and the Contractor's work progressing to completion of the Project, as to quality, progress and compliance with the Contract Documents on such Project, shall be defined as the Contractor's "Work."

1.3. Contractor has represented to City that no trenches shall exceed five (5) feet in depth, therefore, the City has not included in this Agreement the Trench Safety provisions required by Florida law. Contractor agrees that if a trench greater than five (5) feet in depth is required, it shall notify the City prior to such Work, and this Agreement shall then be amended to comply with state law regarding Trench Safety prior to such Work.

**ARTICLE 2**  
**ENGINEER**

2.1. Cool and Cobb Engineering Company, located at 203 West Main Street, Avon Park, FL 33825; (863) 657-2323, is the City's Engineer of Record ("Engineer") for this Project. Engineer created the City's portion of the request for bids in the Bid Documents including specifications and drawings.

**ARTICLE 3**  
**CONTRACT TIME**

3.1. Contractor shall commence work on the Project not later than fifteen (15) days after receipt of

the Notice to Proceed (Exhibit "B"). Unless this Agreement is otherwise terminated as provided herein, the Work shall be Substantially Completed by Contractor within **three hundred and sixty-five (365) days after the date of the Notice to Proceed**. The terms "Substantial Completion" or "Substantially Complete" are defined as the date when the construction is sufficiently completed, in accordance with the Contract Documents, such that the Project can be utilized for all the purpose(s) for which it was intended, including without limitation, receipt of all required permits for use from any applicable governmental agencies. Regardless of the total contract time provided above, upon execution of this Agreement, Contractor shall commence performance of the Work and thereafter diligently proceed with the performance thereof to Final Completion.

#### **ARTICLE 4** **CONTRACT PRICE**

4.1. City shall pay Contractor for performance of the Work in accordance with the Contract Documents in current funds at the lump sum or unit prices ("Bid Prices") as presented in the Bid Documents, which are incorporated and made a part of this Agreement as attached or by reference as provided in Exhibit "A".

4.2. The parties expressly agree that the Total Price is the Contractor bid price for Southside CDBG Improvements as described in Contractor's bid tabulation sheet as Exhibit "A" of this Agreement.

#### **ARTICLE 5** **PAYMENT PROCEDURES**

5.1. The Parties agree that the payment obligations of both Parties and the payment procedures, shall be as provided in § 218.735 FS (Florida Prompt Payment Act), and §255.071 FS (Payment of subcontractors, sub-subcontractors, materialmen, and suppliers on construction contracts for public projects). In the event of any deviations from the procedures provided herein, and the procedures required by §218.735 FS, as amended from time to time, §218.735 FS shall govern the terms of payment.

5.2. Contractor shall submit applications for payment in accordance with these Contract Documents. Applications for payment will be processed by Engineer as provided herein.

5.3. The City's Approval Agent for purposes of the Florida Prompt Payment Act shall be the Engineer. The Engineer shall stamp the invoice with the date when received, as provided by §218.74(1) F.S. Once approved, the person designated by the City to receive the invoices for payment shall be the City Manager.

5.4. *Progress Payments; Retainage.* City shall make progress payments on the basis of Contractor's monthly applications for payment, as recommended by Engineer, which application for payment shall be submitted by Contractor between the first day and the 10<sup>th</sup> day after the end of each calendar month for which payment is requested, along with any releases of lien or other appropriate documents reasonably deemed necessary by the Engineer or City. All progress payments will be made on the basis of the progress of the Work completed and the Bid Documents.

5.5. Prior to Substantial Completion of the Project, progress payments will be made less a 10% retainage and less any amounts as Engineer shall determine, or City may withhold in accordance with any other provisions of this Agreement so providing.

5.6. After 50% completion of the Project as reasonably determined by the Engineer, the Contractor may present to the City a payment request for up to one-half of the retainage held by the City. The City shall promptly make payment to the Contractor, unless the City has a good faith dispute regarding the Work; or, the Work is the subject of a claim brought pursuant to s. 255.05; or, otherwise the Work is subject of a claim or demand by the City or Contractor. If the City makes payment of retainage to the Contractor under this paragraph which is attributable to the labor, services, or materials supplied by one or more subcontractors or suppliers, the Contractor shall timely remit payment of such retainage to those

subcontractors and suppliers.

5.7. On Substantial Completion, a single list of items required to render complete, satisfactory, and acceptable Work by Contractor will be developed through correspondence or a meeting between the City Manager, Engineer and Contractor ("Completion List"). If produced through correspondence, the Completion List shall be first completed by the Engineer and City Manager, not less than fifteen (15) days after Substantial Completion, and then delivered to the Contractor not more than five (5) days after completion of the Completion List. The Contractor will, within fifteen (15) days, either accept, or submit a proposed modification to the Engineer and City Manager for approval. The Engineer and City Manager shall either accept or reject the Contractor's modification within five (5) days of receipt. In the event of rejection, or in the event that the Parties are unable to produce a Completion List in a meeting as provided above, the Contractor will have the right of arbitration of that dispute as provided in the Agreement.

5.8 Final completion must be made by Contractor within thirty (30) days of delivery of the Completion List.

5.9. Final Payment. On final completion of the Work in accordance with the Completion List, City shall pay Contractor an amount sufficient to increase total payments to 95% of the contract price. However, not less than 5% of the contract price shall be retained until record drawings, warranties, specifications, addenda, modifications and shop drawings, including without limitation, all manufacturers instructional and parts manuals, are delivered to and accepted by the Engineer.

## **ARTICLE 6**

### **CONTRACTOR'S REPRESENTATIONS**

In order to induce City to enter into this agreement, Contractor makes the following representations:

6.1. Contractor has examined and carefully studied the Contract Documents and the other related data identified in the Bid Documents.

6.2. Contractor has visited the site and become familiar with and is satisfied as to the general, local and site conditions that may affect cost, progress, performance or furnishing of the Work.

6.3. Contractor is familiar with and is satisfied as to all federal, state and local laws and regulations that may affect cost, progress, performance and furnishing of the Work.

6.4. Contractor has carefully studied all reports of explorations and tests of subsurface conditions at or contiguous to the site and all drawings of physical conditions in or relating to existing surface or subsurface structures at or contiguous to the site (except underground facilities not identified in Bid Documents), and agrees that any such conditions have been taken into consideration in the Bid Documents and Total Price. Contractor acknowledges that City and Engineer do not assume responsibility for the accuracy or completeness of information and data shown or indicated in the Contract Documents with respect to underground facilities at or contiguous to the site. Contractor has obtained and carefully studied (and assumes responsibility for having done so) all of the additional supplementary examinations, investigations, explorations, tests, studies and data concerning conditions (surface, subsurface and underground facilities) at or contiguous to the site or otherwise which may affect cost, progress, performance or furnishing of the Work or which relate to any aspect of the means, methods, techniques, sequences and procedures of construction to be employed by Contractor and safety precautions and programs incident to it. Contractor does not consider that any additional examinations, investigations, explorations, tests, studies or data are necessary for the performance and furnishing of the Work at the contract price, within the contract times and in accordance with the other terms and conditions of the Contract Documents.

6.5. Contractor is aware of the general nature of Work to be performed by City and others at the site that relates to the Work as indicated in the Contract Documents.

6.6. Contractor has correlated the information known to Contractor, information and observations obtained from visits to the site, reports and drawings identified in the Contract Documents and all additional examinations, investigations, explorations, tests, studies and data with the Contract Documents.

6.7. Contractor has given Engineer written notice of all conflicts, errors ambiguities or discrepancies that Contractor has discovered in the Contract Documents and the written resolution of it by Engineer is acceptable to Contractor, and the Contract Documents are generally sufficient to indicate and convey understanding of all terms and conditions for performance and furnishing of the Work.

6.8 Contractor shall obtain all necessary licenses, building and other permits, and similar authorizations from governmental authorities required to perform its obligations hereunder, and shall give all notices required by, and otherwise comply with, all applicable laws, ordinances, rules, regulations, and restrictions. The City will cooperate with any such application by Contractor.

6.9 All Work done by Contractor shall be performed in accordance with the Contract Documents. The Contractor shall keep an accurate record of as-built conditions to record any variations from Bid Documents, engineering, or shop drawings, with particular reference to Work which will be subsequently concealed. Upon completion of the Work, the Contractor shall deliver to the City marked-up drawings reflecting such variations. Contractor shall prepare or cause to be prepared, as part of the Work including without limitation, electrical Work, all shop drawings and other detail engineered drawings not made a part of the Bid Documents which are required in the performance of Contractor's obligations hereunder, and necessary for record drawings and operation manuals. All Work that Contractor is not capable of performing with its own forces shall be let by Contractor to subcontractors, in its own name, and not as an agent of the City.

6.10 Contractor shall provide competent supervision of all phases of the Work and shall cause the Work to be performed in strict and complete accordance with the Plans and Specifications and all things indicated or implied therefrom. All personnel and Subcontractors used by Contractor in the performance of the Work shall be qualified by training and experience to perform their assigned tasks. At the request of City, Contractor shall not use in the performance of the Work any person or Subcontractor deemed by City to be incompetent, careless, unqualified to perform the Work, or otherwise unsatisfactory to City.

6.11 Contractor shall protect and prevent damage to all unfinished phases of the Work, including but not limited to the protection thereof from damage by the elements, theft, or vandalism.

6.12 Contractor agrees that Contractor is solely responsible for all federal state and local Maintenance of Traffic ("MOT") requirements, and such MOT shall only be performed by persons lawfully authorized to perform MOT requirements.

6.13 Contractor agrees and promises to commence the Work in accordance with the provisions of this Agreement and continue to prosecute the Work to completion thereof in a diligent, efficient, workmanlike, skillful, and careful manner and in strict accordance with the provisions of the Contract Documents, and shall use an adequate amount and quality of personnel, supplies or equipment to complete the Work. Contractor covenants that all the Work will be done in a good and workmanlike manner and that all parts and materials furnished and used in connection therewith will be new unless otherwise approved by City. Should any dispute arise as to the quality or fitness of materials or workmanship, the decision as to acceptability shall rest strictly with the City, based on the requirement that all Work done or materials furnished shall be first class in every respect. What is usual or customary in erecting other similar projects shall in no way enter into any consideration or decision.

## **ARTICLE 7** **CHANGE ORDERS**

7.1 City from time to time may authorize changes in the Project and Work, issue additional instructions, require additional Work, or direct the omission of Work previously ordered; provided, however, that Contractor shall not proceed with any change involving an increase or decrease in cost without prior written authorization from City.

7.2. City shall order changes in the Work by giving Contractor a written change order request ("Change Order Request"), setting forth in detail the nature of the requested change. Upon receipt of a Change Order Request, Contractor shall forthwith furnish to City a statement setting forth in detail, with a suitable breakdown by trades and work classifications, the Contractor's estimate of the changes in the Bid Prices of the Work and Total Price attributable to the changes set forth in such Change Order Request, together with Contractor's estimate of changes in the Progress Schedule for the Work resulting from such changes. If City approves in writing such estimate by Contractor, such Change Order Request and such estimate shall constitute a Change Order, and the Estimated Cost of the Work and Total Price shall be revised in accordance therewith.

7.3 If City and Contractor are unable to agree on changes in Bid Prices of the Work and Total Price, or Progress Schedule, City may order Contractor to proceed with the Work on the basis of the Change Order Request, and the adjustments to Bid Prices of the Work, Total Price, and Progress Schedule shall be determined by arbitration as provided herein.

7.4 In the event that Contractor is capable of establishing entitlement to a change order other than those based on City changes to Project or Work, Contractor shall make such demand within twenty (20) days of the date in which the Contractor knew, or should have known that a change order was required, or any right to a change order is waived. Contractor shall forthwith furnish to City a statement setting forth in detail, with a suitable breakdown by trades and work classifications, the Contractor's estimate of the changes in the Bid Prices of the Work and Total Price attributable to the changes set forth in such Change Order Request, together with Contractor's estimate of changes in the Progress Schedule for the Work resulting from such changes. If City approves in writing such estimate by Contractor, such Change Order Request and such estimate shall constitute a Change Order, and the Estimated Cost of the Work and Total Price shall be revised in accordance therewith.

## **ARTICLE 8** **INDEMNIFICATION**

8.1 Contractor shall defend, indemnify and hold harmless the City and all of the City's officers, agents, and employees from and against all claims, liability, loss and expense, including without limitation reasonable costs, collection expenses, attorneys' fees, and court costs which may arise because of the negligence (whether active or passive), misconduct, or other fault, in whole or in part (whether joint, concurrent, or contributing), of Contractor, its officers, agents or employees in performance or non-performance of its obligations under the Agreement. Contractor recognizes the broad nature of this indemnification and hold harmless clause, as well as the provision of a legal defense to the City when necessary, and voluntarily makes this covenant and expressly acknowledges the receipt of such good and valuable consideration provided by the City in support of these indemnification, legal defense and hold harmless contractual obligations in accordance with the laws of the State of Florida. This clause shall survive the termination of this Agreement. Compliance with any insurance requirements required elsewhere within this Agreement shall not relieve Contractor of its liability and obligation to defend, hold harmless and indemnify the City as set forth in this article of the Agreement.

8.2 In the event any lawsuit or other proceeding is brought against City by reason of any such claim, cause of action or demand, Contractor shall, upon written notice from City, resist and defend such lawsuit or proceeding by counsel satisfactory to City or, at City's option, pay for the City Attorney or counsel selected by City Attorney to defend City. The provisions and obligations of this section shall survive the expiration or earlier termination of this Contract, and shall encompass all forms of litigation including civil litigation through appeals, and if required by law, arbitration through appeals. To the extent considered necessary or prudent by the City Attorney, any sums due to Contractor under this Contract may be retained by City until all of the City's claims for indemnification pursuant to this Contract have been settled or otherwise resolved; and any amount withheld shall not be subject to payment of interest by City.

8.3 Nothing herein or the remainder of the Agreement shall be construed to be a waiver of the City's rights and protection under sovereign immunity, including without limitation, that protection provided in section 768.28, Florida Statutes.

**ARTICLE 9**  
**INSURANCE**

9.1 Contractor shall, at its sole cost and expense, procure and maintain throughout the term of this contract, Comprehensive General Liability and Worker's Compensation insurance, including Employer Liability insurance described below, or to the extent and in such amounts as required below and authorized by Florida law, and will provide endorsed certificates of insurance generated and executed by a licensed insurance broker, brokerage or similar licensed insurance professional evidencing such coverage, and naming the City as a named, additional insured, as well as furnishing the City with a certified copy, or copies, of said insurance policies. The policies shall acknowledge coverage for the indemnification provided herein. Certificates of insurance and certified copies of these insurance policies must accompany this signed contract. Said insurance coverages procured by Contractor as required herein shall be considered, and Contractor agrees that said insurance coverages it procures as required herein shall be considered, as primary insurance over and above any other insurance, or self-insurance, available to the City, and that any other insurance, or self-insurance available to the City shall be considered secondary to, or in excess of, the insurance coverage(s) procured by Contractor as required herein.

9.2 Nothing herein shall be construed to extend the City's liability beyond that provided in section 768.28, Florida Statutes.

9.3 Such policy or policies shall be without any deductible amount and shall be issued by approved companies rated at not less than AM Best A+ and authorized to do business in the State of Florida, and having agents upon whom service of process may be made in Highlands County, Florida. Such policy or policies shall name the City and the other parties indemnified hereunder as additional insureds under the Commercial Liability Policy as well as on any Excess Liability Policy coverage.

9.4 Commercial Liability Insurance. A Commercial Liability Insurance Policy shall be provided which shall contain minimum limits of One Million Dollars (\$1,000,000.00) per occurrence combined single limit for bodily injury liability and property damage liability and shall contain minimum limits of Two Million Dollars (\$2,000,000.00) per aggregate. Coverage must be afforded on a form no more restrictive than the latest edition of the Commercial Liability Policy, without restrictive endorsements, and must include:

- Premises (or easements) and/or operations, independent contractors, fire damage, products and completed operations, contractual liability and advertising injury.
- Subcontracted Contractors, if any.
- Broad Form Contractual Coverage applicable to this specific Contract, including any hold harmless and/or indemnification Contract.
- Personal Injury Coverage with Employee and Contractual Exclusions removed, with minimum limits of coverage equal to those required for Bodily Injury Liability and Property Damage Liability.
- Broad form property damage and property damage resulting from explosion, collapse or underground (x, c, u) exposures and personal injury.

9.5 Business Automobile Liability. Business Automobile Liability shall be provided with minimum limits of Five Hundred Thousand Dollars (\$500,000.00) per occurrence, combined single limit for Bodily Injury Liability and Property Damage Liability. Coverage must be afforded on a form no more restrictive than the latest edition of the Business Automobile Liability policy, without restrictive endorsements, as filed by the Insurance Services Office, and must include:

- Owned Vehicles, if applicable.
- Hired and Non-Owned Vehicles, if applicable.
- Employers' Non-ownership, if applicable.

9.6 Workers' Compensation Insurance. Workers' Compensation insurance to apply for all employees in compliance with Chapter 440, Florida Statutes, as may be amended from time to time, the "Workers' Compensation Law" of the State of Florida, and all applicable federal laws. In addition, the policy (ies) must include:

- Employers' Liability with a limit of Five Hundred Thousand Dollars (\$ 500,000.00) each event.
- Professional Liability shall be provided with minimum limit of One Million Dollars (\$ 1,000,000) per occurrence and Two Million Dollars (\$ 2,000,000) per aggregate.

9.7 Contractor shall furnish to the City Manager a Certificate of Insurance or endorsements evidencing the insurance coverage specified by this Article within fifteen (15) calendar days after notification of award of the Contract. The required Certificates of Insurance shall name the types of policies provided, refer specifically to this Contract, and state that such insurance is as required by this Contract. Contractor's failure to provide to the City the Certificates of Insurance or endorsements evidencing the insurance coverage within fifteen (15) calendar days shall provide the basis for the termination of the Contract.

9.8 Coverage is not to cease and is to remain in force (subject to cancellation notice) until all performance required of Contractor is completed. All policies must be endorsed to provide the City with at least thirty (30) days' notice of expiration, cancellation and/or restriction. If any of the insurance coverages will expire prior to the completion of the Work, copies of renewal policies shall be furnished at least thirty (30) days prior to the date of their expiration.

9.9 If Contractor uses a sub-consultant, Contractor shall ensure that sub-consultant names City as an additional insured, and shall provide the City with a copy of that policy or notice from the insurance company.

9.10 Status of Claim. Contractor shall be responsible for keeping the City currently advised as to the status of any claims made for damages against Contractor resulting from services performed under this Contract. Contractor shall send notice of claims related to Work under this Agreement to the City.

#### **ARTICLE 10** **CITY'S RIGHT TO INSPECT**

10.1 City shall at all times have access to the Work for inspection thereof. Contractor shall provide proper and safe facilities for such access and inspection. If any of the Work is required to be inspected or approved by any public authority, Contractor shall cause such inspection or approval to be performed.

10.2 No inspection performed or failed to be performed by City hereunder shall be a waiver of any of Contractor's obligations hereunder or be construed as an approval or acceptance of Contractor's MOT, safety procedures, or the Work or any part thereof.

#### **ARTICLE 11** **CORRECTION OF WORK; WARRANTY**

Contractor shall at its own expense: (i) correct or re-execute any parts of the Work that fail to conform with the requirements of the Contract Documents and appear during the progress of the Work, (ii) correct any defects in the Work due to faulty materials or workmanship which appear within a period of one (1) year from Completion of the Work, and (iii) replace, repair, or restore any parts of the improvements, fixtures, equipment, or other items constituting a part of the Project as City's existing facilities placed therein (whether by City or any third party) that are injured or damaged as a consequence of any such failure or defect, or as a consequence of corrective action taken pursuant hereto. Should Contractor fail to make corrections required by this Article, City may do so at the expense and for the account of Contractor.

## **ARTICLE 12**

### **LIENS**

Contractor shall not voluntarily permit any laborer's, materialmen's, mechanic's, or other similar lien to be filed or otherwise imposed on any part of the Work or the property on which the Work is performed. If any laborer's, materialmen's, mechanics', or other similar lien or claim thereof is filed and if Contractor does not cause such lien to be released and discharged forthwith, or file a bond in lieu thereof, City shall have the right to pay all sums necessary to obtain such release and discharge and deduct all amounts so paid from the next succeeding Requests for Payment until the total amount of same shall be recouped, as City may elect.

## **ARTICLE 13**

### **TITLE TO WORK**

Immediately upon the performance of any of the Work, as between Contractor and City, title thereto shall vest in City; provided, however, the vesting of such title shall not impose any obligations on City or relieve Contractor of any of its obligations hereunder.

## **ARTICLE 14**

### **FINANCIAL AND PHYSICAL ABILITY**

Contractor represents and warrants that it is financially solvent, able to pay its debts as they mature, and is possessed of sufficient working capital to complete this Agreement; that it is able to furnish the plant, tools, materials, supplies, equipment, and labor, and is experienced in and competent to perform the Work contemplated by this Agreement; and that it is authorized to do business in the State of Florida where the situs of the Work is located.

## **ARTICLE 15**

### **LICENSE**

Contractor represents and warrants that Contractor holds a license, permit, or other special license to perform the services contemplated by this Contract, as required by law, or employs or works under the general supervision of the holder of such license, permit, or special license.

## **ARTICLE 16**

### **COMPLIANCE WITH LAWS**

16.1 Contractor shall observe and abide by and perform all of its obligations hereunder in accordance with all applicable laws, rules, and regulations of all governmental authorities having jurisdiction, including the federal Occupational Safety and Health Act and all state and federal laws prohibiting and/or related to discrimination by reason of race, sex, or national origin.

16.2 Contractor shall be responsible to hire labor of legal working status in the United States of America for work within the service area. The Contractor will provide proof of legal working status of Contractor and/ or Contractor's employees and sub-contractors and/or their employees who are awarded this bid. E-Verify will be used to determine legal status verification. As part of the response to the bid, the contractor shall have completed and submitted the "Affidavit Certification- Immigration Laws" form which was Exhibit "A" of the City's specifications. The City reserves the right to revoke award if Contractor does not allow for Contractor and employee verification and subcontractor and their employees verification prior to commencement of work and/or hires illegal workers after commencement of work within the service area. Davis-Bacon Rules may apply. The City is not responsible in any way; for any Federal, State or local legal repercussions the Contractor or his subcontractors may incur as a result of employee verifications, and the Contractor indemnifies the City as provided in the "Indemnification" Article of this Agreement.

16.3 Contractor acknowledges that the City is a drug-free workplace. Contractor covenants that all employees of Contractor working upon City property shall be subject to implementation of all possible provisions to maintain a drug-free environment and that Contractor will adhere to the provisions of Florida Statute 287.087.

**ARTICLE 17**  
**TIME IS OF THE ESSENCE; SUSPENSION; TERMINATION**

17.1 In all matters under this Agreement, time is of the essence. The City reserves the right to suspend the Contractor's prosecution of the Work to: 1) consider a change order request by Contractor or Engineer; 2) modify plans due to unforeseen conditions; 3) inspect Contractor's Work in the event that Engineer has a good faith concern over the quality or progress of the Work. The Contractor shall, upon receipt of the City's written notice ("Notice of Suspension") and within the time stated therein, suspend shipment and delivery of material and stop any part or all of the Work and operations hereunder for such period or periods of times as the City may deem advisable and designate in said Notice of Suspension. Upon receipt of such Notice of Suspension, the Contractor shall immediately confer with the City relative to the probable duration of such suspension and stopping, concerning delays and extensions of time resulting therefrom, the reduction and possible elimination of the Contractor's field costs, and with respect to such other prospective costs and expenses as may result directly from such work stoppage. The City shall have the right to suspend Work for up to fifteen (15) days without Contractor's right or claim to any form of damages, including without limitation, damages for delays. Upon the date provided in the Notice of Suspension, or by further written notice from the City, the Contractor shall promptly resume all or any part of the Work required by said resumption Notice of Suspension.

17.2 The City reserves the right to terminate this Contract, with notice to Contractor ("Notice of Termination"), at any time the City determines it does not wish to proceed with Contractor's construction of the Project, with or without cause. In such event the Contractor shall immediately cease all Work not specifically identified and authorized in the Notice of Termination, and be paid for such portions of the Work as he and/or his subcontractors may have completed, and for materials which have been provided, fabricated, or delivered, up to the date of termination. No allowance shall be made for any anticipated profit on that portion of the Work not completed. The above shall be in addition to all rights and remedies granted the City under this Agreement.

17.3 If Contractor shall fail to commence the Work in accordance with the provisions of this Agreement or fail to prosecute the Work to completion thereof in a diligent, efficient, workmanlike, skillful, and careful manner and in strict accordance with the provisions of the Contract Documents, fail to use an adequate amount or quality of personnel, supplies or equipment to complete the Work without undue delay, fail to perform any of its obligations under the Contract Documents, be adjudged a bankrupt, make a general assignment for the benefit of its creditors, permit a receiver to be appointed on account of its insolvency, become insolvent otherwise, or fail to make prompt payments to its Subcontractors, materialmen, or laborers, City shall have the right, if Contractor shall not cure any such default after seven (7) days' written notice thereof, (i) to terminate the Agreement, (ii) to take possession of and use all or any part of Contractor's materials, equipment, supplies, and other property of every kind used by Contractor in the performance of the Work and to use such property in the completion of the Work, or (iii) to complete the Work in any manner it deems desirable, including engaging the services of other parties therefor. Any such act by City shall not be deemed a waiver of any other right or remedy of City. If after exercising any such remedy the cost to City of the performance of the balance of the Work is in excess of that part of the Total Price which has not theretofore been paid to Contractor, Contractor shall be liable for and shall reimburse City for such excess.

17.4 The rights and remedies of City and Contractor under this Article shall be non-exclusive and shall be in addition to all other remedies available to such parties at law or in equity.

**ARTICLE 18**  
**WAIVER**

No provision, requirement, default, or breach of this Agreement may be waived by either party except in writing, except that Contractor's claims for extra compensation, arising from changes in the Work or other causes, shall be waived unless written claim is made therefor within twenty (20) days of the event on which such claim is based.

**ARTICLE 19**  
**EFFECTIVE DATE; AMENDMENT**

This agreement will be effective on the date fully executed by both parties. No amendment, modification, or alteration of the terms hereof shall be binding unless the same is in writing, dated subsequent to the date hereof and duly executed by each party.

**ARTICLE 20**  
**LAWS APPLICABLE; VENUE; WAIVER OF JURY; ASSIGNMENT**

This Agreement shall be governed by the law of the State of Florida. Venue for any dispute before a court of law shall be in state court, in Highlands County, Florida. The parties agree to waive any right to trial by jury. Neither party to the Agreement shall assign this Agreement without the written consent of the other; nor shall Contractor assign any monies due or to become due to it under the Agreement without the prior written consent of City. Subject to the foregoing, this Agreement shall inure to the benefit of and be binding on all the parties and their respective successors and assigns.

**ARTICLE 21**  
**CAPTIONS; EXHIBITS**

All exhibits hereto are incorporated herein as part of this Agreement. The captions appearing with the article or section number designations of this Agreement are for convenience only and are not a part of this Agreement and do not in any way limit or amplify the terms and provisions of this Agreement.

**ARTICLE 22**  
**DOCUMENT IS THE RESULT OF MUTUAL DRAFTSMANSHIP**

The terms and conditions of this Agreement are the product of mutual draftsmanship by both parties, each being represented by counsel if so desired, and any ambiguities in this Agreement or any documentation prepared pursuant to it shall not be construed against either of the parties because of authorship. The parties acknowledge that all the terms of this Agreement were negotiated at arms' length, and that each party, being represented by counsel if so desired, is acting to protect its own interests.

**ARTICLE 23**  
**NOTICE**

Notices required herein shall be sent by hand delivery or by major U.S. courier service (FedEx, UPS, Express Mail, DHS) to the following persons from each party:

- 24.1 **To the City:** Julian Deleon, City Manager, at the address stated above
- 24.2 **To the Contractor:** Lavon Cobb, President, at the address stated above.

Acknowledgement (or response) by the receiving party of any notice by e-mail, shall render such notice valid under this Agreement.

**ARTICLE 24**  
**ATTORNEYS' FEES AND COSTS**

If either party takes legal action to enforce the terms or conditions of this Agreement, whether through court or by arbitration, the prevailing party shall receive all costs of the action, including reasonable attorneys' and paralegals' fees, including appeals.

**ARTICLE 25**  
**CONTRACT DOCUMENTS**

The Contract Documents that comprise the entire agreement between City and Contractor are attached to this agreement, are made a part of this agreement, and consist of the following:

- 24.1. This Agreement.
- 24.2. Bid Documents (Exhibit "A")
  - 24.2.1 City Specifications and Drawings, Bid # 03-16
  - 24.2.2 Responses to Inquiries Regarding City Specifications and Drawings (Exhibit "A-2")
  - 24.2.3 Contractor's Bid (Exhibit "A-3").
- 24.3. Notice of Award and Notice to Proceed (Exhibit "B").

**CONTRACTOR**

Witnesses:

\_\_\_\_\_  
 Printed name: \_\_\_\_\_  
 \_\_\_\_\_  
 Printed name: \_\_\_\_\_

By: \_\_\_\_\_  
 Lavon Cobb, President

**CITY**

ATTESTED:

**CITY OF AVON PARK, FLORIDA**

\_\_\_\_\_  
~~Maria Sutherland~~, City Clerk  
**BONNIE BARWICK**  
 APPROVED AS TO FORM AND  
 CONTENT:

By: \_\_\_\_\_  
 Sharon Schuler, Mayor

\_\_\_\_\_  
 Gerald T. Buhr, City Attorney

**E-15**

E 15

## The City of Avon Park, Florida Airport Commercial Lease Agreement

**THIS LEASE AGREEMENT** is made and entered into this \_\_\_\_ day of \_\_\_\_\_, 2016, by and between the **City of Avon Park** a Florida municipal corporation, 110 East Main Street, Avon Park, FL 33825, herein called "LESSOR," and **NASGRASS, Inc.**, 2155 Herrick Rd., Avon Park, FL 33825, a Florida nonprofit corporation, herein called "LESSEE."

### WITNESSETH:

**WHEREAS**, LESSOR is the owner of certain real property located at Avon Park Airport in the County of Highlands, State of Florida; and,

**WHEREAS**, LESSOR has agreed to lease property to LESSEE, subject to certain federal and state grants and loans, statutes and rules, City ordinances and resolutions as amended from time-to-time, and the terms and conditions herein (hereinafter, "LESSOR's Rules"); and,

**WHEREAS**, LESSEE wishes to lease said property from LESSOR, and in consideration of the Premises, the covenants, terms and conditions to be performed as set forth hereinafter, the parties have agreed and agree as follows:

1.1 **TERM:** The term of this Lease shall be for five (5) years commencing on the 1<sup>st</sup> day of August, 2016, and ending on the 31<sup>st</sup> day of July, 2021, unless sooner terminated as herein provided.

1.1.1 In exchange for the favorably low rental fee, LESSOR shall have the right to terminate this Lease with ninety (90) days of notice to LESSEE. Upon termination LESSEE shall remove all personal property, and all improvements from the Premises as provided herein.

1.2 **PROPERTY:** The property subject to this Lease shall be approximately 5.8 acres located at the closed city dump, and more specifically described as shown in the map provided in Exhibit "A" (herein called the "Premises"). LESSEE shall have the right to use only those other surrounding areas shown on Exhibit "B" ("Common Areas"), and such use shall be in compliance with the LESSOR's Rules. LESSEE has inspected the Premises, and accepts the Premises along with the structures and appurtenances AS-IS and WHERE-IS, situated in the City of Avon Park, County of Highlands, and the State of Florida. City makes no representation or warranty whatsoever as to the condition of the Premises. As used in this Lease, the term "Premises" refers to the real property described above and to any improvements located on the property from time to time during the term of this Lease.

1.3 **USE:** The Premises are to be used by the LESSEE for the purpose of conducting lawn mower racing and related activities. LESSEE shall not reside in the Premises, nor shall LESSEE conduct any other unlawful, improper, or offensive use of the Premises.

1.4 **RENTAL FEES; DEPOSIT:** The LESSEE hereby agrees to pay the LESSOR an annual rental fee of \$1,200.00, each year, paid in advance prior to the commencement of each new term, except that the first payment shall be made August 1, 2016.

1.5 **INSURANCE.** LESSEE is responsible for ensuring LESSEE's own contents and personal property and those of any guests. In addition, LESSEE agrees to maintain the following insurance written by a company satisfactory to LESSOR and at LESSEE's expense:

1.5.1 LESSEE shall procure and maintain at all times in full force and effect a policy or policies of insurance as specified herein and covering all public risks related to the leasing, use, occupancy, maintenance, existence or location of the leased Premises. LESSEE shall obtain a Commercial General Liability insurance policy contain minimum limits of One Million Dollars (\$1,000,000.00) per occurrence combined single limit for bodily injury liability and property damage liability and shall contain minimum limits of Two Million Dollars (\$2,000,000.00) per aggregate, which shall be primary to any insurance that might be carried by the LESSOR. LESSEE shall maintain said insurance with insurance underwriters authorized to do business in the State of Florida, and AM Best rated at least as an A insurer. LESSEE shall furnish LESSOR with a certificate of insurance as proof that such coverage has been procured and is being maintained at execution of this lease and shall maintain such insurance thereafter during the term of this lease or any renewal thereof. Certificate shall contain a Waiver of Subrogation in favor of LESSOR and shall name the LESSOR as an additional insured and the policy shall provide a standard insurance notice in favor of the LESSOR prior to any cancellation or substantial change in coverage. Coverage must be afforded on a form no more restrictive than the latest edition of the Commercial Liability Policy, without restrictive endorsements, and must include:

- Premises and/or operations.
- 
- Broad Form Contractual Coverage applicable to this specific Contract, including any hold harmless and/or indemnification Contract.
- Personal Injury Coverage with Employee and Contractual Exclusions removed, with minimum limits of coverage equal to those required for Bodily Injury Liability and Property Damage Liability.
- Business Automobile Liability. Business Automobile Liability shall be provided with minimum limits of Five Hundred Thousand Dollars (\$500,000.00) per occurrence, combined single limit for Bodily Injury Liability and Property Damage Liability. Coverage must be afforded on a form no more restrictive than the latest edition of the Business Automobile Liability policy, without restrictive endorsements, for
  - Owned registered Vehicles, if applicable.
  - Hired and Non-Owned Vehicles, if applicable.

- o Employers' Non-Ownership, if applicable.

1.5.2 In the event that LESSEE shall at any time fail to furnish LESSOR with the certificate or certificates of insurance required or allow such policy to lapse or terminate, LESSOR shall have the right to secure the required insurance at the cost and expense of LESSEE, and LESSEE agrees to promptly reimburse LESSOR for the cost thereof, which costs shall be additional rent hereunder.

**1.6 NASGRASS BEST MANAGEMENT PRACTICES.** LESSEE specifically recognizes that the use of gasoline and other fuels, fuel additives and lubricants are used by LESSEE and its members at the Premises, incidental to the lawnmower racing. LESSEE agrees that it is strictly liable for any contamination of the soil and/or ground water by those petrochemicals specific to racing related activities and indemnifies the City against any damages, remediation or cleanup of any kind due to any discharges of such materials, whether by negligence, OR UNINTENTIONAL DISCHARGES. In lieu of requiring pollution insurance, the City agrees to accept LESSEE's covenant and assurance to strictly adhere to the "NASGRASS Pollution Prevention Plan" dated April 24, 2016, and subsequent amendments to such plan (hereinafter, the "BMP Plan" attached as Exhibit "C"). The City reserves the right to require additional changes to such Plan according to reasonable pollution prevention standards. Failure of NASGRASS to comply with such Plan shall be cause for termination of this Lease for cause.

1.7 Nothing in the Lease shall be construed as a waiver of, or to extend LESSOR's liability beyond that provided in Florida law, including without limitation, the limitations provided in section 768.28, Florida Statutes.

1.8 It is furthered agreed that LESSEE shall not do or permit to be done anything upon any portion of the Premises or bring or keep anything thereon which will in any way conflict with the conditions of any insurance policy upon the Premises, or in any way increase the rate of fire insurance upon the Premises, or which will in any way obstruct or interfere with the rights of other tenants at the airport.

**1.9 INDEMNIFICATION:** LESSEE shall defend, indemnify and hold harmless LESSOR and all of LESSOR's officers, agents, and employees from and against all claims, liability, loss and expense, including reasonable costs, collection expenses, attorneys' fees, and court costs which may arise because of the negligence (whether active or passive), misconduct, or other fault, in whole or in part (whether joint, concurrent, or contributing), of LESSEE, its/his/her/their officers, agents or employees in performance or non-performance of its/his/her/their obligations under the Lease. LESSEE recognizes the broad nature of this indemnification and hold harmless clause, as well as the provision of a legal defense to LESSOR when necessary, and voluntarily makes this covenant and expressly acknowledges the receipt of such good and valuable consideration provided by LESSOR in support of these indemnification,

legal defense and hold harmless contractual obligations in accordance with the laws of the State of Florida. This clause shall survive the termination of this Lease. Compliance with any insurance requirements required elsewhere within this Lease shall not relieve LESSEE of its/his/her/their liability and obligation to defend, hold harmless and indemnify LESSOR as set forth in this article of the Lease.

**1.10 TERMINATION:** This Lease can be terminated for cause under the following conditions:

1.10.1 Termination by the LESSOR for cause, other than nonpayment of rent or any other payment required herein, by giving written notice. For the purpose of this provision, "cause" is defined as failure to comply with this Lease or LESSOR's Rules, a copy of which LESSOR has been provided, and hereby acknowledges receipt, or this Lease. In the event that the Lease or Rule violation is reasonably curable, LESSEE shall then have a reasonable period in which to cure the cause depending on severity, but not more than thirty (30) days.

1.10.2 Termination by the LESSOR for nonpayment for rent or other payment required herein, by giving five (5) days written notice thereof. Payments required shall be considered delinquent five (5) days after the date they are due and payable. A service charge of 10% of the amount due shall be immediately imposed, and an interest payment of twelve percent (12%) per annum shall be paid on the payment due, from the date the payment was due and payable until paid. The service Charge and the interest imposed herein shall be considered additional "rent" for the purposes of termination.

**1.11 ASSIGNMENT BY LESSEE:** This Lease shall not be assignable by LESSEE.

**1.12 REMOVAL OF PERSONAL PROPERTY AND IMPROVEMENTS UPON TERMINATION:** Upon termination of this Lease, LESSEE shall remove all Nasgrass surface and subsurface improvements from the Premises and properly dispose of all demolition debris. LESSEE shall then have the right to remove all of its personal property, including machinery and equipment which it has installed or placed on the Premises, which shall be accomplished no later than the termination date. LESSEE shall also remove all other trash and debris created by Nasgrass activities. In the event LESSEE fails to remove all improvement and its personal property by the termination date, LESSOR reserves the right to remove and store all such property left, at the risk and expense of LESSEE, with the cost of such storage and work to be paid by LESSEE.

**1.13 ABANDONMENT OF PREMISES BY LESSEE:** Abandonment of the Premises by LESSEE shall terminate this Lease, requiring removal of improvements and personal property as provided above. In case LESSEE shall abandon said Premises, or any part thereof, during the term of this Lease, LESSOR may, at its option, without notice, relet said Premises, or any part thereof, on such terms and for such rent as it may deem expedient or proper. Such reletting shall not operate as a waiver of any right whatsoever which LESSOR would otherwise have to hold LESSEE responsible for the rent. In case said Premises, or any part thereof, shall be relet, LESSOR shall collect that rent and, after paying the expense of such reletting and collections, apply the remainder toward the rent due or to become due from LESSEE.

**1.14 NO LIENS CREATED:** LESSEE has no power to incur any indebtedness giving a right to a lien of any kind or character upon the Premises. No third person shall be entitled to any lien against the Premises or any structure thereon, derived through or under LESSEE. All persons contracting with LESSEE, or furnishing materials or labor to LESSEE shall be bound by this provision. Should any such lien be filed, LESSEE shall have the same discharged within sixty (60) days thereafter by paying the same or by filing a bond, or otherwise as permitted by law. LESSEE is not the agent of LESSOR so as to confer upon a laborer bestowing labor upon the leased property, or upon a materialman who furnishes material incorporated in the construction of improvements upon the leased property of Chapter 713, Florida Statutes, or any subsequent revision of that law.

**1.15 SUBORDINATION; AIRPORT MASTER PLAN:** This Lease shall be subordinate to the provisions of any existing or future agreement between LESSOR and the United States of America or the State of Florida relative to the operation or maintenance of the Airport, the execution of which has been or may be required as a condition precedent to the expenditure of state or Federal funds for development or improvement of Avon Park's Airport. Except to the extent required for the performance of the obligations of LESSEE in this Lease, nothing contained in this Lease shall grant LESSEE any rights whatsoever in the airspace above the Premises, other than those rights which are subject to Federal Aviation Administration orders, regulations or advisory circulars currently or subsequently effective.

**1.16 NON-DISCRIMINATION:** LESSEE hereby agrees and covenants that:

1.16.1 No person shall be excluded from participation or denied the benefits or, or be otherwise subject to discrimination in the use of the facility on the grounds of race, color or national origin.

1.16.2 In the construction of any improvements, on the Premises and the furnishing of labor, services or materials in connection therewith, no persons on the grounds of race, color, or national origin shall be excluded from participation in, or otherwise be subject to discrimination.

1.16.3 LESSEE shall use the leased property in compliance with all other requirements imposed by or pursuant to Title 49, Code of Federal Regulation, Department of Transportation, Subtitle A, Office of the Secretary Part 21, Non-Discrimination in Federally assisted programs of the Department of Transportation – Effectuation of Title VI of the Civil Rights Act of 1964, and as such Regulations may be amended.

1.16.4 LESSEE shall operate the facility in accordance with the requirements of Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) and will assure that no qualified handicapped person shall be solely by reason of such person's handicap, be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination, including discrimination in employment.

**1.17 MAINTENANCE AND REPAIRS:** LESSEE will be responsible for all maintenance, repair, and upkeep of the Premises. Reasonable repairs shall be made in a timely manner.

**1.18 DAMAGE OR DESTRUCTION TO LEASED PROPERTY:** Except as otherwise provided in this Lease, if any leasehold improvements shall be damaged or destroyed, LESSEE shall repair or replace the same and return them to pre-damage condition so that the replacement will be equivalent in value to the original facilities within a reasonable period of time. Any other terms or provision of the Lease pertaining to repair, alteration, construction or reconstruction by LESSEE shall be binding upon LESSEE in repairing or reconstruction of the leased property under the terms and provisions of this Lease. If a substantial portion of the leased property is destroyed so that the LESSOR and LESSEE mutually agree that LESSEE cannot reasonably continue to utilize the leased property until the same is repaired or replaced, then LESSEE may elect to either repair or replace same, in which event the rent shall be abated until such time as LESSEE can reasonably resume operation of its business.

**1.19 ALTERATIONS:** LESSEE is hereby granted the right to make reasonable alterations to the fixed improvements located on the leased property hereunder as from time-to-time it shall desire to make, provided however that any alteration requiring a building permit must be approved in advance in writing by LESSOR as discussed above.

1.20 **EXCLUSIVE USE:** This Lease shall in no way convey the exclusive use of any part of the Airport, except the Premises, and shall not be construed as providing any special privilege for any public portion of the Airport. LESSOR reserves the right to lease to other parties any other portion of the Airport property for any purpose deemed suitable for the Airport by LESSOR. LESSOR agrees that it will not grant a future party an exclusive right to provide the services described in this Lease.

1.21 **FUTURE AGREEMENTS OF THE AIRPORT:** The terms and conditions hereof shall not be construed to prevent LESSOR from making commitments to the Federal Government or to the State of Florida to qualify for the expenditure of State or Federal funds upon the Airport. In the event that there is any conflict between such financing commitments to the Federal Government and this Lease or LESSEE's use of the Premises or Common Areas, such Federal Government commitments shall prevail.

1.22 **NATIONAL EMERGENCY:** During any national emergency declared by the President or by the Congress, the United States shall have the right to take exclusive or non-exclusive control and possession of the Premises, or of such portion thereof it may desire, with the rent to be abated accordingly in proportion to said occupancy.

1.23 **NOTICES:** Any notice, demand, consent, approval, request, or other communication or document to be provided under this Lease:

1.23.1 shall be in writing to the address stated above; and

1.23.2 shall be deemed to have been provided on the earlier of:

1.23.2.1 forty-eight (48) hours after having been sent as certified or registered mail in the United States mails, postage prepaid, return receipt requested;

1.23.2.2 the next business day after having been deposited (in time for delivery by such service on such business day) with Federal Express or another courier service; or

1.23.3 if such party's receipt is acknowledged in writing as having been given by hand or other actual delivery to such party.

1.23.4 in each case to the address of the party provided in this Agreement or to such other address as the party may designate to each other party.

1.24 **WAIVER OF BREACH:** The waiver by LESSOR or LESSEE of any breach of the terms, covenants, or conditions herein contained shall not be deemed a waiver of any subsequent breach.

1.25 **SEVERABILITY:** It is the intention of both of the parties hereto that the provisions of this Lease shall be severable in respect to a declaration of invalidity of any provisions hereof.

1.26 **ATTORNEYS' FEES AND COSTS:** If either party takes legal action to enforce the terms or conditions of this Lease, the prevailing party will be entitled to an award of all costs of the action, including reasonable attorneys' and paralegal's fees, including appeals.

1.27 **ENVIRONMENTAL PROTECTION:** LESSEE will not allow any hazardous substances as defined by the Comprehensive Environmental Response, Compensation and Liability Act of 1980 ("CERCLA"), 42 USC 9604 (14), pollutants or contaminants as defined in CERCLA, 42 USC 9604 (A) (2), or hazardous waste as defined in the Resources Conservation and Recovery Act ("RCRA"), 42 USC 6903 (5), or other similar applicable Federal or State Laws or regulations, including, but not limited to, asbestos, PCB's and urea formaldehyde, to be generated, released, stored, or deposited over, beneath, or on the Premises or on any structures located on the Premises from any source whatsoever. LESSEE shall at all times comply with all applicable Environmental Laws applicable to LESSEE's use of the Premises. "Environmental Law" means any federal, state, or local statute, regulation, or ordinance, relating to the protection of human health or the environment in effect as of the date of execution of this Lease, and includes, but is not limited to, The Florida Air and Water Pollution Control Act (Chapter 403, Florida Statutes), the Comprehensive Environmental Response, Compensation and Liability Act ("CERCLA")(42 U.S.C. §9601, et. seq.), the Resource Conservation and Recovery Act (42 U.S.C. §6901 et. seq.), the Clean Water Act (33 U.S.C. §1251, et. seq.), the Toxic Substances Control Act (15 U.S.C. §2602, et. seq.), and the Safe Drinking Water Act (42 U.S.C. §300f, et. seq.), as such are amended during the term of this Lease. LESSEE further covenants to hold the LESSOR harmless from all claims, demands, damages, fines, costs, cleanup, attorney's fees, and court costs arising from LESSEE'S discharge (either intentional or accidental, at trial and appeals) of such matters to the soil, air, water, or waste water treatment facility. LESSOR is unaware of any unlawful discharges or contamination in violation of these Environmental Laws onto the Premises, and LESSEE has made diligent research and inquiry as to the present condition of the Premises, understands the property was formerly an unlined landfill and accepts the Premises and all structures for all purposes AS-IS WHERE-IS. This clause shall be specifically included as a LESSOR Rule.

1.28 **AMENDMENT:** No amendment, modification, or alteration of the terms hereof shall be binding unless the same is in writing, dated subsequent to the date hereof and duly executed by each party.

1.29 **TAXES.** Any taxes (including, without limitations Highlands County ad valorem real property taxes and Florida sales or use taxes) on the Lease, the lease payments or the Premises shall be paid by LESSEE when due. Should said taxes be billed to LESSOR, they shall be considered unpaid additional rent if not paid when due and failure to pay said taxes shall be considered a default hereunder.

1.30 **UTILITIES AND SERVICES.** LESSEE is required to use the LESSOR'S water and sewer system. LESSEE further agrees to pay when due all charges and expenses for water, sewer services, and fire protection, and all other utilities and services used in connection with the Premises as such charges and expenses are added or amended from time-to-time LESSEE shall arrange for and pay any and all utility service or commodity procured or consumed by LESSEE, or otherwise required to be paid by LESSOR's Rules.

1.31 **REMEDIES CUMULATIVE.** All remedies conferred on LESSOR shall be deemed cumulative and no one exclusive of the other, or of any other remedy conferred by law.

1.32 **SECTION CAPTIONS.** The captions appearing under the section number designations of this Lease are for convenience only and are not a part of this Lease and do not in any way limit or amplify the terms and provisions of this Lease.

1.33 **DOCUMENT IS THE RESULT OF MUTUAL DRAFTSMANSHIP.** The terms and conditions in this Lease are the product of mutual draftsmanship by both parties, each being represented by counsel, and any ambiguities in this Lease or any documentation prepared pursuant to it shall not be construed against any of the parties because of authorship. The parties acknowledge that all the terms of this Lease were negotiated at arms' length, and that each party, whether represented by counsel or not, is acting to protect its, his, her, or their own interest.

1.34 **RECORDATION.** This Lease may not be recorded without the LESSOR's prior written consent, and LESSEE agrees, upon request of the LESSOR, to execute a memorandum hereof for recording purposes.

1.35 **RADON GAS.** Radon is a naturally occurring radioactive gas that, when it has accumulated in a building in sufficient quantities, may present health risks to persons who are exposed to it over time. Levels of radon that exceed federal and state guidelines have been found

in buildings in Florida. Additional information regarding radon and radon testing may be obtained from your county health department.

1.36 **COUNTERPARTS AND FACSIMILE (FAX) DOCUMENTS.** This Lease may be signed in counterparts, and each counterpart bearing an original signature shall be considered one document with all others bearing original signature. Also, facsimile transmission of any signed original document and re-transmission of any signed facsimile transmission shall be the same as delivery of an original.

1.37 **EFFECTIVE DATE.** This Lease shall be effective on the date executed by both parties, and all terms and conditions stated herein shall apply as of that day.

IN WITNESS WHEREOF, the parties hereto have hereunto set their hands and seals on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

**LESSEE**

**NASGRASS, INC.**

**Witnesses:**

\_\_\_\_\_  
Printed name: \_\_\_\_\_

By: \_\_\_\_\_  
Wes T. Pyburn, President

\_\_\_\_\_  
Printed name: \_\_\_\_\_

**LESSOR**

**CITY OF AVON PARK, FLORIDA**

**ATTESTED:**

\_\_\_\_\_  
Bonnie Barwick, Interim City Clerk

By: \_\_\_\_\_  
Sharon Schuler, Mayor

**APPROVED AS TO FORM AND CONTENT:**

\_\_\_\_\_  
Gerald T. Buhr, City Attorney

# EXHIBIT-A







EXHIBIT-C

***Nasgrass Inc.***  
AVON PARK MOWERPLEX

## **Pollution Prevention Plan**

*for:*

**2155 W. Herrick Road  
Avon Park, Florida**

**Table of Contents**

**POLLUTION PREVENTION PLAN**

SITE LOCATION ..... 1  
 SITE DESCRIPTION ..... 1  
 WORKSHEETS ..... 1  
 POLLUTION PREVENTION TEAM ..... 2  
 SITE OPERATIONS ..... 2  
     *Waste Handling* ..... 2  
     *Risk Identification* ..... 2  
 RESPONSIBLE PERSONNEL ..... 2  
 SITE MAP ..... 3  
 EVALUATION OF DISCHARGE CONVEYANCES ..... 3  
 NARRATIVE AND INVENTORY OF SIGNIFICANT MATERIALS ..... 3  
 BEST MANAGEMENT PRACTICES ..... 3  
     *Structural BMPs* ..... 4  
     *Non-Structural BMPs* ..... 4  
 NON-STORM WATER DISCHARGES ..... 4  
 SPILL PREVENTION AND RESPONSE PROCEDURE ..... 4  
 SPILL HISTORY ..... 4  
 IMPLEMENTATION SCHEDULE ..... 5  
 INSPECTIONS ..... 5  
 RACER, PIT CREW, NASGRASS MEMBERS AND STAFF TRAINING PROGRAM ..... 5

**APPENDIX LIST**

**APPENDIX A – WORK SHEETS**

**APPENDIX B - BEST MANAGEMENT PRACTICES**

**BEST MANAGEMENT PRACTICES (BMPS)**

INTRODUCTION ..... B-1  
 SITE ..... B-1  
 BEST MANAGEMENT PRACTICE (BMP) TEAM ..... B-1  
 GENERAL BMPS ..... B-2  
 MANAGEMENT OF RUNOFF ..... B-2  
 RECORDKEEPING ..... B-2  
 MITIGATIVE PRACTICES ..... B-2  
 RACER, PIT CREW, NASGRASS MEMBERS AND STAFF TRAINING ..... B-3  
 GOOD HOUSEKEEPING ..... B-3  
 AREA OF RISK ASSESSMENT ..... B-3  
 BMP CERTIFICATION ..... B-3  
 VISUAL INSPECTIONS ..... B-4  
 SPILL PREVENTION AND RESPONSE ..... B-4  
 MANAGEMENT OF RUNOFF ..... B-4  
 RECORDKEEPING AND REPORTING ..... B-4  
 MITIGATIVE PRACTICES ..... B-4

**SITE SPECIFIC BMP IDENTIFICATION**

BMP: WASTE STORAGE ..... B-5  
 BMP: PIT AREAS ..... B-6  
 BMP: HOUSEKEEPING ..... B-7  
 BMP: VISUAL INSPECTIONS ..... B-8

BMP: SPILL PREVENTION AND CONTROL..... B-9  
BMP: SEDIMENT AND EROSION CONTROL..... B-10  
BMP: DISCHARGES..... B-11  
BMP: TRAINING AND OUTREACH..... B-12

**APPENDIX C – FORMS**

**STORM WATER: GENERAL INSPECTION CHECKLIST..... C-1 & 2**  
**SPILL KIT INVENTORY (EXAMPLE)..... C-3**  
**APPENDIX D – COMPLETED FORMS..... C-4**  
**APPENDIX E – SITE MAP..... C-5**

# Pollution Prevention Plan

Regardless of a site history of the 2155 Herrick Road site being utilized as an unmanaged landfill Nasgrass has developed a pollution prevention plan which includes "Best Management Practices" (BMPs) with the express goal of identifying potential sources of contamination and establishing procedures to mitigate and/or eliminate potential contamination of the site due to Nasgrass Incorporated racing activities. There are no environmental permits that are related to Nasgrass Incorporated racing activities on this site that require the creation of this Pollution Prevention Plan. The Nasgrass, Incorporated MowerPlex presents an extremely low environmental impact risk of a site that has no previous environmental impact data available.

## Site Location

The Nasgrass Incorporated racing operation is located on a twenty acre site located at 2155 W. Herrick Road, Avon Park, Florida adjacent to the Avon Park Executive Airport. The site has been identified by the City of Avon Park, Florida as:

TOWN OF AVON PARK in 20-33-28 N ½ of NW ¼ of SE ¼ 20 acres – City Dump

Based on Aerial photos of the property and a local area site inspection the rainfall water shed appears to collect on site in low laying areas on the property. Observations of rain fall events demonstrate that the low laying areas perk well and are covered by historically planted grass and evolving weeds that function as a sway to capture solids.

## Property Description

The site property is consists of approximately 20 acres. The area is fenced and gated around the perimeter with additional fencing to allow separate access control over the areas utilized for the race track, race mower staging, racer pit and parking area and spectator parking. General improvements include a small white portable shed, a tech inspection area lean to structure, property lighting, spectator bleachers, picnic tables and a children's play area with children's toys and a sandbox. There is approximately 2 acres of vegetated area on the southwest corner of the property that borders the northern Avon Park Executive Airport boundary fence. The total impervious area at the site, including buildings, concrete and asphalt is estimated at less than ¼ of an acre.

## Worksheets

Worksheets provided within this plan were utilized in the development and will be used in the on-going implementation of this plan in order to reference specific site conditions and outline specific actions implemented to reduce and/or eliminate potential contamination of storm water from contact with and exposure to materials. These Worksheets are referenced throughout the PPP and include the following:

- BMP Identification
- BMP Implementation Schedule
- List of Spills and Leaks

## ***Pollution Prevention Team***

The Nasgrass members are all designated as Pollution Prevention Team Members and will be guided as necessary by the Nasgrass Board

## ***Site Operations***

Nasgrass carries out approximately twelve race events annually on Saturdays. Nasgrass has previously held United States Lawn Mower Association events which include a two day racing schedule (Friday and Saturday). Lawn Mower racing event related activities include the following Lawn Mower preparation and maintenance tasks (minor tire and wheel, suspension, drive line maintenance and Lawn Mower refueling. Track preparations include maintaining site grass and landscaping and track preparation which consists of smoothing and packing the clay.

### **Waste Handling**

The Nasgrass events create non-hazardous general refuse related to spectator and racer food and beverage consumption. This general refuse waste stream is held and disposed of in a two cubic yard covered FEL container located just outside the pit entry gate, disposal service is contracted out to the City of Avon Park.

### **Risk Identification**

Pollutant risks on the Nasgrass site consist of general site litter, and spills of petroleum based products and fuel. The largest risk of a pollutant discharge to the environment at the site is from spills or releases that may occur during a rare catastrophic motor or transmission failure, and re-fueling procedures. Other insignificant pollution risks such as potentially leaking licensed automobiles leaking lubrication and cooling fluids do exist but are considered to be a minimal risk. Spill kits and clean up materials are maintained both in the pit area and trackside for quick response access. In the event of a spill or release, Nasgrass members and track staff is trained to assess the situation and take immediate action to properly stop and mitigate the environmental effects of petroleum based fluid leaks or spills. Due to the very limited capacity of Lawn Mower fuel tanks (normally one gallon or less) and engine oil capacity (normally less than 48 ounces) it is highly unlikely that a release that would trigger regulatory agency notification requirements under Florida or Federal environmental regulations will occur.

## ***Responsible Personnel***

The Nasgrass Officers and members are responsible for the implementation of this plan.

## **Site Map**

The site map is included as an attachment to this plan. The Site Map (Worksheet 4 is located in Appendix A and details the following information:

- Drainage area and directions of storm water runoff indicated by arrows
- Discharge out-falls from the site (structures that carry storm water runoff from the site, such as ditches or storm sewers)
- Locations and types of Best Management Practices (BMPs) currently installed at the site to reduce or eliminate pollutants to storm water

## **Evaluation of Discharge Conveyances**

The site is constructed in such a way as to direct the flow of storm water toward low lying areas on the property.

The areas evaluated for exposure to significant materials includes the following: Race Mower pit and spectator parking, food vendor area, Porta-Potties locations and the waste receptacle areas. These evaluations are all part of a pre/post-race inspection of the site.

## **Narrative and Inventory of Significant Materials**

A review of normal site operations has determined that race related exposures do not qualify as significant material exposures or storm water run-off contamination risks. These race related exposures are routinely evaluated during the inspections before, during and after racing events to verify that storm water exposure continues to be kept to a minimum and to validate BMP effectiveness for minimizing of storm water exposures due to potential pollutants.

The Nasgrass doesn't store or any toxic materials or chemicals in greater than routine household usage volumes (ORMD). During Nasgrass racing events the following racing related materials/chemicals are in use by the racers during site operations:

- Diesel fuel (less than ten gallons in track packer fuel tank)
- Gasoline (150 gallons stored in five gallon containers divided among 30 – 40 racer pits sites)
- Motor oil (on average, 1 quart container per racer pit site plus the 32 – 48 ounces contained within the engine)
- Drive chain lubricant (not utilized by all racers)

## **Best Management Practices**

Best Management Practices (BMPs) have been designed with the express intent of preventing or reducing soil and storm water impacts caused by exposure to significant materials identified on site. BMPs are categorized into two groups, structural and non-structural. Structural BMPs refer to the installation of permanent structural devices to treat and/or control runoff. Non-structural BMPs refers to practices that will reduce or eliminate pollutants impact on soil and storm water and do not require installation of permanent structural devices. Since the Nasgrass site doesn't store any significant amount of pollutants, this Pollution Prevention Plan will focus on Non-Structural BMPs until such a time that Structural BMPs would be more appropriate. The Nasgrass members will continue to

evaluate, develop, improve and implement both BMP controls. The evaluations of BMPs included the following:

### **Structural BMPs**

- Construction of buildings or awnings to cover fueling procedures
- Installation of a fueling containment pad

### **Non-Structural BMPs**

- Racer, Pit Crew, Nasgrass Member and Staff training
- Housekeeping/General cleanup of site
- Fuel storage and Fueling procedures
- Spill response Kits
- Sediment and erosion control

Worksheets presented in Appendix A provide management practices implemented to reduce and/or eliminate potential exposures to soil and storm water. Appendix B of this plan outlines specific procedures required with specific activities for implementation, effectiveness, and monitoring.

### ***Non-Storm Water Discharges***

All storm water discharges with a potential for entering a water of the state have been evaluated and no illicit discharges or non-storm water contributors were identified. All sanitary waste water is held in self-contained Porta Potties or other containment tanks for proper disposal by a properly licensed vendor.

### ***Spill Prevention and Response Procedure***

The Spill Prevention and Response Procedures are located in the BMP section of this Plan. In developing the procedure, Nasgrass personnel have evaluated the where spills are most likely to occur. Drainage points for potential spill areas are determined and spill prevention and containment measures are developed. Detailed procedures for cleaning up spills are identified in the BMPs, in Appendix B of this plan.

### ***Spill History***

Worksheet 3 in Appendix A is used as a log to document significant spills and leaks. No Nasgrass related spills or other releases with the potential to impact storm water discharges are known to have occurred at the site as of the development date of this plan.

## **Implementation Schedule**

Non-structural BMPs were developed and implemented in conjunction with the creation of this plan.

## **Inspections**

Prior to, during and immediately following race events visual inspections will be completed, these inspections will include a visual inspection of any standing water on the site for color, clarity, floating solids, settled solids, suspended solids, foam, odor, and oil sheen. Visual inspections of the site ground soil will also be inspected with the focus being signs of petroleum based chemical staining.

In addition to the above visual observations noted above, during racing events, inspections will be completed and focus on:

- Evaluation of new exposed materials
- Property housekeeping
- Determination of proper implementation, maintenance and effectiveness of nonstructural and structural BMPs, as indicated in the Plan

Inspections shall indicate the date and time of the inspection and the name of the inspector on the inspection form. Inspection forms are located in Appendix C.

If conditions are observed at the site that requires changes in this Plan, such changes shall be made to this Plan. Copies of all reports will be maintained as a part of this Plan.

If the findings of a site inspection indicate that BMPs are not meeting the objectives as identified in this plan, corrective actions must be initiated within 14 days and the BMP restored to full operation as soon as conditions allow.

## **Racer, Pit Crew, Nasgrass Members and Staff Training Program**

A Racer, Pit Crew, Nasgrass Member and Staff training program has been developed and implemented to inform appropriate personnel of the components and goals of this plan. Training includes procedures in the BMPs, such as spill response, good housekeeping and fuel storage and fueling procedures. Initial plan development training will be completed initially with all Nasgrass Members with additional training completed during a "new to the track" training for those that are racers, Nasgrass members or pit crew members. Additional training will occur when conditions of the BMPs change or are added to the program or inspections identifying conditions driven by non-compliant behavior.

# **Appendix A – Work Sheets**

# **Appendix B - BEST MANAGEMENT PRACTICES (BMPs)**

# **BEST MANAGEMENT PRACTICES (BMPs)**

## ***Introduction***

The following pages were developed to identify contamination risks and environmental impact mitigating methods. The BMPs are based upon State and Federal guidance and current operating conditions at the Nasgrass site.

## ***Site***

The site is located at 2155 W. Herrick Road, Avon Park, Florida adjacent to the Avon Park executive Airport. The site is leased and is comprised of approximately 20 acres. The site is fenced and contains a portable storage shed, lean to tech inspection structure, small flagging stand, announcer booth, and spectator bleachers.

The site operates approximately twelve lawn mower races per year.

The area is contoured to channel storm water into a lower lying areas located on the northern perimeter of the site. In heavy storm water events, the runoff in the conveyance swells and drains into the grassy fields utilized for spectator parking. Only 1 – 2% of the property is impervious to storm water absorption due to roofing or concrete surfacing.

## ***Best Management Practice (BMP) Team***

The BMP team is comprised of all Nasgrass members lead by the Nasgrass Board of Directors as established by members.

## ***Assessment***

An assessment of the site has been performed and all potential contributors to storm water contamination have been identified. The following is a list of the potential contamination sources.

- General refuse covered FEL container
- Pit area
- Hand washing station/Porta Potty area
- Race track (in the event of a catastrophic engine or transmission failure)
- Spectator parking areas
- Catering vendor

## ***Responsibility and Accountability***

The Nasgrass board of directors is responsible to assure plan compliance. All discrepancies or violations of the plan must be documented and reported immediately.

## **General BMPs**

The BMPs developed for the site are presented below.

### **Management of Runoff**

BMPs within this PPP are designed to reduce storm water contamination at the source before they have an opportunity to contaminate storm water runoff. Based upon a site reconnaissance, the site adequately utilizes runoff management controls and no additional runoff management practices are needed to divert, infiltrate, reuse or otherwise manage storm water.

## **Recordkeeping**

Analyses of past incidents can help to detect problems and prevent similar incidents. Incidents such as spills or other discharges will be maintained in the records. Inspections and maintenance activities will also be recorded and maintained on site. All records generated will be retained in the completed reports appendix, kept on site and made available for review by the City of Avon Park upon request.

The following records will be maintained as a part of the PPP for three years from the date of creation:

- Dates of Inspections
- Name of the inspector
- Findings of inspections
- Corrective actions taken
- Documentation of all changes to the PPP
- Documentation demonstrating that all racers/members have received training

Records of spills, leaks, or other discharges will be kept as part of this PPP. These records will be documented on worksheet #3 and maintained in the PPP binder on-site and made available for review by the City of Avon Park upon request. Recordkeeping for spills, leaks, and other discharges should be comprised of, at a minimum, the following elements:

Date, time, weather, duration, cause, environmental problems, response and disposal procedures, parties notified, recommended revisions to BMPs, changes in operating procedures and/or equipment to avoid future similar incidents.

### **Mitigation Practices**

Mitigation involves cleaning up or recovering a substance after it has been released or spilled to reduce the potential impact of a spill before it reaches the environment. Therefore, pollution mitigation is a second line of defense where pollution prevention practices have failed or are impractical. Because spills cannot always be avoided, it is necessary to plan for these events and to design proper response procedures. Most mitigation practices are simple and are incorporated in the site specific BMPs. Mitigation practices include manual cleanup methods, such as sweeping and shoveling, mechanical cleanup by excavation or vacuuming, and cleanup with sorbets and industry specific materials.

Proper handling and disposal is important, regardless of the material being mitigated. The specific BMPs will address these procedures.

### **Racer, Pit Crew, Nasgrass Members and Staff Training**

Racer, Pit Crew, Nasgrass Members and Staffs carrying out the implementation of BMPs need to be well versed on the importance of reducing soil and storm water contamination. Familiarity with the overall pollution prevention goals will enhance their ability to perform inspections, identify and mitigate spills, generate adequate documentation, and maintaining records. Racer, Pit Crew, Nasgrass Members and Staff training is essential to effective implementation of the Plan. The purpose of a training program is to teach personnel at all levels of responsibility the components and goals of the PPP. When properly trained, personnel are more capable of preventing spills, responding safely and effectively to an accident when one occurs, and recognizing situations that could lead to storm water contamination. All racers and members will sign acknowledging they have received BMP training, these training records will be maintained on site as part of the PPP.

### **Good Housekeeping**

Good Housekeeping requires the maintenance of areas which may contribute pollutants to storm water discharges. Good Housekeeping practices are designed to maintain a clean and orderly work environment. The most effective first step towards preventing pollution in storm water from sites simply involves using good common sense to improve the site's basic housekeeping methods. Poor housekeeping can result in more waste being generated than necessary and an increased potential for storm water contamination.

### **Area of Risk Assessment**

An assessment of the site has been performed and all potential contributors to storm water contamination have been identified. Potential contamination sources and their potential associated pollutant contribution to storm water are identified in in the Pollution Prevention Plan.

In addition, the BMPs outlined herein and have been developed to reduce and/or eliminate pollutant loading to storm water discharges associated with the above identified areas of risk. Specific procedures are outlined in the BMP Outline section below.

### **BMP Certification**

I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on inquiry of the person or persons who manage the system, the information submitted is, to the best of my knowledge and belief, true, accurate and complete. I am aware that there are significant penalties for submitting false information including the possibility of fine or imprisonment for knowing violations.

Official Title: \_\_\_\_\_

Signature: \_\_\_\_\_

Date Signed: \_\_\_\_\_

## ***Visual Inspections***

Preventing any racing related pollution from impacting this site requires good housekeeping in all areas but especially in the area utilized for pit related activities. Prior to, during and immediately following racing site inspections will be completed to ensure that all of the elements of the plan are in place and working adequately. Inspections are meant to identify conditions at the site, which may give rise to contamination of storm water runoff with pollutants. The visual inspection confirms that the measures chosen to control storm water contamination at the site are in place and are working properly. The current BMP compliance inspectors are Bill Haynes (Primary) and Bruce Runyon (Secondary).

## ***Spill Prevention and Response***

Spills and leaks are the largest sources of storm water pollutants, and are avoidable in most cases. Establishing standard operating procedures such as spill prevention and Racer, Pit Crew, Nasgrass Members and Staff training can reduce the likelihood of accidental releases. Avoiding spills and leaks is preferable to cleaning them up after they occur, not only from an environmental standpoint, but also because spills cause increased operating costs and can cause race delays which can frustrate the race fans. Development of spill prevention and response procedures is a very important element of an effective Pollution Prevention Plan.

## ***Management of Runoff***

BMPs are designed to reduce storm water contamination at the source before they have an opportunity to contaminate storm water runoff.

## ***Recordkeeping and Reporting***

Keeping records is an effective way of tracking the progress of pollution prevention efforts and waste minimization. Analyzing records of past spills, for example, can provide useful information for developing improved BMPs to prevent future spills of the same kind. Recordkeeping and internal reporting represent good operating practices, because they can increase the efficiency of the site and the effectiveness of BMPs.

## ***Mitigation Practices***

Mitigation involves cleaning up or recovering a substance after it has been released or spilled to reduce the potential impact of a spill before it reaches the environment. Therefore, pollution mitigation is a second line of defense where pollution prevention practices have failed or are impractical. While spills are unlikely due to implemented spill prevention procedures minor spills may still occur, it is necessary to plan for these events and to design proper response procedures. Most mitigation practices are simple and are incorporated in the site specific BMPs. Mitigation practices include manual cleanup methods, such as cleanup with absorbents, sweeping and shoveling, mechanical cleanup by excavation or vacuuming. When responding to spills or leaks, it is common practice to use an absorbent material to mitigate the contamination; proper disposal of spill related materials is the last step in of a spill event. Certain spills contain toxic and hazardous substances and their cleanup may be covered under regulations, including those imposed under Superfund Amendments and Reauthorization Act (SARA), the Comprehensive Environmental Responsibility, Compensation, and Liability Act (CERCLA), and the Resource Conservation and Recovery Act (RCRA).

# Site Specific BMP Identification

## ***BMP: Waste Storage***

The intent of this BMP is to prevent the discharge of pollutants to ground soil and storm water conveyances that may occur from the improper handling and disposal of wastes. The BMP includes all waste classes, including: general refuse wastes, scrap metal, and liquids (maintenance and operation related).

Waste containers must remain closed except when in use. Solid waste dumpsters must only contain solid wastes that are permitted into the solid waste landfill. Used oil and solvent wastes must be managed by the racers removing any liquid waste drained from failed engines and or transmissions, sealed five gallon pails will be utilized for hold and transporting such wastes.

### **BMP Activities**

1. Provide housekeeping, waste handling and spill response/clean up training to all Nasgrass members and visiting racers
2. Store all wastes in enclosed, covered, or lidded containers, hoppers, and bins. Move waste to permanent storage area or dispose of container as soon as possible
3. Maintain outdoor waste collection containers and covers in good condition. Inspect prior to each race event for visible evidence of deterioration and repair/replace as needed
4. Remove pollutant sources; oils, fluids or excessive dusts from failed equipment. Prevent exposure to rain fall by storing these wastes in sealed containers such as a plastic five gallon pail until removed for disposal
5. Implement and maintain good housekeeping practices at outdoor waste storage areas. Including but not limited to: sweeping, debris removal, and cleaning spills
6. Clean spills immediately and prevent exposure to rain fall by storing these wastes in sealed containers such as a five gallon pail until removed for disposal
7. Reporting spills and releases to Nasgrass promptly. Nagrass will notify the City of Avon Park in the event of any significant spillage
8. Provide secondary containment for materials that have a potential to cause harm to humans and the environment if released
9. Provide spill kits in the pits and track side areas
10. Waste containers must be appropriately labeled or otherwise identified
11. Solid waste dumpsters must only contain solid wastes that are permitted into the solid waste landfill. No liquids may be disposed of in the solid waste dumpster. All wastes will be disposed of at a Class 1 Landfill

**BMP: Pit Areas**

The intent of this BMP is to prevent Pit activity related pollutants from entering ground soil and the storm water conveyance systems. The goal is to keep areas clean and orderly by emptying containers and properly disposing of materials generated during these activities. Spill catch pans should be used to capture inadvertent gasoline and oil loss. Old batteries, collected oil and used parts are to be removed for proper disposal and recycling when a racer or his team is departs at the end of the race event.

Absorbent material (preferably hydrophobic in nature) must be readily available to contain any spills or leaks. The storage of the used cleanup materials should be placed in appropriate containers, properly labeled, and removed by the racer or his pit crew for proper disposal.

**General Race Mower Race Preparation Activities**

1. All discharge of wastewater and maintenance fluids to drainages and ground surfaces is prohibited
2. Do not clean maintenance areas with wash water (i.e. hose or power washer) where there is a potential for a release to storm water conveyance or ground surface
3. Clean all releases, spills, and/or drips immediately, and notify Nasgrass of such activities
  - a. Do not allow build-up of oils and greases on ground surfaces
  - b. Clean all releases, spills, and/or drips promptly with sorbent material
4. Routinely inspect equipment for leaks
5. Use secondary containment for all fluids and generated fluid wastes
6. Motor vehicle or personal equipment maintenance at the site is prohibited
7. Use non-toxic solvents and/or equipment fluids whenever possible
8. Racers will collect, remove from the premises and properly manage all used oil, grease, cleaning solutions, tires and mechanical parts. All wastes will be disposed of at a Class 1 Landfill
9. Provide appropriate training for on-site Racer, Pit Crew, Nasgrass Members and Staffs and contractors.

### ***BMP: Housekeeping***

The intent of this BMP is to apply good housekeeping practices to the site which includes walkways, parking lots, landscaped areas, drainage pathways as well as key operational areas with the potential for wind-blown contaminants.

#### **BMP Activities**

1. Prevent litter by providing an adequate number of covered refuse containers and routinely emptying them
2. Clean debris and spills without water whenever possible by sweeping or wiping. If water is needed use as little as possible and do not allow wash water to enter drainage conveyances
3. Routinely sweep and clean paved areas that collect sediments and debris that can pollute storm water run off
4. Perform cleaning activities prior to rain events

#### **Site / Grounds Activities**

1. Preserve existing vegetation
2. Regularly inspect and clean debris / trash from site grounds
3. Properly sweep paved areas
4. Maintain clear drainage channels
5. Report unauthorized dumping to Nasgrass immediately

**BMP: Visual Inspections**

A regular inspection program is a key component of the PPP and is vital to minimize contamination of storm water runoff and maintain an acceptable site appearance. The main objective of a sound inspection and recordkeeping program is to uncover and eliminate conditions which could adversely affect the environment.

PPP inspections are to be performed regularly with documented inspections and visual monitoring performed Prior to, during and immediately following racing events. Appendix C of this Plan contains checklist forms for these inspections. Completed forms are retained with this PPP in Appendix D. The PPP inspection should focus on:

**BMP Activities**

1. Train Racer, Pit Crew, Nasgrass Members and Staffs to inspect BMPs pre and post-race inspections
2. Complete pre and post-race inspections and report deficiencies
3. Create goals that support pollution prevention.
  - a. Provide goals and communicate plan expectations at training sessions
  - b. Provide opportunities for feedback
  - c. Change goals and BMPs as needed.

**Inspection Activities**

1. Containers used to store any waste material
2. Waste storage areas
3. Pit area
4. Chemical storage security and containment
5. Fueling procedures

**Current Nasgrass BMP Inspectors**

BMP compliance inspectors are Bill Haynes (Primary) and Bruce Runyon (Secondary).

**BMP: Spill Prevention and Control**

The site is not subject to the requirements of Section 311 of the Clean Water Act (40 CFR 112), and therefore will not maintain a Spill Prevention Control and Countermeasure (SPCC) Plan. The spill prevention and response procedures applicable to the site are outlined below.

"Incidental spills" are small volume spills, spills far less than the threshold criteria and will be safely handled by trained Racer, Pit Crew, Nasgrass Members and Staffs in the immediate area that may respond to non-emergency spills in accordance with 29 CFR 1910.1200 (Hazard Communication). Incidental spills are spills characterized as spill that can be immediately contained and cleaned up with compatible absorbent materials and other appropriate equipment, under a specified threshold value. All precautions are taken to prevent such spills from reaching storm water conveyances and surface waters. All spills are required to be reported to a Nasgrass Board or Track Staff member.

Spills or releases that cannot be handled safely by Racer, Pit Crew, Nasgrass Members and Staff in the immediate area of the spill are major spills and are considered "emergency spills." Racer, Pit Crew, Nasgrass Members and Staff detecting major spills shall attempt to assess the quantity and likely consequences of the spill and then immediately notify a Nasgrass Board or Track Staff member. The Nasgrass Board or Track Staff member will determine the severity of the spill and if necessary call for all racing activities to cease so an immediate clean up can be prioritized.

If spills occur they are unlikely to be more than minor spills that can be cleaned up with minimum effort utilizing pre-positioned spill clean-up kits. Well labeled spill kits will be available in the pit area and trackside. Minor amounts of absorbent materials used in spill clean-up may be discarded in enclosed containers that will be disposed properly after racing activities have ceased. All such material will be disposed of in a class 1 Landfill.

Specific practices that are implemented at the site are implemented to prevent spills from occurring.

**BMP Activities**

1. The use of drip pans and or hydrophobic absorbent pads under racing mowers during fueling
2. Draining of all spill residuals into a sealable pail for proper disposal transport
3. Prohibiting Racing Mower oil changes on site
4. Prohibiting any vehicle maintenance such as oil changes, antifreeze flushes/changes or any other non-safe departure from the site related maintenance
5. The use of spill capturing trays and hydrophobic type absorbents by all concession operators utilizing food frying oils
6. Rapid response to all Racing Mower mishap events that have the potential to release oil, gasoline or transmission lubricant

***BMP: Sediment and Erosion Control***

Based on site reconnaissance, hardened surfaces, soil type, and evaluation of topographic maps, there is little to no potential for erosion at the site that will impact storm water runoff. As such, windblown sediments will be monitored and sedimentation that occurs in low areas of the site will be addressed as needed. Based upon the site reconnaissance and current conditions at the site, there is no significant areas prone to erosion.

**BMP Activities**

1. Preserve natural vegetation, especially trees and shrubs if possible. For most sites these areas should be maintained at the perimeters and high flow areas
2. Cover excavated soils
3. Re-vegetate disturbed areas as soon as possible
4. Remove and properly dispose of contaminated soils
5. Routinely inspect storm water conveyance pathways for evidence of erosion
6. Remove sediment deposits from storm water conveyance systems (i.e. drains and ditches)
7. Mulch and vegetate exposed soils for long-term stabilization and to minimize sediment transportation by surface flows

## ***BMP: Discharges***

BMPs help eliminate improper discharges to storm water conveyance systems. Specific descriptions of authorized and unauthorized discharges are specified in the main portion of the PPP.

1. Inspect and maintain the storm drainage systems. Keep surfaces and drainage pathways clean. Clean all blockages and areas where sediments or debris accumulate.
  - a. Do not flush these pollutants down and into storm water conveyances (i.e. catch basins or ditches).
2. Take necessary measures to reduce sediment and debris from entering the storm water drainage system.
  - a. Sweeping (interior and exterior surfaces)
  - b. Housekeeping
  - c. Flow reduction measures
  - d. Redirection to landscaping and/or infiltration strips
  - e. Catch basin controls and silt fencing.
3. Take necessary actions to dissipate/reduce erosion potential from high flow areas.
4. Perform irrigation or flushing activities in a manner to limit runoff.

### **Authorized Discharges**

The discharges below may be authorized provided that all appropriate control measures to minimize the impacts of such sources are implemented as needed and the non-storm water components of the discharge and the controls used are identified in this document. These discharges include:

- Emergency fire-fighting activities
- Fire hydrant flushing
- Potable water, including water line water flushing
- Irrigation drainage
- Landscape watering, provided that all pesticides, herbicides, and fertilizer have been applied in accordance with manufacturer's instructions
- Routine external building and sign wash down
- Pavement washing (where no detergents are used and no spills or leaks of toxic or hazardous materials have occurred unless all spilled material has been removed)
- Uncontaminated ground water or spring water
- Foundation or footing drains where flows are not contaminated
- Uncontaminated air conditioning or compressor condensate
- Vehicle wash waters where uncontaminated water, without detergents or solvents, is utilized
- Runoff from the use of dust suppressants only if approved for use by the Florida Department of Environmental Protection

### **Unauthorized Discharges**

The two types of unauthorized discharges are illicit connections and illegal dumping.

#### **Illicit Connections**

Illicit connections are improper permanent connections that allow wastewater to enter a storm drain, including some that may have been allowed in the past. Any connection that allows sanitary or process water to enter the storm drain or discharge to land is prohibited. No interior drain or sink may be connected to the storm drain system.

**Illegal Dumping**

Illegal dumping is the discharge of materials into a storm drain or to land surfaces. Illegal dumping may introduce pollutants into site storm water discharges.

***BMP: Training and Outreach***

The training and outreach BMP pertains to the appropriate and/or applicable training to ensure the implementation of the PPP. Successful storm water pollution control relies on the proper training and education of Racers, Pit Crew members, Nasgrass Members and Staff. Periodic training, at a minimum will include:

Training requirements and related BMP activities include the practices listed below:

- Provide documented training for Racers, Pit Crew members, Nasgrass Members and Staff on housekeeping, fuel storage, fueling, maintenance, and spill clean-up procedures that minimize impacts to soil and storm water.

**BMP Activities**

1. All Racers, Pit Crew members, Nasgrass Members and Staff are to attend an annual Nasgrass BMP training session which includes the site specific BMPs
2. Racer and member knowledge of safety data sheet location for products used on site
3. Periodic walk through inspections will be conducted and general compliance evaluated to determine effectiveness of training and drive improved compliance

## **Appendix C – Forms**

## Storm Water: General Inspection Checklist Pre and Post-Race Inspection Form

Location: Nasgrass MowerPlex, 2155 W. Herrick Rd. Avon Park, Florida

- This inspection checklist is to be used to: Conduct general inspections
- Determine if additional best management practices (BMPs) are required or need to be modified
- Modify the PPP as needed to reflect site changes

### GOOD HOUSEKEEPING

(Circle one)

- |     |  |     |    |     |
|-----|--|-----|----|-----|
| 1.  | Are outside areas neat, clean, and orderly?  | yes | no | n/a |
| 2.  | Are storm water drainage paths clear? Grates clean?                                      | yes | no | n/a |
| 3.  | Are garbage cans and the dumpster covered and emptied?                                   | yes | no | n/a |
| 4a  | Has the storm water conveyance system been recently altered?                             | yes | no | n/a |
| b   | If yes, does the alteration maintain PPP compliance?                                     | yes | no | n/a |
| 5.  | Is track maintenance equipment leak free (no visible releases)?                          | yes | no | n/a |
| b   | If no, are conditions managed and materials disposed of properly?                        | yes | no | n/a |
| 6.  | Are spill control measures in place to protect storm water from spills?                  | yes | no | n/a |
| 7.  |  |     |    |     |
| b   | If yes, are containers weather-tight and covered?  | yes | no | n/a |
| c   | If yes, are ignitable or reactive wastes stored at least 50 feet from the property line? | yes | no | n/a |
| 12a | Has the site had a material spill/release since the last inspection?                     | yes | no | n/a |
| b   | If yes, was the problem resulting in the spill corrected                                 | yes | no | n/a |

### BEST MANAGEMENT PRACTICES

- |     |  |     |    |     |
|-----|--|-----|----|-----|
| 13a | Are hazardous materials (paint, oil, solvent, wastes) BMPs followed?                                 | yes | no | n/a |
| b   | Are these materials stored in a manner prohibiting exposure to rain or runoff?                       | yes | no | n/a |
| 14a | Is equipment and raw material elevated, covered and/or managed properly?                             | yes | no | n/a |
| b   | Are these materials stored in a manner prohibiting exposure to rain or runoff?                       | yes | no | n/a |
| 15. | Are all leaking vehicles, equipment, or repair equipment equipped with drip pans?                    | yes | no | n/a |
| 16. | Are erodible soils uncovered or exposed to rainwater?  | yes | no | n/a |
| 17a | Is the ground surface stained by oil or significant materials?                                       | yes | no | n/a |
| b   | If yes, has the source been found and contained?   | yes | no | n/a |
| 18. | Are truck unloading areas in good condition?   | yes | no | n/a |
| 19. | Are manufacturing/office wastes, products, salvaged materials and recyclables stored properly?       | yes | no | n/a |
| 20a | Are structural BMPs in place and functioning properly?   | yes | no | n/a |
| b   | Is preventative maintenance performed as scheduled check weir (i.e. clean and functioning properly)? | yes | no | n/a |
| 21a | Have any complaints been registered since the last inspection regarding storm water discharge?       | yes | no | n/a |
| b   | If yes, has the problem been addressed?  | yes | no | n/a |
| 22. | Have personnel received training on storm water Pollution Prevention?                                | yes | no | n/a |
| 23a | Are compressor condensate discharges polished?   | yes | no | n/a |
| b.  | If yes, are polishers properly maintained?   | yes | no | n/a |
| 24a | Are wastes properly managed (used oil, used rags, solvent, paints)?                                  | yes | no | n/a |
| b.  | If yes, are containers weather tight and in containment?   | yes | no | n/a |
| 25. | Are spill response materials on available? (Check all that apply)                                    | yes | no | n/a |

**Fully stocked spill kits: yes no**

List spill kits that need to be stocked:

\_\_\_\_\_

**26.** Identify existing management practices employed to reduce pollutants in storm water discharges:  
(Identify condition for all that apply (good/fair/poor) and describe actions required if any action item conditions exist)

Good Housekeeping \_\_\_\_\_ Containment \_\_\_\_\_

Recycling \_\_\_\_\_ Waste Covering \_\_\_\_\_ Sorbent Booms \_\_\_\_\_

Spill Mitigation \_\_\_\_\_ Other \_\_\_\_\_

**27.** Action Items (use additional pages as needed):

a. \_\_\_\_\_

b. \_\_\_\_\_

c. \_\_\_\_\_

Inspector Signature: \_\_\_\_\_

Date \_\_\_\_\_

# **SPILL KIT INVENTORY LIST**

- (1) 10lbs bag of oil dry**
- (1) Flat Shovel**
- (10) 15" x 19" hydrophobic absorbent pads**
- (3) disposal bags**
- (2) Aluminum drip pans**
- (1) Roll of paper towels**

## **Appendix D – Completed Forms**

## **Appendix E – Site Maps**