

THIS INSTRUMENT PREPARED BY:
DAVID G. SHIELDS
DEPUTY COUNTY ATTORNEY
FOR PUBLIC WORKS AND
ENVIRONMENTAL SERVICES
1101 EAST 1ST STREET
SANFORD, FL 32771
(407) 665-7238

**TRAFFIC SIGNAL MAINTENANCE AGREEMENT
BETWEEN
ECA BULIGO RED WILLOW PARTNERS, LP AND SEMINOLE COUNTY**

THIS TRAFFIC SIGNAL MAINTENANCE AGREEMENT, made this ____ day of _____, 2023 (the “Effective Date”), by and between **ECA BULIGO RED WILLOW PARTNERS, LP**, a Delaware limited partnership, whose address is 13041 W. Linebaugh Avenue, Tampa, Florida 33626, in this Agreement referred to as the “OWNER”, and **SEMINOLE COUNTY**, a Charter county and political subdivision of the State of Florida, whose address is Seminole County Services Building, 1101 East 1st Street, Sanford, Florida 32771, in this Agreement referred to as the “COUNTY”.

W I T N E S S E T H:

WHEREAS, Chapter 125, Florida Statutes (2023), grants counties broad home rule powers to perform acts in the public interest; and

WHEREAS, OWNER owns land legally described as follows:

Parcel # 24-21-30-506-0000-0020

See attached Exhibit “A” for legal description and sketch
(the “Owner Property”); and

WHEREAS, COUNTY determined in 2007 that a traffic signal was appropriate for the intersection of Red Bug Lake Road and Red Willow Plaza (the “Intersection”); and

WHEREAS, COUNTY and GRE Red Willow, LP, a Delaware Limited Partnership, the prior owner of the Owner Property, agreed that a traffic signal should be installed at the Intersection and, on July 27, 2007, entered a Traffic Signal Maintenance Agreement for the Intersection (the “Prior Agreement”), and

WHEREAS, on September 3, 2020, GRE Red Willow, LP conveyed the Owner Property to LRF1 Red Willow LLC, a Delaware limited liability company by special warranty deed, which was recorded on September 8, 2020, in Book 9698, Pages 591-595, Official Records of Seminole County; and

WHEREAS, on December 14, 2021, LRF1 Red Willow LLC conveyed the Owner Property to OWNER by special warranty deed, which was recorded on December 27, 2021, in Book 10130, Pages 706-712, Official Records of Seminole County; and

WHEREAS, COUNTY and OWNER agree that a traffic signal should continue to be installed at the Intersection; and

WHEREAS, OWNER and COUNTY recognize that a need exists to develop a coordinated effort for the installation and maintenance of traffic signals in order to facilitate traffic engineering and the safe and efficient flow of traffic in Seminole County; and

WHEREAS, OWNER and COUNTY desire to enter into a mutually beneficial relationship whereby COUNTY shall maintain a traffic signal at the Intersection, subject to the terms set forth in this Agreement, and the Prior Agreement should be replaced with this Agreement,

NOW, THEREFORE, in consideration of the mutual promises contained in this Agreement, it is hereby agreed as follows:

Section 1. Recitals. The foregoing recitals are true and correct and form a material part of this Agreement upon which the parties have relied.

Section 2. Responsibilities of COUNTY.

(a) Maintenance Service. COUNTY shall provide maintenance service for the traffic signal described in this Agreement, which has been agreed to by COUNTY through its County Traffic Engineer. A specific listing of the traffic signal within the scope of this Agreement is contained in Exhibit B, attached to this Agreement and incorporated by reference, and is subsequently referred to as the Traffic Signal. COUNTY shall maintain the Traffic Signal to the extent of COUNTY's capabilities (in terms of ordinary maintenance and repair) and has the right to charge OWNER an Annual Maintenance Fee for these services.

(b) Additional Costs. Further, COUNTY has the right to seek additional compensation from OWNER for costs it incurs above and beyond normal routine maintenance, to include, but not to be limited to: individually or any combination of mast arms, controller, cabinet replacement, emergency preemption (Opticom) equipment and video and loop detection equipment. These additional costs are not to exceed the actual cost to COUNTY.

(c) Maintenance Standards. COUNTY shall maintain the Traffic Signal in accordance with the most current Manual of Uniform Traffic Control Devices promulgated by the State of Florida Department of Transportation pursuant to Section 316.0745, Florida Statutes (2023), as this statute may be amended from time to time. COUNTY shall also maintain and operate the Traffic Signal in accordance with all other applicable state and COUNTY standards and with emphasis on optimum efficiency and safety as determined by COUNTY's Traffic Engineer.


(d) Request for Payment. COUNTY shall send requests for payment to OWNER of its Annual Maintenance Fee, as calculated in Section 4 below, on a yearly basis. COUNTY shall bill

OWNER for requests for payment of any additional charges, as outlined in Section 2(b) above, which exceed those in Section 3 below, as incurred by COUNTY.

Section 3. Responsibilities of OWNER.

(a) Installation. OWNER shall design and install the Traffic Signal at the Intersection at OWNER'S expense.

(b) Maintenance Payment. Commencing as of the date the Traffic Signal becomes operational, and continuing for so as long COUNTY maintains the Traffic Signal, OWNER shall pay an Annual Maintenance Fee for the services provided by COUNTY pursuant to Section 1(b) of this Agreement. Further, OWNER shall reimburse COUNTY for any costs COUNTY incurs above and beyond normal routine maintenance as described in Section 2(b) of this Agreement. OWNER also is responsible for the full cost of power required to operate the Traffic Signal and shall make payment directly to the appropriate power company.

(c) Time.  OWNER shall remit payment for each invoice rendered by COUNTY under this Agreement within thirty (30) days of receipt of COUNTY'S request for payment.

(d) Notice to Successors, Grantees, and Assigns. OWNER shall give COUNTY contemporaneous notice of any transfer of fee title for property owned by OWNER and served by the Traffic Signal, unless the transfer is to an affiliate of OWNER. OWNER shall give its successors, grantees, and assigns written notice of this Agreement, which must also be executed in a form adequate for recording in the Official Public Records of Seminole County, Florida. This Agreement, upon recording, will become a covenant running with the Owner Property.

Section 4. Calculation of Charges

(a) Normal Routine Maintenance. OWNER shall pay COUNTY a flat Annual Maintenance Fee for normal routine maintenance services as specified below.

(b) Annual Maintenance Fee Calculation.

(1) The Annual Maintenance Fee is calculated based on dividing the total costs to maintain all of the signals in Seminole County, as documented and tracked by the computerized work management system (Mainstar), by the total number of signals in Seminole County to arrive at an average per intersection cost. This average cost is the fee charged to OWNER as the Annual Maintenance Fee and is calculated each year, based on actual cost averages from the previous year. In addition to the Annual Maintenance Fee, OWNER shall pay COUNTY an amount equal to ten percent (10%) of the full signal maintenance cost calculated above to cover cost escalation risks and other administrative obligations assumed by COUNTY in maintaining the Traffic Signal.

(2) From the effective date of this Agreement until changed pursuant to the criteria specified in this Agreement, the Annual Maintenance Fee for each signal within the scope of this Agreement is as set forth in Exhibit B attached to this Agreement and incorporated by reference, and may be increased or decreased from time to time by the COUNTY's Traffic Engineer with written notice to OWNER.

Section 5. Term. This Agreement takes effect upon execution by COUNTY (OWNER having signed first) and remains in force perpetually unless terminated as provided in this Agreement.

Section 6. Default and Remedies.

(a) It is a default of this Agreement if: (1) OWNER fails to make any payment of costs due under this Agreement or any other sums to COUNTY when due and does not cure such default within thirty (30) days after receipt of written notice of such default; or (2) if OWNER fails in the performance of any other covenant or condition of this Agreement and does not cure such other default within thirty (30) days after receipt of written notice from COUNTY specifying the nature of the default. However, if the nature of the default is such that it cannot, in the exercise of reasonable diligence, be remedied

within thirty (30) days, OWNER may have such time as is reasonably necessary to remedy the default provided that OWNER promptly and diligently takes such actions as are necessary.

(b) In the event of a default by OWNER, COUNTY has the right, at its option, in addition to and not exclusive of any other remedy COUNTY may have by operation of law, without any further demand or notice, to terminate this Agreement, in which event OWNER shall immediately pay COUNTY a sum of money equal to the total of: (1) the amount of any unpaid costs per this Agreement accrued through the date of termination; and (2) any other amount necessary to compensate COUNTY for all costs, damages, expenses, fees, charges, or detriment proximately caused by OWNER's failure to perform its obligations under this Agreement.

(c) If either party brings a lawsuit for the recovery of any costs due under this Agreement or any other amount due under the provisions of this Agreement, or if either party brings a lawsuit because of the breach of any other term of this Agreement, the prevailing party will be entitled to be awarded from the other party any and all expenses incurred as a result of the breach, including, but not limited to, reasonable attorney fees. If COUNTY is represented by the County Attorney's Office, then COUNTY may recover fees based upon prevailing market rates in private practice, irrespective of actual salaries paid by COUNTY.

Section 7. Termination of the Agreement. Without impairing its right to receive OWNER's payments already due, COUNTY may terminate this Agreement as set forth in Section 5 of this Agreement. In the event of such termination, OWNER will be responsible to continue maintenance of the Traffic Signal.

Section 8. Notices.

(a) Notice under this Agreement from one party to the other may be sent to:

For COUNTY:


Seminole County Public Works Director
200 West County Home Road
Sanford, Florida 32771

For OWNER:

ECA Buligo Red Willow Partners, LP
c/o East Coast Management, LLC
Attn: Grace Pierola, Property Manager
13041 W. Linebaugh Avenue
Tampa, Florida 33626

Any party may change, by written notice as provided in, its addresses or persons designated for receipt of notices.

(b) If COUNTY determines it is necessary to change the Annual Maintenance Fee for any given year, then COUNTY shall provide written notice to OWNER of such change at least sixty (60) days in advance of when the new payment will be due.


Section 9. Representations. The undersigned persons signing on behalf of OWNER represent the following: that the undersigned persons are the designated officer, partner, or manager acting for OWNER; that this Agreement has been reviewed and duly approved for execution by all necessary general partners, officers, directors, or managers of the named entity for which the undersigned persons purport to sign with all the formalities required by law for such named entity to enter into a binding Agreement; and that the respective entity has likewise authorized the undersigned persons to bind OWNER to the terms and conditions contained in this Agreement.

Section 10. Severability. If any provision of this Agreement or the application of it to any person or circumstance is held invalid, it is the intent of the parties that the invalidity will not affect other provisions or applications of this Agreement that can be given effect without the invalid provision or application, and to this end the provisions of this Agreement are declared severable.

Section 11. Entire Agreement.

(a) The entire agreement of the parties is contained in the instant Agreement. This Agreement supersedes all oral agreements and negotiations between the parties relating to the subject matter of this Agreement and supersedes all other written agreements between the parties relating to the subject matter of this Agreement. This Agreement also supersedes the Prior Agreement.

(b) Any alterations, amendments, deletions or waivers of the provisions of this Agreement and any assignment of this Agreement will be valid only when expressed in writing and duly signed by all parties, except as provided in Section 3(b)(2).

Section 12. Governing Law, Jurisdiction, and Venue. The laws of the State of Florida govern the validity, enforcement, and interpretation of this Agreement. The sole jurisdiction and venue for any legal action in connection with this Agreement will be in the courts of Seminole County, Florida.



Section 13. Parties Bound. This Agreement is binding upon and inures to the benefit of the heirs, successors, personal representatives, and assigns of the parties and constitutes a covenant running with the land.

Section 14. Conflict of Interest.

(a) OWNER shall not engage in any action that would create a conflict of interest in the performance of its obligations pursuant to this Agreement with COUNTY or which would violate or cause others to violate the provisions of Chapter 112, Part III, Florida Statutes (2023), as this statute may be amended from time, relating to ethics in government.

(b) OWNER certifies that no officer, agent, or employee of COUNTY has any material interest (as defined in Section 112.312(15), Florida Statutes (2023), as this statute may be amended from time, as over 5%), either directly or indirectly in the business of OWNER to be conducted under

this Agreement and that no such person will have any such interest at any time during the term of this Agreement.

(c) OWNER has the continuing duty to report to COUNTY any information that indicates a possible violation of this Section.

Section 15. Headings and Captions. All headings and captions contained in this Agreement are provided for convenience only, do not constitute a part of this Agreement and may not be used to define, describe, interpret or construe any provision of this Agreement.

IN WITNESS WHEREOF, the parties have executed this Agreement for the purposes stated above.

WITNESSES:

Allison Almerico

Signature

Allison Almerico

Print Name

Jennifer Smithers

Signature

Jennifer Smithers

Print Name

ECA BULIGO RED WILLOW PARTNERS, LP

By: *Chris Wild*



Christopher Wild

Print Name

Its: Authorized Signatory

10/04/2023

Date

STATE OF Florida
COUNTY OF Hillsborough

I HEREBY CERTIFY that, on this 4th day of October, 2023, before me, an officer duly authorized in the State and County aforesaid to take acknowledgments, personally appeared by means of physical presence or online notarization, Chris Wild, as Authorized Signatory of ECA Buligo Red Willow Partners, LP, a corporation organized under the laws of the State of Delaware, who is personally known to me or who has produced _____ as identification. The officer acknowledged before me that the officer executed the foregoing instrument as such officer in the name and on behalf of the corporation.

Thalia Perola

Print Name Thalia Perola

Notary Public in and for the County and State Aforementioned

My commission expires: 04/26/2026

BOARD OF COUNTY COMMISSIONERS
SEMINOLE COUNTY, FLORIDA

ATTEST:

GRANT MALOY
Clerk to the Board of
County Commissioners of
Seminole County, Florida.

By: _____
AMY LOCKHART, Chairman

Date: _____

For the use and reliance of
Seminole County only.

As authorized for execution by the Board of
County Commissioners at its _____,
2023, regular meeting.

Approved as to form and
legal sufficiency.

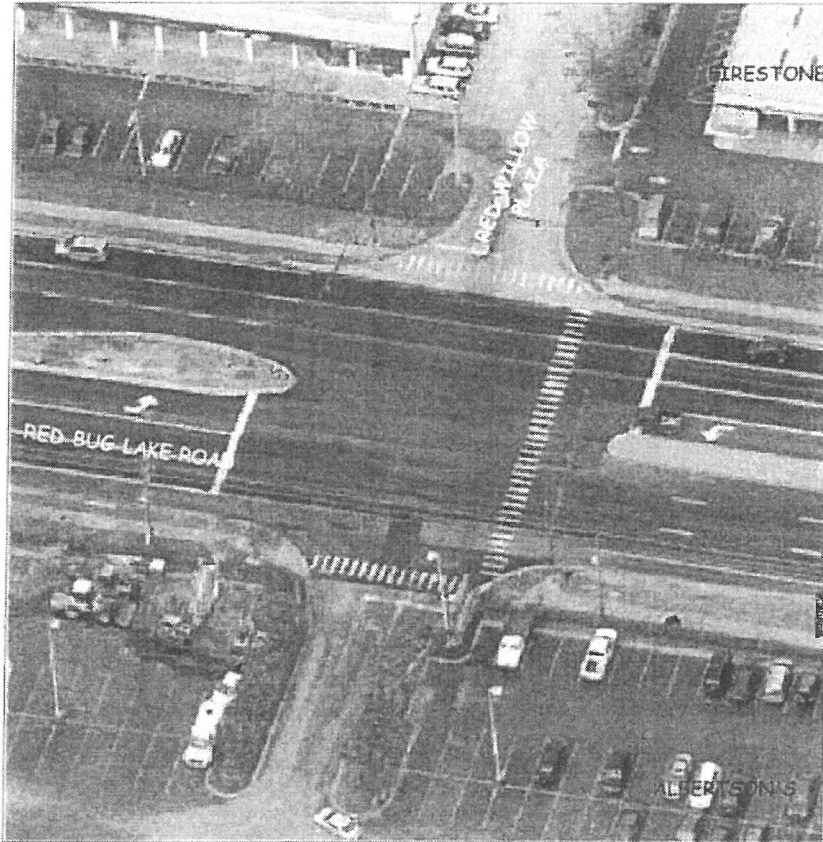
County Attorney

DGS/sfa
08/23/2023
Attachment:
Exhibit A – Legal Description
B - Traffic Signal Inventory List



T:\Users\Legal Secretary CSB\Public Works\Traffic\2023\GRE Red Willow, LP - Traffic Signal Maintenance Agreement.docx

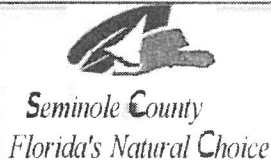
Red Bug Lake Road/Red Willow Plaza Exhibit "A"



SECTION 24 TWP 21 RANGE 30

LEGAL DESCRIPTION

LEG LOT 2 (LESS BEG SW COR RUN E 108.44 FT N 240.08 FT S 56 DEG 19 MIN 2 SEC W 223.36 FT S 33 DEG 40 MIN 58 SEC E 139.67 FT TO BEG & BEG NW COR RUN N 56 DEG 19 MIN 2 SEC E 190.55 FT S 21 DEG 28 MIN 58 SEC E 58 FT S 56 DEG 19 MIN 2 SEC W 115 FT S 3 DEG 27 MIN 29 SEC W 54.65 FT S 56 DEG 19 MIN 2 SEC W 23 FT N 33 DEG 40 MIN 58 SEC W 192 FT TO BEG & RD) RED WILLOW PLAZA
PB 35 PGS 99 & 100



Red Bug Lake Road
Red Willow Plaza

Traffic Signal Maintenance
Agreement

Seminole County Traffic Engineering
140 Bush Loop
Sanford, Florida 32773
Phone (407) 665-5677
FAX (407) 665-5623

September 2023

EXHIBIT B

SEMINOLE COUNTY – ECA BULIGO RED WILLOW PARTNERS, LP TRAFFIC SIGNAL MAINTENANCE AGREEMENT

The inventory of traffic signal(s) subject to this Agreement:

1. Intersection of Red Bug Lake Road and Red Willow Plaza

Revised Date: 2023

VARIABLE CHARGES FOR MAINTENANCE OF TRAFFIC SIGNALS

The Annual Maintenance Fee under Section 3 of this Agreement is as follows, subject to being increased by the County Traffic Engineer pursuant to the terms of this Agreement:

1. The Annual Maintenance Fee for signal maintenance within the scope of this Agreement and to be invoiced annually is \$3,600.00 per signal.

