

**DATE:** September 28, 2023

**SUBJECT:** JPL Land Holding LLC; Release of Letter of Credit S-4420  
Land Excavation Operating Permit 12-3-LE / SU 11-0082

**DEPARTMENT:** Development Review Division of Development Services

**DEPT. SECTION:** Natural Resources

**BOARD DATE:**

**CONTACT:** Carrie Moore, Manager, Natural Resources

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**RECOMMENDATION:** Release of reclamation letter of credit in the amount of \$157,936.90 for land excavation operating permit 12-3-LE.

**BACKGROUND:** JPL Land Holding LLC was approved for a special use permit SU 11-0082, on 3/8/2011 for a duration of 10 years. Maximum excavation volume permitted was 6,005,382 cubic yards. The operating permit was issued on 1/24/2014 with an expiration of 10/30/22. The applicant provided a Letter of Credit in the amount of \$157,936.90 with an expiration date of 10/30/23.

The total volume excavated under SU 11-0082 was 127,401.92 cubic yards. On March 10, 2023, the final inspection found the site was reclaimed consistent with the approved reclamation plans.

It is requested that the reclamation letter of credit #S-4420 be released to the applicant JPL Land Holding LLC.

# FINAL INSPECTION

**JPL Borrow Pit CR 579 South Wimauma Operating Permit 12-3-LE SU 11-0082**

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On March 10, 2023, Lori Moreda, Engineering Associate, conducted a final site compliance inspection.



Banks and slopes are stabilized.

## **SU 11-082 and Operating Permit 12-3-LE:**

Maximum volume permitted: 6,005,382 cubic yards

Final cut report from EOR: 127,401.92 cubic yards were excavated.

Expiration Date of Operating Permit: 10/30/2022

Maximum depth excavated was 31 feet (in one small area) which is below the permitted depths shown on the approved site plan.

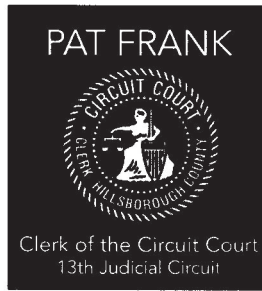
Reclamation Instrument value: \$157,936.90

Site is recommended for release of reclamation instrument.

Lori Moreda, Engineering Associate, Land Excavation







February 12, 2014

JERRY LEMANSKI MANAGER  
JPL LAND HOLDINGS LLC  
PO BOX 1718  
RIVERVIEW FL 33568-1720

Re: License to Reclaim – Land Excavation #12-3-LE  
H. C. Document No. 14-0081

Dear Mr. Lemanski:

Attached is an executed copy of the referenced License to Reclaim and the Land Excavation Reclamation Letter of Credit No. S-4420 with The Bank of Tampa. The Special Use Permit (SU 11-0082) was approved by the Land Use Hearing Officer on March 8, 2011.

Also attached is a copy of the Land Excavation Operating Permit issued on January 24, 2014.

We are providing the copies for your files.

Sincerely,

Kimberly Richards, Associate Director  
BOCC Records/VAB

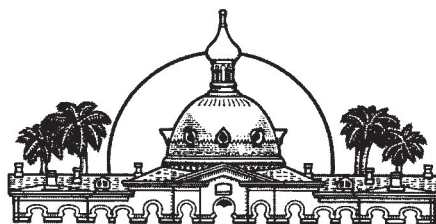
bam

Attachment

cc: Board files (orig.)  
Nancy Y. Takemori, Assistant County Attorney  
James Miller, Development Services  
Paige Ward, County Attorney's Office  
Dawn Tuccillo, County Attorney's Office

BOARD OF COUNTY COMMISSIONERS

Kevin Beckner  
Victor D. Crist  
Ken Hagan  
Al Higginbotham  
Lesley "Les" Miller, Jr.  
Sandra L. Murman  
Mark Sharpe



Hillsborough County  
Florida

Office of the County Administrator  
Michael S. Merrill

12-3-LE

CHIEF ADMINISTRATIVE OFFICER  
Helene Marks

CHIEF FINANCIAL ADMINISTRATOR  
Bonnie M. Wise

DEPUTY COUNTY ADMINISTRATORS  
Lucia E. Garsys  
Sharon D. Subadan

MEMORANDUM

**DATE:** January 30, 2014

**TO:** Mildred Dixon, BOCC Records

**FROM:** *jm* James Miller, Development Services Department

**RE:** **Operating Permit and Legal Documents for Land Excavation 12-3-LE**  
**JPL Land Holdings, LLC**

RECEIVED  
2014 JAN 30 PM 2:04  
CLEAN TO  
THE BOARD OF

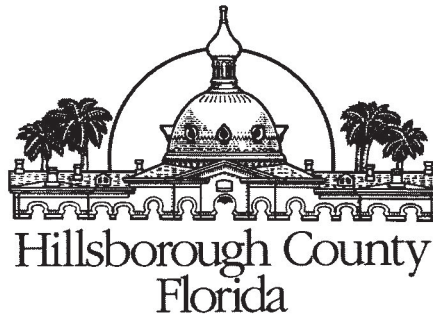
Enclosed are the Operating Permit and legal documents for the above referenced land excavation. The legal documents have been reviewed and approved by the County Attorney's Office, and include the following:

- 1) License to Reclaim,
- 2) Affidavit to Complete Reclamation,
- 3) Nematode Affidavit, and
- 4) Reclamation Certification.
- 5) Irrevocable Standby Letter of Credit No. S-4420 in the amount of 157,936.90

Please have the License to Reclaim executed and maintain these documents on file at the B.O.C.C. Records Office. The Special Use Permit for Land Excavation, # SU 11-0082 was approved by the LUHO on March 8, 2011. Thank you for your assistance, and if you have any questions, please give me a call at 276-8468.

BOARD OF COUNTY COMMISSIONERS

Kevin Beckner  
Victor D. Crist  
Ken Hagan  
Al Higginbotham  
Lesley "Les" Miller, Jr.  
Sandra L. Murman  
Mark Sharpe



Office of the County Administrator  
Michael S. Merrill

CHIEF ADMINISTRATIVE OFFICER  
Helene Marks

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Bonnie M. Wise

DEPUTY COUNTY ADMINISTRATORS  
Lucia E. Garsys  
Sharon D. Subadan

**M E M O R A N D U M**

**DATE:** January 17, 2014

**TO:** Nancy Takemori, County Attorney's Office

**FROM:**  James Miller, Planning & Growth Management

**SUBJECT:** LEGAL DOCUMENTS FOR LAND EXCAVATION 12-3-LE,  
JPL LAND HOLDINGS, LLC

Enclosed for your review are legal documents for the above referenced land excavation. Included are the following:

- 1) License to Reclaim,
- 2) Affidavit to Complete Reclamation,
- 3) Nematode Affidavit,
- 4) Reclamation Certification,
- 5) Financial Security for Reclamation

After reviewing these documents, please return them to my attention, and if you have found them to be legally sufficient, I will forward them to the BOCC Records Office to be executed and filed. Thank you for your attention to this matter, and if you have any questions, please give me a call at 276-8370.



8515 Palm River Road - Tampa, Florida 33619 (813) 621-7841 - Fax (813) 621-6761  
Email: mail@lesc.com Web: www.lesc.com

## LETTER OF TRANSMITTAL

Date: 1/16/2014 Job # 2100027

Attn: James Miller

Re: S.C.R. 579 Land Excavation

To: Hillsborough County Administrator  
601 East Kennedy Boulevard  
Tampa, Florida 33602

VIA Hand Deliver

### WE ARE SENDING YOU

☒ ATTACHED

☐ SEPARATE COVER

THE FOLLOWING ITEMS:

☒ Print

☐ Pay Request

☐ Other

☐ Diskette/CD

☐ Change Order

☐ Exhibit

☐ Pre. Drawing

COPIES	DATE	DESCRIPTION
1		Revised legal documents

### THESE ARE TRANSMITTED AS CHECKED BELOW:

☒ As Requested

☐ Approved

☐ For Review/Comment

☐ Being Returned to You

☐ Approved As Noted

☐ For Your Use

☐ For Approval

Remarks:

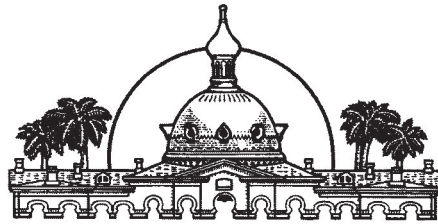
Copy To: \_\_\_\_\_

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

  
E. Everett Morrow, PE  
eem@lesc.com

**BOARD OF COUNTY COMMISSIONERS**

Kevin Beckner  
Victor D. Crist  
Ken Hagan  
Al Higginbotham  
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Sandra L. Murman  
Mark Sharpe



**Hillsborough County  
Florida**

Office of the County Administrator  
Michael S. Merrill

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Helene Marks

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Bonnie M. Wise

**DEPUTY COUNTY ADMINISTRATORS**  
Lucia E. Garsys  
Sharon D. Subadan

**M E M O R A N D U M**

**DATE: December 13, 2013**

**TO: Nancy Takemori, County Attorney's Office**

**FROM: *JM* James Miller, Planning & Growth Management**

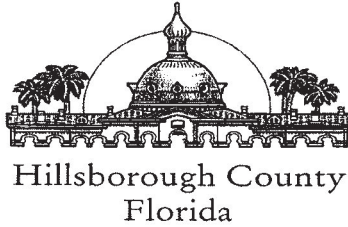
**SUBJECT: LEGAL DOCUMENTS FOR LAND EXCAVATION 12-3-LE,  
JPL LAND HOLDINGS, LLC**

Enclosed for your review are legal documents for the above referenced land excavation. Included are the following:

- 1) License to Reclaim,
- 2) Affidavit to Complete Reclamation,
- 3) Nematode Affidavit,
- 4) Reclamation Certification,
- 5) Financial Security for Reclamation

After reviewing these documents, please return them to my attention, and if you have found them to be legally sufficient, I will forward them to the BOCC Records Office to be executed and filed. Thank you for your attention to this matter, and if you have any questions, please give me a call at 276-8370.





LICENSE TO RECLAIM

Land Excavation # 12-3-LE

THIS AGREEMENT made and entered into this 31<sup>ST</sup> day of OCTOBER,  
20 13, by and between JPL Land Holding LLC hereinafter referred to as

“Licensor,, and the BOARD OF COUNTY COMMISSIONERS OF HILLSBOROUGH

COUNTY, a political subdivision of the State of Florida, hereinafter referred to as “Licensee.,,

WHEREAS, Licensor has applied for a land excavation permit, pursuant to the Hillsborough County Land Development Code, Ordinance 96-35, as amended (hereinafter the “Code,,), for the purpose of excavating and hauling soil or other material from property owned by Licensor in Hillsborough County Land; and

WHEREAS, the Code requires Licensor to complete the reclamation plan for the land excavation pursuant to the terms of the Code and the land excavation permit for the protection of the public health, safety, and welfare; and

WHEREAS, Licensor has indicated its willingness to permit the Licensee to enter upon the land excavation site to complete the necessary reclamation in the event Licensor fails to do so.

NOW, THEREFORE, IN CONSIDERATION OF THE MUTUAL COVENANTS AND PROMISES CONTAINED HEREIN, THE PARTIES AGREE AS FOLLOWS:

Section 1: Licensor hereby grants to Licensee its agents and employees, the right to enter on the property described in section 2 below, for the purpose of completing the reclamation work required by the Code and land excavation permit # 12-3-LE when such entry is deemed to be necessary by Licensee due to the failure of Licensor to perform the necessary reclamation.

Section 2: The land affected by this License is located in the County of Hillsborough, State of Florida, and is more specifically described as follows:

Folio #: 079454.0000& 079456.0000

Legal Description: See Exhibit "A"

Folio #: 079454.0000 & 079456.0000

Legal Description: see Exhibit "A"

Section 4: This License is irrevocable by the Licensors and shall be terminated only upon certification by the Licensee that the reclamation work required by the Code and land excavation permit # 12-3-LE has been satisfactorily completed.

Section 5: Any additions or supplements to this License shall be in writing and executed by the parties.

Section 6. Each party represents to the other that the party has the authority under all applicable law to enter into an agreement containing such covenants and provisions as are contained in this Agreement, that all of the procedural requirements imposed by law upon each party for the approval and authorization of this Agreement have been properly completed, and that the persons who have executed this Agreement on behalf of each party are the authorized officers of the party, empowered to execute said Agreement.

Section 7: Nothing in this Agreement shall be deemed to be a waiver of Licensee's sovereign immunity or the limitations of liability or recovery contained in Section 768.28, Florida Statutes or other statute, and nothing in this Agreement shall inure to the benefit of any third party for the purpose of allowing any claim which would otherwise be barred under the doctrine of sovereign immunity or operation of law.

IN WITNESS THEREOF, the parties, by and through their respective duly authorized representatives, have executed this License on the day, month and year first above written.

Doris E. Muir  
Witness

Doris E. Muir  
Printed Name of Witness

Alex Quinones  
Witness  
Alex Quinones  
Printed Name of Witness

Affix Corporate Seal  
(when appropriate)

STATE OF Florida

Jerry Lemanski  
Owner / Licensors

Jerry Lemanski  
Printed Name of Owner / Licensors

Manager  
Title  
JPL Land Holdings, LLC  
Printed Name of Corporation, Partnership or Trust

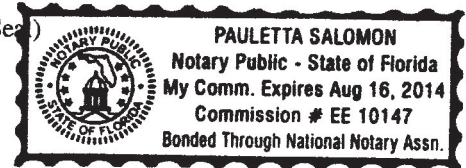
PO Box 1718, Riverview Florida 33568-1720  
Address of Owner / Licensors

COUNTY OF Hillsborough

The foregoing instrument was acknowledged before me this 31<sup>st</sup> day of October, 2013, by \_\_\_\_\_ [name] as \_\_\_\_\_ [title] of \_\_\_\_\_ [entity name]. He and/or she is personally known to me or has produced \_\_\_\_\_ (type of identification) as identification and did (did not) take an oath.

NOTARY PUBLIC:

Sign: Pauletta Salomon (Seal)  
Print: PAULETTA SALOMON



Hillsborough County Board  
of County Commissioners

Mark G. G...  
Chairman

Attest: Pat Frank  
Clerk of Circuit Court

By: Pamela A. Bliock  
Deputy Clerk



APPROVED AS TO FORM  
AND LEGAL SUFFICIENCY

BY: Danzy Freeman  
Assistant County Attorney

BOARD OF COUNTY COMMISSIONERS  
HILLSBOROUGH COUNTY FLORIDA  
DOCUMENT NO. 14-0081

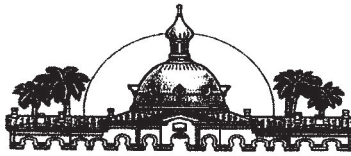


Exhibit "A"

Site:

(OR BK 11332 PG 0028)

That part of the West 1/2 of the Northwest 1/4 of Section 15, lying west of County Road 579 and that part of Section 16 lying East of Southern Atlantic Railroad right-of-way, all in Township 32 South, Range 20 East in Hillsborough County, Florida.



Hillsborough County  
Florida

**AFFIDAVIT TO COMPLETE RECLAMATION - CORPORATE**

*(for multiple owners, each owner must complete a separate affidavit)*

I, Jerry Lemanski ("Authorized Representative"), being first duly sworn, state and affirm:

1. I affirm that I am the Manager [title] and the duly authorized representative of JPL Land Holdings, LLC [business name] (the "Permit Holder"), and that I possess the legal authority to make this Affidavit on behalf of myself and the Permit Holder.
2. The Permit Holder is the owner of the property located at 079454.0000 & 079456.0000 SCR 579 [address and folio] (the "Property").
3. The Property is subject to the conditions of Land Excavation Operating Permit # 12-3-LE (the "Permit").
4. I further acknowledge and affirm that the Permit Holder will complete the reclamation of the Property within the time frame and in the manner required by the Hillsborough County-approved reclamation plan for the Property, by the Permit, and by the Hillsborough County Land Development Code, Ord. 92-05, as amended.

Signed this 4<sup>TH</sup> day of November, 2013.

JPL Land Holdings, LLC

Name of Permit Holder (Organization Name)

Signature of Authorized Representative

Jerry Lemanski

Printed Name of Authorized Representative

**OWNER ACKNOWLEDGMENT (CORPORATE)**

STATE OF Florida

COUNTY OF Hillsborough

The foregoing instrument was acknowledged before me this 4<sup>TH</sup> day of November, 2013, by JERRY LEMANSKI [name] the Owner [title] of JPL Land Holdings, LLC [business name]. He and/or she is personally known to me or has produced JPL Land Holdings, LLC (type of identification) as identification and did (did not) take an oath.

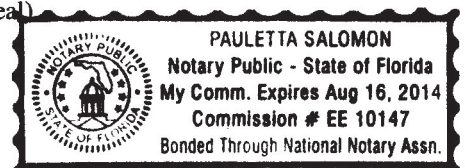
NOTARY PUBLIC:

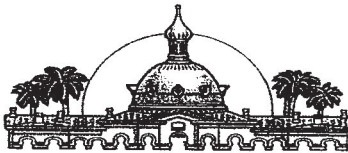
Sign: Pauletta Salomon

Print: PAULETTA SALOMON

(Seal)

Revision Date 7/31/13





Hillsborough County  
Florida

NEMATODE AFFIDAVIT

Land Excavation Permit # 12-3-LE

I, Jerry Lemanski, the duly authorized representative of JPL Land Holdings, LLC [business name or n/a for individual owner], and being first duly sworn, certify that the removed soils will not be used within one hundred (100) feet of a commercial citrus grove, citrus nursery, or any nursery site approved for producing burrowing nematode certified stock without the prior approval of the Division of Plant Industry or certification that the soils are free of burrowing nematode. I acknowledge that this is required by Chapter 5B-62.021, Florida Administrative Code.

Signed this 31<sup>st</sup> day of October, 2013.

[Signature]  
Signature of Owner/Signature of Applicant  
(If different than owner)

Jerry Lemanski  
Printed Name of Signer

Manager  
Title of Signer

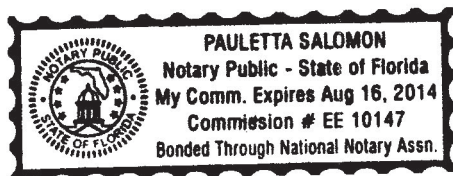
JPL Land Holdings, LLC  
Name of Permit Holder  
[entity name where applicable]

ACKNOWLEDGEMENT:

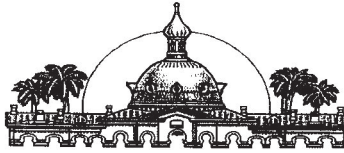
STATE OF FLORIDA  
COUNTY OF HILLSBOROUGH

The foregoing instrument was acknowledged before me this 31<sup>st</sup> day of October, 2013, by Jerry Lemanski. He/she is personally known to me or has produced Jerry Lemanski (type of identification) as identification and did (did not) take an oath.

NOTARY PUBLIC:



[Signature]  
Signature  
PAULETTA SALOMON  
Name (typed, printed or stamped)



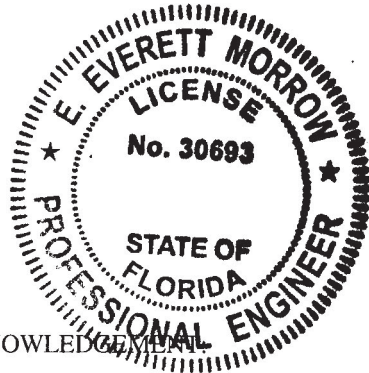
Hillsborough County  
Florida


RECLAMATION CERTIFICATION

I, E. Everett Morrow, P.E., a landscape architect or engineer registered in the State of Florida, state that the amount of \$ 157,936.90 is one-hundred and ten percent (110%) of the amount necessary to complete the reclamation plan required by the Hillsborough County Land Development Code, Ordinance 92-5, as amended, pursuant to Land Excavation Permit # 12-3-LE.

Signed this 2<sup>nd</sup> day of December, 20 13.

Affix Seal



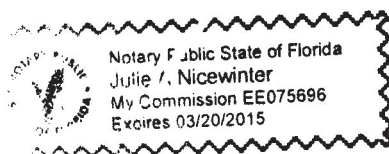
  
Landscape Architect or Engineer Signature


E. Everett Morrow, P.E.  
Printed Name of Signer

INDIVIDUAL ACKNOWLEDGMENT

STATE OF FLORIDA  
COUNTY OF HILLSBOROUGH

The foregoing instrument was acknowledged before me this 2<sup>nd</sup> day of December, 20 13, by E. Everett Morrow. He/she is personally known to me or has produced \_\_\_\_\_ (type of identification) as identification and did (did not) take an oath.



  
Signature  
Julie A. Nicewinter  
Name (typed, printed or stamped)  
Eng. Administrator  
Title





# The Bank of Tampa

## International Banking Division

4503 Woodland Corporate Blvd., Suite 100  
Post Office Box One  
Tampa, Florida 33601-001  
813-872-1236

**IRREVOCABLE STANDBY LETTER OF CREDIT NO. S-4420** **ISSUE DATE:** November 19, 2013

### BENEFICIARY

Board of County Commissioners  
Hillsborough County, Florida  
601 E Kennedy Boulevard  
P.O. Box 1110  
Tampa, Florida 33601-0111

### APPLICANT

JPL Land Holdings, LLC  
P.O. Box 1718  
Riverview, Florida 33568-1720

**AMOUNT:** US\$157,936.90 (One Hundred Fifty Seven Thousand Nine Hundred Thirty Six and 90/100 U.S. Dollars)

**EXPIRY DATE:** November 19, 2015 – At our Int'l. Dept.  
4503 Woodland Corporate Boulevard, Suite 100  
Tampa, Florida 33614

Gentlemen:

We hereby authorize you to draw on The Bank of Tampa, 4503 Woodland Corporate Boulevard, Suite 100, Tampa, Florida, Attn: Int'l. Dept., and for the account of JPL Land Holdings, LLC, up to an aggregate amount of US\$157,926.90 (One Hundred Fifty Seven Thousand Nine Hundred Thirty Six and 90/100 U.S. Dollars), available by your drafts at sight accompanied by:

1. This original Letter of Credit.
2. A signed letter by an authorized representative of the Hillsborough County Development Services Department stating that the amount for which the draft is drawn represents amounts due and payable by JPL Land Holding, LLC to you for their failure to complete reclamation pursuant to the Hillsborough County Land Excavation Ordinance and Land Excavation Permit Number 12-3-LE (SU 11-0082 WM).

Drafts must be drawn and negotiated not later than November 19, 2015 or any extended date thereof.

Each draft must state that it is "Drawn under Letter of Credit No. S-4420 of The Bank of Tampa" and the amount endorsed on this Letter of Credit.

We hereby agree with the drawers, endorsers and bona fide holders of drafts drawn under and in compliance with the terms of this letter of credit, that such drafts will be duly honored on presentation to the drawee.

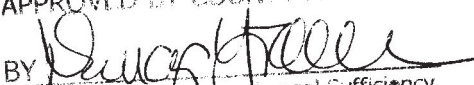
It is a condition of this Letter of Credit that it shall be deemed automatically extended, every year on the issuance anniversary date, without amendment, for one (1) year from the expiration date hereof, or any future expiration date, unless at least ninety (90) days prior to any expiration date we shall notify you by Registered Mail or Courier Service to your address set forth above that we elect not to consider this Letter of Credit renewed for any such additional period. If you receive written notice from us that we elected not to renew this Letter of Credit, you may draw the full available amount hereunder, not more than fifteen (15) days prior to the current expiration date by presenting your draft together with the original Letter of Credit and your statement signed by a purported representative that you are drawing on the Letter of Credit because you were notified by us that we did not intend to extend and renew this Letter of Credit and that JPL Land Holdings, LLC has not furnished a replacement Letter of Credit satisfactory to you. However, in no event will the expiration date of this Letter of Credit be extended beyond October 30, 2023.

This Irrevocable Standby Letter of Credit sets forth in full the terms of our undertaking, and such undertaking shall not in any way be modified, amended, or amplified by reference to any documents, instruments, or agreement referred to herein or in which this Standby Letter of Credit relates, and any such reference shall not be deemed to incorporate herein by reference any document, instrument, or agreement. \*\*\*\*\*

Except so far as otherwise stated, This Documentary Credit is subject to the "Uniform Customs and Practice for Documentary Credits" (2007 Revision) International Chamber of Commerce (Publication No. 600).

Form 220

APPROVED BY COUNTY ATTORNEY

BY:   
Approved as to Form and Legal Sufficiency

at attached

  
AUTHORIZED SIGNATURES



# The Bank of Tampa

International Banking Division  
4503 Woodland Corporate Blvd., Suite 100  
Post Office Box One  
Tampa, Florida 33601-0001  
813-872-1236

DATE January 13, 2014

AMENDMENT TO IRREVOCABLE LETTER OF CREDIT NO. S-4420

AMENDMENT NO. 1

ADVISING BANK	APPLICANT
	JPL Land Holdings, LLC P.O. Box 1718 Riverview, Florida 33568-1720
BENEFICIARY	
Board of County Commissioners Hillsborough County, Florida 601 E. Kennedy Boulevard P.O. Box 1119 Tampa, Florida 33601-0111	

OUR LETTER OF CREDIT NUMBER S-4420 DATED November 19, 2015 ISSUED IN YOUR FAVOR IS HEREBY AMENDED AS FOLLOWS:

1. Numeric portion in the first paragraph should reflect US\$157,936.90, instead of as stated.
2. 5<sup>th</sup> paragraph, last sentence is amended to state as follows: However, in no event will the expiration date of this Letter of Credit be extended beyond October 30, 2024.

\*\*\*\*\*

UNLESS WE ARE NOTIFIED WITHIN (20) DAYS FROM DATE OF THIS AMENDMENT BY THE BENEFICIARY OF NON- ACCEPTANCE, WE WILL CONSIDER THE AMENDMENT IN ITS ENTIRETY TO BE ACCEPTED.

ALL OTHER TERMS AND CONDITIONS REMAIN UNCHANGED.

APPROVED BY COUNTY ATTORNEY

BY

Approved as to Form and Legal Sufficiency

VERY TRULY YOURS,

Authorized Signature

THIS AMENDMENT IS SUBJECT TO THE UNIFORM CUSTOMS AND PRACTICE FOR DOCUMENTARY CREDITS (2007 REVISION)  
INTERNATIONAL CHAMBER OF COMMERCE PUBLICATION NO. 600.

**BOARD OF COUNTY COMMISSIONERS**

Kevin Beckner  
Victor D. Crist  
Ken Hagan  
Al Higginbotham  
Lesley "Les" Miller, Jr.  
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Lucia E. Garsys  
Sharon D. Subadan

**LAND EXCAVATION OPERATING PERMIT**

**OPERATING PERMIT NO.) 12-3-LE**  
**(SPECIAL USE PERMIT NO.) SU-11-0082**

**ISSUED TO:** JPL Land Holding LLC  
P.O. Box 1718  
Riverview, FL 33568  
813-677-7655

**GENERAL LOCATION:** 1.4 mi south of State Hwy 674 on C.R.579 west side  
(Section 15 &16, Township 32 South, 20 Range East)

**LEGAL DESCRIPTION:** See Attached

**PERMIT ISSUANCE DATE:** January 24, 2014

**PERMIT EXPIRATION DATE:** October 30, 2022

**CONDITIONS OF PERMIT**

1. The Permittee shall bear all risks associated with conducting site activities prior to the completion of the appeals process for the Special Use and Operating Permits. Any activity constitutes Permittee acceptance and approval of civil penalty assessments and other penalties and remedies contained in Section 11.06 of the Hillsborough County Land Development Code (LDC).
2. All conditions approved for this land excavation under Special Use Permit No. SU-11-0082 or revisions thereof shall apply.



3. The Permittee shall comply with all provisions of the Land Excavation Regulations as stated in Article 8 of the Hillsborough County Land Development Code, and the approved final site plans received by Development Services Department (DSD) dated October 03, 2013 and Federal, State and/or local requirements and regulations.
4. The accepted reclamation financial security in the amount of \$157,936.90 shall be considered for release by the Board of County Commissioners when the DSD has determined and has advised the Board that the reclamation plan has been satisfactorily completed. The financial security shall extend at least one year beyond the permit expiration date.
5. A protected copy of the Land Excavation Operating Permit shall be posted at the site entrance where it is visible for public viewing throughout the duration of the permit.
6. A stop sign shall be posted at the access point and shall be maintained throughout the duration of the land excavation and related activities.
7. The hours of operation for excavation, hauling, maintenance and all other associated activities at the site, shall be restricted to the hours between 7:00 a.m. to 6:00 p.m. No activity shall occur on-site on Sundays or any County recognized holiday.
8. The Permittee shall be responsible for having an entry/exit apron constructed at the access point onto in accordance with Section 8.01.05(H) of the Land Development Code. The entry/exit apron shall be maintained by the Permittee throughout the duration of the land excavation and related activities.
9. Prior to any off-site hauling, the Permittee shall submit payment to the DSD for the County to install two "Trucks Entering Highway" warning signs on either side of the access point to the site. The fee for the sign installation shall be made payable to the Board of County Commissioners.
10. The permitted haul route shall be limited to S.C.R.579 north to Hwy 674 Then in compliance with the Hillsborough County Truck Route Plan. It shall be the responsibility of the Permittee to ensure compliance with the permitted haul route.
11. If the County portion of the haul route "S.C.R.579" falls below acceptable standards, as determined by the County, all offsite hauling shall cease. Prior to resuming offsite hauling, the haul route shall be repaired to acceptable standards.
12. If requested by the County, the Permittee shall be responsible for securing the services of an off duty Sheriff's Deputy, at the Permittee's own expense, to patrol the haul routes for compliance with County and State traffic regulations by trucks hauling from the permitted excavation.



13. The site shall be secured with a fence and locking gate(s) to prevent unauthorized access to the excavation. All points of access shall be secured and locked when no activity is occurring at the site, and the fence and gate(s) shall be maintained throughout the duration of land excavation and related activities.
14. Perimeter side slopes shall be 4:1 from the top of bank to six (6) feet below estimated low water level (as indicated on the plans); then 2:1 to the bottom of the excavation. Required side slopes shall not be excavated and backfilled.
15. The depth of the excavation shall not exceed the depth shown on the approved site plan. No excavation of the confining clay layer shall be allowed.
16. In the event limestone is encountered, all land excavation activities in the immediate vicinity of the limestone shall cease immediately until the DSD and the Environmental Protection Commission of Hillsborough County (EPC) have been notified and approve additional activities. The DSD shall determine proper capping of the limestone.
17. No material of any type other than the excavated material and material associated with the land excavation shall be stored or placed on site.
18. There shall be no disposal of any toxic or hazardous substances, or vegetative material or any other discarded material into the land excavation or on the land excavation site either during or subsequent to the land excavation operations. Upon request by the County, the Permittee shall be responsible for taking appropriate periodic water and/or soil samples from the land excavation and submitting the laboratory results to the County.
19. If the County determines the excavation is negatively impacting the groundwater/surface water on surrounding properties, or is causing flooding to occur on surrounding properties, excavation activities shall immediately cease until the DSD approves continued activities.
20. The land excavation shall be operated such that fugitive dust emissions are minimized. To minimize dust, trucks shall be covered with their tailgate securely latched. Paving or regular watering of the non-paved portions of the haul route, or other approved dust control measures may be required.
21. Excavation and reclamation shall proceed in a contiguous and orderly manner. Excavation shall be complete in the current cell prior to beginning excavation in the next cell. Excavation and/or clearing across the entire site at one time shall not be permitted.
22. If excavation ceases for a period of 90 days, reclamation shall begin at once and continue until excavation resumes or reclamation is complete.

23. Reclamation shall be completed no later than six (6) months after the date this permit expires, or after excavation is complete, whichever occurs sooner.
24. There shall be no responsibility of any local government or any regional authority to, at any time, augment the lake(s) created with this excavation(s), and this condition shall be disclosed by the permittee to any future purchasers of land adjacent to the excavated lake(s).
25. All efforts shall be taken to prevent any erosion or turbid water from being discharged off site, into wetlands and/or waters of the County. Turbid discharges that exceed 50 JTU's (Jackson Turbidity Units) or 29 NTU's (Nephelometric Turbidity Units) above background levels are a violation pursuant to Chapter 1-5, Water Quality Rule. Hay bales, silt screens, or other EPC approved methods of erosion/turbidity control shall be required.
26. This permit shall be subject to administrative review every three (3) years. Such review shall include, but not be limited to, compatibility with the then current land uses. Additional buffering, screening and setbacks, or other mitigative measures may be required in the future for those areas that have not yet been excavated.
27. For each cubic yard of material removed from the excavation, the Permittee shall be accountable for the Land Excavation Inspection Fee payment consistent with the most recent Board of County Commissioners adopted Fee Schedule. Fee payment shall be made payable to the Board of County Commissioners and submitted to the DSD no later than thirty (30) calendar days subsequent each calendar year quarter.
28. For activities disturbing one (1) acre or more, a Notice of Intent shall be submitted to the state National Pollutant Discharge Elimination System Stormwater Notices Center, Florida Department of Environmental Protection, 2600 Blair Stone Road, Tallahassee, FL 32399-2400, at least two (2) days prior to the start of the land excavation activity.
29. Any discharge other than stormwater into the County's municipal separate storm sewer or into waters of the State or United States which does not meet exemption standards of Section 6-1 of the Hillsborough County Stormwater Quality Management Ordinance (94-15), is considered an illicit discharge or an illicit connection and is prohibited.
30. Prior to release of Operating Permit 12-3-LE permittee shall contact Hillsborough County Public Works Department to inspect haul route (S.C.R 579) for any repairs, from access driveway to the Official Truck Route (S.R.674).
31. It shall be the applicant's responsibility to ensure that the wetland hydrology and hydroperiods of any onsite wetlands and the offsite wetland (SHW#1 63.31', SHW#2 63.65', NAVD88) directly south and

adjacent to the proposed project are maintained in their pre-development state during construction and a minimum of two years after the excavation water level elevation reaches its proposed littoral zone planting elevation from 60.85' to 63.35'-NGVD29.

32. Please be advised that the EPC staff will establish a base line for the offsite wetland and if these wetlands are determined to be impacted by the proposed design and construction, this will be considered a violation of Chapter 1-11, Rules of the EPC, and corrective actions, as well as costs and penalties, will likely be required. Corrective actions may include the replacement of lost wetland function (as determined through Chapter 62-345, F.A.C., the Uniform Mitigation Assessment Method), resulting from the proposed activities as required pursuant to Chapter 1-11, Rules of the EPC.
33. Consistent with SU Permit #11-0082 this permit shall not be renewable beyond January 24, 2024.

**ALL INQUIRIES SHOULD BE DIRECTED TO:**

Mike Stevenson, Natural Resources Land Excavation  
Development Services Department  
Telephone -- (813) 276-8370



John M. Schrecengost, Manager  
Natural Resource  
Development Review Section  
Development Services Department

1/24/14  
\_\_\_\_\_  
Issuance Date



**BOARD OF COUNTY COMMISSIONERS**

Kevin Beckner  
Victor D. Crist  
Ken Hagin  
Al Higginbotham  
Lesley "Les" Miller, Jr.  
Sandra L. Murman  
Mark Sharpe



Office of the County Administrator  
Michael S. Merrill

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Helene Marks

CHIEF FINANCIAL ADMINISTRATOR  
Bonnie M. Wise

DEPUTY COUNTY ADMINISTRATORS  
Lucia E. Garry  
Sharon D. Subadan

**LAND EXCAVATION OPERATING PERMIT**

OPERATING PERMIT NO.) 12-3-LE  
(SPECIAL USE PERMIT NO.) SU-11-0082

ISSUED TO: JPL Land Holding LLC  
P.O. Box 1718  
Riverview, FL 33568  
813-677-7655

GENERAL LOCATION: 1.4 mi south of State Hwy 674 on C.R.579 west side  
(Section 15 & 16, Township 32 South, 20 Range East)

LEGAL DESCRIPTION: See Attached

PERMIT ISSUANCE DATE: January 24, 2014

PERMIT EXPIRATION DATE: October 30, 2022

**CONDITIONS OF PERMIT**

1. The Permittee shall bear all risks associated with conducting site activities prior to the completion of the appeals process for the Special Use and Operating Permits. Any activity constitutes Permittee acceptance and approval of civil penalty assessments and other penalties and remedies contained in Section 11.06 of the Hillsborough County Land Development Code (LDC).
2. All conditions approved for this land excavation under Special Use Permit No. SU-11-0082 or revisions thereof shall apply.

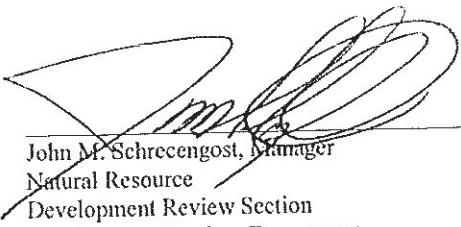
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adjacent to the proposed project are maintained in their pre-development state during construction and a minimum of two years after the excavation water level elevation reaches its proposed littoral zone planting elevation from 60.85' to 63.35'-NGVD29.

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John M. Schrecengost, Manager  
Natural Resource  
Development Review Section  
Development Services Department

  
Issuance Date

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15. The depth of the excavation shall not exceed the depth shown on the approved site plan. No excavation of the confining clay layer shall be allowed.
16. In the event limestone is encountered, all land excavation activities in the immediate vicinity of the limestone shall cease immediately until the DSD and the Environmental Protection Commission of Hillsborough County (EPC) have been notified and approve additional activities. The DSD shall determine proper capping of the limestone.
17. No material of any type other than the excavated material and material associated with the land excavation shall be stored or placed on site.
18. There shall be no disposal of any toxic or hazardous substances, or vegetative material or any other discarded material into the land excavation or on the land excavation site either during or subsequent to the land excavation operations. Upon request by the County, the Permittee shall be responsible for taking appropriate periodic water and/or soil samples from the land excavation and submitting the laboratory results to the County.
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20. The land excavation shall be operated such that fugitive dust emissions are minimized. To minimize dust, trucks shall be covered with their tailgate securely latched. Paving or regular watering of the non-paved portions of the haul route, or other approved dust control measures may be required.
21. Excavation and reclamation shall proceed in a contiguous and orderly manner. Excavation shall be complete in the current cell prior to beginning excavation in the next cell. Excavation and/or clearing across the entire site at one time shall not be permitted.
22. If excavation ceases for a period of 90 days, reclamation shall begin at once and continue until excavation resumes or reclamation is complete.



3. The Permittee shall comply with all provisions of the Land Excavation Regulations as stated in Article 8 of the Hillsborough County Land Development Code, and the approved final site plans received by Development Services Department (DSD) dated October 03, 2013 and Federal, State and/or local requirements and regulations.
4. The accepted reclamation financial security in the amount of \$157,936.90 shall be considered for release by the Board of County Commissioners when the DSD has determined and has advised the Board that the reclamation plan has been satisfactorily completed. The financial security shall extend at least one year beyond the permit expiration date.
5. A protected copy of the Land Excavation Operating Permit shall be posted at the site entrance where it is visible for public viewing throughout the duration of the permit.
6. A stop sign shall be posted at the access point and shall be maintained throughout the duration of the land excavation and related activities.
7. The hours of operation for excavation, hauling, maintenance and all other associated activities at the site, shall be restricted to the hours between 7:00 a.m. to 6:00 p.m. No activity shall occur on-site on Sundays or any County recognized holiday.
8. The Permittee shall be responsible for having an entry/exit apron constructed at the access point onto in accordance with Section 8.01.05(H) of the Land Development Code. The entry/exit apron shall be maintained by the Permittee throughout the duration of the land excavation and related activities.
9. Prior to any off-site hauling, the Permittee shall submit payment to the DSD for the County to install two "Trucks Entering Highway" warning signs on either side of the access point to the site. The fee for the sign installation shall be made payable to the Board of County Commissioners.
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11. If the County portion of the haul route "S.C.R.579" falls below acceptable standards, as determined by the County, all offsite hauling shall cease. Prior to resuming offsite hauling, the haul route shall be repaired to acceptable standards.
12. If requested by the County, the Permittee shall be responsible for securing the services of an off duty Sheriff's Deputy, at the Permittee's own expense, to patrol the haul routes for compliance with County and State traffic regulations by trucks hauling from the permitted excavation.



**COUNTY OF HILLSBOROUGH  
DECISION OF THE LAND USE HEARING OFFICER**

**APPLICATION NUMBER:** SU 11-0082 WM

**DATE OF HEARING:** February 15, 2011

**APPLICANT:** JPL Land Holding, LLC

**PETITION REQUEST:** The request is for a Land Development Code (LDC) Section 6.11.54 Land Excavation (LE) Special Use Permit for the following:

- A 105.08-acre land excavation within a 194.01 parcel,
- To excavate 6,005,382 cubic yards of material to a depth of 38 feet,
- For a 10 year duration,
- For a future subdivision and lake creation.

The applicant is requesting a variance to LDC Section 6.11.54.A.2.d that requires a 500-foot separation between excavations and residentially developed property lines. Residentially developed land is located within 500 feet to the west, northwest, and east of the site.

**LOCATION:** W/S of C.R. 579, 1 ¼ miles S/O S.R. 674

**SIZE OF PROPERTY:** 194.01 Acres ± (site total), 105.08 Acres (LE area)

**EXISTING ZONING:** AR

**FUTURE LAND USE:** Wimauma Village Res-2

**SERVICE AREA:** Rural

**COMMUNITY PLAN:** Wimauma Village & Southshore Areawide Systems

## STAFF PROVIDED BACKGROUND

- According to Land Development Code (LDC) Section 6.11.54, the proposed creation of a lake is a permitted use within all zoning districts. According to the application, the site is not located in a Wellhead Resource Protection area, is not in an area with a DRASTIC index greater than 179 per the Conservation and Aquifer Recharge Element of the Comprehensive Plan, is not located within a quarter mile of a Class I or Class II Landfill, is not in an area prone to sinkhole development, and significant wildlife habitat has not been identified on the site.
- The applicant is requesting a variance to LDC Section 6.11.54.A.2.d that requires a 500-foot separation between excavations and residentially developed property lines. Residentially developed land is located within 500 feet to the west, northwest, and east of the site. The code allows the applicant to request a variance if they provide affidavits from the affected property owners (Section 6.11.54.C.1). The applicant's justification for the reduced setback is because he has provided said affidavits, except for folio number 07925.0000, located directly west of the site. To allow the applicant to move forward to the hearing, staff requested two site plans (A and B). Site plan A is the configuration requested by the applicant if the most affected homeowner does not object to the request. Site plan B complies with the 500-foot setback, if said property owner objects. Staff does not object to the request based on compliance with the setback requirements or the granting of a waiver by the Land Use Hearing Officer.
- Staff discovered another residentially developed property, identified by folio number 79473.0000, northwest of the site that appears to be within 500 feet of the excavation. The applicant has agreed to a condition that would require the excavation to be reduced to meet the 500-foot separation requirement from that property.
- The Land Excavation and Phosphate Mining Review staff does not object to the request, subject to the Operating Permit approval.
- Staff finds the request, as conditioned, comparable and compatible with the nature of the existing or developing uses in the surrounding area.
- The applicant's justification for the waiver, in addition to the affidavits is as follows:
  - a ditch exists between the residentially developed properties to the west;
  - several residential structures are located over 500 feet from the excavation;
  - the proposed use is in a rural, sparsely developed area;
  - the impact will be short term because the digging will begin in the west and proceed away from most of the residences;
  - due to the depth of the exaction, the equipment will not be seen most of the time; and
  - activity will only occur during daylight hours when residents are typically not at home.

- The applicant states that "the literal or strict enforcement of the terms or provisions of this setback would impose unreasonable, unnecessary or an exceptional burden due to the following:
  - the configuration of the parcel,
  - the unusual topography created by the existing ditch and depth at which the equipment will operate,
  - the rural character and low density of adjacent residences, and
  - the short-term, daytime operating conditions.
- Site access and haul route will be from the east side of the property, the trucks will proceed north on County Road (CR) 579 to State Road (SR) 674, which is a designated truck route.
- No variances or waivers to LDC regulations other than as stated above have been reviewed or approved as part of this request.

### SUMMARY OF HEARING

THIS CAUSE came on for hearing before the Hillsborough County Land Use Hearing Officer on February 15, 2011. Mr. Brian Grady of the Hillsborough County Planning and Growth Management Department introduced the Petition.

*The following is intended to summarize key points of testimony. The verbatim transcript should be referenced for a complete understanding of the testimony provided.*

Everett Morrow, whose business address is 8515 Palm River Road, Tampa, testified that he is the representative for the applicant, JPL Land Holding, LLC. JPL Land Holding is Larry Lamasky, who has been holding the property since 2001. The property contains primarily citrus grove. Over time, trees have frozen and the groves died out. There are a number of ditches on site. On April 15th 2010 the applicant received a letter from EPC stating that those were non-jurisdictional ditches, no wetlands, and that it should not be a problem to get an exemption to fill those ditches according to Mr. Morrow. The plan is to dig a land excavation on approximately one hundred acres of the 194-acre property, with a re-use of eight five-acre lots. Mr. Morrow then presented an aerial map depicting the subject property and State Road 674, which is a designated haul route. County Road 579 in this area is a rural collector roadway. While it is not designated as a haul route or truck route, there is a tremendous amount of traffic that comes in and out of Manatee County. The applicant is able to locate the driveway within one mile of State Road 674, so he will meet that criteria. Mr. Morrow's aerial showed the proposed excavation as well as portion of the property that is the limited area as far as the excavation. Soil borings have been taken in order to estimate the depth of the excavation and to stay outside the clay area. One of the requests in the application is the reduction of the 500-foot setback requirement from adjacent residentially-used properties. There are seven properties of this nature. Waivers have been obtained from six of those property owners according to Mr. Morrow. One of the property owners, Mr. and Ms. Puffer would not sign the waiver request because they wanted the right to come and speak at the hearing, if they chose to oppose it. After



working with staff, the applicant has come up with an alternate plan. If the Puffers decided to oppose his request, he has an alternate in the plan set which is submitted. It will maintain the setback from their property. The applicant has no objection to making that reduction and maintaining the 500 feet from that one folio, which was not shown in the original plan. Mr. Morrow further indicated that even with the waivers, the applicant still has over 200 feet from the excavation to the closest residential property. Most of the residential uses are outside the 500 feet requirement. On the west side is a TECO right-of-way. There is additional setback due to the existing ditches around the property on the perimeter that are not being altered. The applicant has spoken to three different property owners but at the time of his testimony did not believe there was opposition. He described the area as "rural, low-density". The applicant meets all the criteria for land excavation according to Mr. Morrow. The site is not in a special concern area, drastic index problem, or in a wellhead protection area.

Susan Mariner of Planning and Growth Management department stated that the request is for a Land Excavation Special Use Permit for 6,005,382 cubic yards of material to a depth of 38 feet; it would be for a 10-year duration and future subdivision and lake creation is the reclamation plan. She would not repeat the waiver request but it is as presented by the applicant. Staff found the request, as conditioned, comparable and compatible with nature of existing or developing uses and pattern in the surrounding area and therefore approvable. She confirmed that the request is a waiver of a specific land excavation LDC section 6.11.54.C.1 requirement.

David Hey with the Planning Commission staff stated that subject property is located within the Wimauma Village Residential-2 Land Use Category and falls within the Rural Service Area and in the boundary of the Wimauma Village Community Plan and the Southshore Areawide Systems Plan. This Special Use request is to allow a land excavation on a 194.01 acre triangular shaped site located west of County Road 579, in Wimauma. The subject property is adjacent to a 100 foot wide linear parcel owned by TECO to the west/northwest, County Road 579 to the east and agricultural lands to the south. As proposed, a maximum of 6,005,382 net yards will be removed from a maximum area of 105.08 acres. A waiver to the setback to residentially zoned properties is being requested. The Land Development Code allows waivers to setbacks if the applicant provides affidavits from adjacent property owners. An excavation plan (Plan "B") depicts less excavation on the northwest corner of the site to meet the required setback in the event one of the property owners does not sign the required affidavit. The total duration of the requested excavation is 10 years. The subject property and properties to the east and south are designated Wimauma Village Residential-2 on the Future Land Use map. Typical uses within this designation include agricultural, residential, multipurpose and clustered projects. Parcels located west of the TECO property are designated Residential-4 on the Future Land Use map. Typical uses within this designation include residential, suburban scale neighborhood commercial, office uses, and multi-purpose projects. Surrounding uses include single family detached residential dwellings to the west/northwest (beyond the TECO parcel) and agricultural row crops to the east and south. As noted on the site plan, the Hillsborough Greenways Master Plan envisions the Cross County Greenway within the TECO-owned parcel located immediately to the northwest of the site. The subject property is located within the Wimauma

Village Plan boundary, which includes a goal for contiguous open space to constitute no less than 40% of the gross site acreage. After excavating activities conclude, the borrow pit will function as a lake and constitute approximately 54% of the site. As proposed, trucks will exit the site directly onto County Road 579 and travel north to State Highway 674, a designated truck route. This route extends through an undeveloped area of Wimauma, zoned Agricultural Rural and limiting truck traffic impacts on neighboring uses. The applicant is seeking a waiver to the 500 foot separation requirement between the excavated area and residentially developed or residentially zoned properties to the northwest. The nearest residentially zoned property is approximately 181 feet from the excavated area shown on the site plan, which constitutes a waiver of approximately 319 feet. Neighborhood protection from incompatible uses is addressed through several policies within the Comprehensive Plan Future Land Use Element. Policy 17.7 requires new development and redevelopment to mitigate the adverse noise, visual, odor and vibration impacts created by that development upon all adjacent land uses. Given the proposed proximity of the borrow pit to the existing homes, the proposed truck traffic and excavation activities could cause unmitigated adverse impacts to nearby residential uses during the ten year period being requested. Due to the proximity of adjacent residential uses, a condition is recommended limiting operating hours to weekdays, with no early morning or late evening hours. Even with this condition, Planning Commission staff is concerned regarding the compatibility of the excavation activities and adjacent residential uses due to the proposed close proximity. The proposed special use should meet all applicable Land Development Code regulations as well as the intent of the Future of Hillsborough Comprehensive Plan.

The LUHO then asked for witnesses in support of the request. There were none.

The LUHO then asked for witnesses in opposition of the request.

John Puffer testified that he is the owner of the real estate that is immediately west of the subject property. He does not have a fundamental objection to the concept of building a lake. His concern is with respect to an open-ended project lasting up to 10 years. That is a long period for disruption of potential users of his property or any property nearby. When asked by the Zoning Hearing Master about the issue of the distance waiver and where he stands with that distance request and the location of his house, he responded that his only concern is with respect to dragging the project out for a long period of time. If the permit is approved as a land excavation, and if it is going to be for 10 years, he prefers the 500 feet distance requirement.

Lloyd Sherman, of 1102 Westlake Drive testified that his property is located on the west edge of Wimauma Lake and his concern is with truck traffic associated with the proposed excavation. He indicated that there is another borrow pit within a couple of miles, on the east side of Wimauma Road. His main concern however is with Wimauma Lake. Wimauma Lake is already under stress according to Mr. Sherman. Another petition was denied for a trailer community last year because of the stress on the lake. SWFWMD is establishing a minimum lake level for Wimauma Lake. They hired a company which carried out a year-and-a-half of research on the lake with gauges, meters and divers. This project was finished a year ago. SWFWMD said the minimum lake level was



supposed to have been decided in 2010, but due to change of staff and other problems, it will be done in 2011. The excavation is very, very close to Wimauma Lake, probably less than a half mile in some parts according to Mr. Sherman. The community is very much concerned about the lake and urges a denial to the request until there are some geologists who can give professional opinions on whether it would be an additional stress on Wimauma Lake.

Travis Council stated that he resides at 3935 24th Street Southeast, Ruskin, Florida. He is a farmer in the area and leases the land adjacent and to the south of the property. He also owns property further down the street. He has concerns, not only for the lake, which is a big part of the character of the community of Wimauma, but also for the ability to irrigate his crop, and about the quality of the road, which floods regularly. There are already four or five borrow pits in the area. He does not think the dirt business is prosperous right now. He understands that the request is long-term, but there are a number of pits in the area already. He further indicated that he wants to be a good neighbor, and he is all about property owner's rights, but this will affect his livelihood and the character of Wimauma.

Wayne Davis, whose business address is 1349 Oakfield Drive, Brandon, testified that he is a lifelong resident of South Hillsborough County and his family owns a substantial agribusiness operation immediately south and contiguous with this proposed dirt pit. They do not own Mr. Travis' leased property but they are neighbors to Travis, both on the south side and on the northeast side. The particular parcel that is contiguous to the proposed dirt pit belongs to his sister. They have citrus groves, sod fields and tomato fields. The proposal is inconsistent with what is in the neighborhood for three reasons:

1. Protection of Lake Wimauma
2. Wimauma has one of the few prime citrus properties in Hillsborough County and it is contiguous with the subject property. There will be a hole 38 feet deep excavated on porous sand ridges and it will drain the water on a subsurface basis from under his family's groves and create an irrigation and drought problem. He is fearful that he and his family will have a significant financial loss.
3. The Wimauma Village Plan states that every quarter section should have a thru road. The project is proposed to come up to the section line that borders between the applicant's property and his family's property, which would interfere with the extension of Bishop Road to the east which is on the section line. In the event that the Special Use is approved, there should enough reservation for the extension of Bishop Road to the east to County Road 579.

In his rebuttal Mr. Morrow testified that one of the reasons the applicant had asked for the 10-year time period is due to the current poor market condition. There is no intent to go out and immediately start the excavation. Obtaining the Operation permit will take at least six months. The applicant has worked very closely with Staff regarding County Road 579. The biggest concern he

understands is relative to de-watering. If this pit is constructed, there will be regulations as far as providing recharge ditches. Anything that is pumped out will have to be held on-site and go back in. That will all be part of the permitting process. There will not be a dry pit out there that takes forever to fill back up. It will be dug in sections. As the dirt is removed, the water is pumped back in to keep it on-site. He did show a provision for a discharge, only as an overflow. The applicant will have to finish the pit in accordance with the conditions and time frames which are placed on the property. Market conditions and ultimately the operation permit will dictate what the final depth of that pit will be, as well as conditions for recharge. Mr. Morrow fully expects that Water Use permits from SWFWMD will be required. The primary function of the permit from SWFWMD will be making sure that the applicant is not lowering the water table in the area and regulating off-site discharge preventing adverse impacts. In addition, the Environmental Protection Commission of Hillsborough County has conditions as well. There are wetlands on-site. EPC is worried about hydroperiods, recharge for wetlands and preventing adverse impacts. The applicant intends to meet all of those criteria.

The LUHO then asked Mr. Morrow that with respect to his comments on his initial testimony, at this point his request stands with no support from Mr. Puffer and the revision required due to the proximity of the house that was not originally determined to be within 500'. Mr. Morrow confirmed that a revised version of the second site plan is appropriate.

The hearing was then concluded.

### **EVIDENCE SUBMITTED**

The following evidence was submitted at the hearing:

None

### **FINDINGS OF FACT**

#### **Preliminary Findings**

1. The Hillsborough County Land Development Code (LDC) provides a process for reviewing Special Use Permits for Land Excavations pursuant to LDC §6.11.54.B in accordance with LDC §10.02.00, Procedures for Issuance of a Development Order.
2. The Special Use criteria to be evaluated are determined by §6.11.54.B although §10.02.03.E provides that the Hearing Officer consider the following criteria, "...as are relevant...";
  1. The history of the subject parcel.
  2. Applicable regulations and development standards promulgated.
  3. Applicable goals, objectives, and policies contained in the Comprehensive Plan.
  4. Reports and recommendations filed by reviewing agencies.
  5. Physical characteristics of the subject parcel and surrounding lands.
  6. Impact on the surrounding transportation network.
  7. Availability and capacity of public services.
  8. Nature of and impacts on surrounding land use.
  9. Environmental impact of the proposed development activity.



3. The subject request is for a Land Excavation Special Use Permit for an activity that meets the definition of "Land Excavation" as defined by the Hillsborough County Land Development Code, *"The excavation and subsequent removal from any site, at any time, by any person, persons, or entity whatsoever, whether acting collectively or independently, of any material in a total quantity of more than 10,000 cubic yards."* The petitioner is proposing the excavation and removal of 6,005,382 cubic yards of fill material, subject to receiving a Land Excavation Operating Permit pursuant to LDC Section 8.01.03.C.
4. A hearing was conducted in accordance with procedures for issuance of development orders pursuant to LDC Section 10.02.00

### Specific Findings

Findings regarding the "Factors to Be Considered" of LDC Section 6.11.54.B.3:

5. Compatibility

- a. The subject property is located within the Wimauma Village Residential-2 Land Use Category and falls within the Rural Service Area and within the boundary of the Wimauma Village Community Plan and the Southshore Areawide Systems Plan.
- b. The subject property is adjacent to a 100 foot wide linear parcel owned by TECO to the west/northwest, County Road 579 to the east and agricultural lands to the south.
- c. Surrounding uses include single family detached residential dwellings to the west/northwest (beyond the TECO parcel) and agricultural row crops to the east and south.
- d. The subject property is located within the Wimauma Village Plan boundary, which includes a goal for contiguous open space to constitute no less than 40% of the gross site acreage. After excavating activities conclude, the borrow pit will function as a lake and constitute approximately 54% of the site.
- e. While the project site is 194.01 acres, a 105.08 acre area within the site has been identified for excavation (Subject to setback waivers).
- f. Trucks will exit the site directly onto County Road 579 and travel north to State Highway 674, a designated truck route. This route extends through an undeveloped area of Wimauma, zoned Agricultural Rural and limiting truck traffic impacts on neighboring uses.
- g. There are no schools, hospitals or houses of worship within 1,000 feet of the proposed project.
- h. The subject rezoning application is located near the Upper Little Manatee River Nature Preserve. As required by Sec 4.01.11 of the Land Development Code, a Compatibility Plan must be submitted. The plan must address issues related to how the development will ensure compatibility with the preserves, such as access, prescribed fire, and landscaping.

In consideration of the above specific findings, the proposal is found to be compatible with existing and planned land uses as stipulated in the Future of Hillsborough Comprehensive Plan.



6. Adequate conditions have been imposed and accepted by the applicant designed to mitigate the impacts to roads and bridges through maintenance obligations.
7. The applicant's proposed reclamation plan is adequate and compatible relative to environmental resources as well as existing and planned uses although subject to all requirements of the Comprehensive Plan and Land Development Code.
8. There was no evidence presented to indicate that the cumulative impact of all permitted land excavations within one mile of the proposed excavation will have an adverse affect to community character.
9. There was no evidence to indicate that the haul route passes schools, hospitals or houses of worship such that the increased truck traffic would adversely affect such institution's activities.
10. Overall, reasonable conditions have been proposed by the applicant designed to mitigate the impact of the excavation on those items listed in Section 6.11.54.8.3 of the Land Development Code.
11. The length of time requested by the applicant for the Special Use Permit is 10 years from the date of an Operating Permit approval.
12. The land excavation activity has been appropriately sited with setbacks in accordance with the Land Development Code requirements near residential properties except for those properties for which a waiver has been requested.
13. As proposed, the entire site will be fenced.
14. The applicant will be required to comply with state regulations/permitting requirements related to water use and intended to protect ground and surface water impacts including around the perimeter of the subject property as well as Lake Wimauma.

#### Waiver Request

The applicant has requested a setback waiver for certain specified residential use properties. Two versions of proposed site plans were submitted with varying setbacks dependent on final considerations of certain residential properties within the setback distance. These are entitled "Site Plan A" and "Site Plan B." In addition, the property with residential use, having folio #79473.0000 fell within the required residential setback distance. Testimony from the applicant during the hearing indicated that the applicant would accept the use of "Site Plan B" that would then be modified to meet the required setback from Folio #79473.0000. Accordingly, for the remaining residential use properties within the required setback distance, the applicant submitted affidavits of no objection, consistent with LDC §6.11.54.C.1.3 except for folio #79525.0000 where the applicant identified that the setback would impose upon the applicant an unreasonable, unnecessary or exceptional burden due to:

1. The shape and configuration of the parcel of property and the proposed phasing and layout of the land excavation operation, and
2. The unusual topography created by the existing ditch and the depth at which the excavation equipment will operate at, and
3. The physical distance, rural character and low density of the few adjacent residences, and
4. The short term daytime operating conditions being proposed

### FINDINGS OF COMPLIANCE/NON-COMPLIANCE WITH COMPREHENSIVE PLAN

The Special Use request is in compliance with and does further the intent of the Concept Plan and the Goals, Objectives and Policies of the Future of Hillsborough Comprehensive Plan including the following:

Livable Communities Element – Wimauma Village Plan regarding Open Space  
Future Land Use Element – Policy 1.4 regarding Compatibility  
Conservation and Aquifer Recharge Element – Policy 10.2 (Greenways), 10.9 (Setbacks),  
Objective 11 (Regulation and Reclamation), Policy 11.1 (Adverse Impacts to ground and surface waters), Policy 11.3 (Lake Reclamation), Policy 11.6 (Setbacks)

### CONCLUSIONS OF LAW

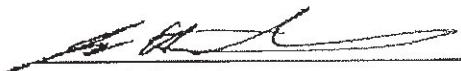
Based on the foregoing, and in consideration of proposed conditions of approval, the applicant has satisfied the requirements of the Land Development Code for approval of a Land Excavation Special Use Permit in accordance with LDC Section 6.11.54.B.

The applicant's request to use "Site Plan B" as modified by the conditions of approval to additionally setback from folio #79473.000 satisfies the requirements for a setback waiver to remaining residential land uses pursuant to LDC §6.11.54.C.1.(1 & 3). The public purpose is satisfied to an equivalent or greater degree.

### DECISION

Approved for Site Plan B (as modified below) including the requested setback waivers, subject to conditions as proposed by staff of the Planning and Growth Management Department in their staff report prepared February 7, 2011 with the following revised condition:

**RECOMMENDED CONDITIONS ARE BASED ON THE GENERAL SITE PLAN (A and B) RECEIVED January 27, 2011. SITE PLAN B SHALL BE MODIFIED TO BE CONSISTENT WITH CONDITION #4.**

  
James A. Scarola  
Land Use Hearing Officer

3/8/11  
Date

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