

Viera East
Community Development District

Workshop Agenda

November 3, 2022



Viera East CDD's Board of Supervisors Workshop Meeting

Thursday
November 3, 2022
7:00 p.m.

Faith Lutheran Church: Multi-purpose Room
5550 Faith Drive
Viera, Florida

1. Roll Call
2. Discussion of Southern Patio Terms
3. Discussion of DMI Easement Request
4. General Manager's Report
5. Restaurant Report
6. Lifestyle/ Marketing Report
7. Supervisor's Requests
8. Adjournment

SECTION II

Southern™ PATIO ENCLOSURES

1196 W Bartlett Dr, Buda, TX 78610 • 512-782-8787

Customer:	Viera East Golf Course – Steve	Date:	October 3, 2022
Street:	2300 Clubhouse Dr	Install or Ship	Please Choose
City:	Rockledge	Street:	
State:	FL	City:	
Zip:	32955	State:	
Phone:	616-821-6807	Zip:	
Email:	stevecdd@yahoo.com	Phone:	

Ballpark Quote

Manual Roll Vinyl Patio Enclosures

Project Details:

Sq. Ft.:	Color:	Fabric:	Roll:	Trim:	Top	Sides	Bottom	Sales Rep:
1280	Needed	Needed	Rope		3" or 15"	1.5"	15" or 45"	Tom Taylor

PROJECT DESCRIPTION								TOTAL
Manual Roll Up Patio Enclosures								
Choose Sun Shade, Solid and/or Clear Vinyl								
Clear Vinyl is Never Stitched								
UV, Fire, Mold and Mildew Resistant								
Zippered Sides and Track Mounted								
All products are NFPA 701 Certified Flame and Fire Retardant								
Hand Rolled or Rope and Pulley (same price)								
Heavy Duty Tie-Downs Provide 45mph Wind Rating								
3 Year Workmanship Warranty "Best in Industry"								
Pricing Includes Expected Sizes for Shrink and Bottom Sweeper								
No Charge for Zipper Doors								
Framed Removable Fire Doors \$3,500 includes pallet & shipping							Shipping:	TBD
							Tax:	
Total Without Installation or Onsite Measure to Build:							\$13,707.27	
Installation and Onsite Measure to Build:							\$7,879.30	
Total With Installation and Onsite Measure to Build:							\$21,586.57	
48 Month Financing - Payments as low as:							\$583.42	
*****	We Require a 50% Deposit to Start Your Project						*****	

50% Down Payment required to start job, Total Balance due after installation or before shipping.

Your deposit is confirmation of your acceptance of our standard Terms of Service.

www.southernpatioenclosures.com/terms-of-service

SECTION III

From: David Mitchell <dmitchell@davemitchell.com>
Subject: Re: Draft Access Easement Agreement
Date: October 28, 2022 at 3:06:30 PM EDT
To: Jason Showe <jshowe@gmscfl.com>, Jasmine Mitchell <jasmine@davemitchell.com>
Cc: Brittany Brookes <bbrookes@gmscfl.com>, Lauren Vanderveer <lvanderveer@gmscfl.com>, T Melloh <tmelloh@vieraeastcdd.com>

Good afternoon,

I appreciate the board reviewing our request. The original agreement that currently allows access for \$100 per year and for us to maintain the drive. I certainly don't mind paying for any cost incurred in revising the agreement to be a perpetual easement rather than a license that has to be renewed. As far as the surety bond I believe that agreement states that we are 100% responsible for all repairs and maintenance. The property owner (which is currently me) would be responsible for all repairs. The property has a value that well exceeds 3,000,000 and a lien could be placed on the property if the easement was not repaired as needed. . If the drive is damaged we would not have access to our property and we would have to repair it. I would prefer not to have to pay \$500 to \$600 a year for the bond. I would respectfully like to propose that you waive the request for the surety bond and allow us to pay a one time fee of \$2500 for the easement as well as paying the legal cost and recording fees.

Please let me know your thoughts.

Dave Mitchell

On Fri, Oct 28, 2022 at 9:40 AM Jason Showe <jshowe@gmscfl.com> wrote:

David,

Board did not approve agreement last evening, as it had some concerns. Board oddly like to see if you would agree to a \$25k surety bond in favor of the CDD for any damage to the subject easement property including the drainage structures. Additionally, old agreement had an annual fee in it, and Board would like to see if you would agree to a \$100/month (\$1200 annually) fee for the usage of the driveway.

Jason Showe
District Manager
Governmental Management Services, Central Florida
219 E. Livingston St
Orlando, FL 32801
407-841-5524 X 105 - Office
407-839-1526 - Fax
407-470-8825 - Cell
jshowe@gmscfl.com

Under Florida law, e-mail addresses are public records. If you do not want your e-mail address released in response to a public records request, do not send electronic mail to this entity. Instead, contact this office by phone or in writing.

History.—s. 1, ch. 2006-232.

Prepared by and return to:
Joseph A. Probasco, Esq.
1801 N. Highland Avenue
Tampa, Florida 33602

ACCESS EASEMENT AGREEMENT

This ACCESS EASEMENT AGREEMENT (this “**Agreement**”), dated as of _____, 2022 (the “**Effective Date**”), is entered into between VIERA EAST COMMUNITY DEVELOPMENT DISTRICT, a Florida special purpose government entity, having an address at 219 E. Livingston Street, Orlando, Florida 32801 (hereinafter, the “**Grantor**”), and DMI NEBRASKA, LLC, a Florida limited liability company, having an address at P.O. Box 7078 Wesley Chapel, Florida 33545 (hereinafter, the “**Grantee**”).

WITNESSETH:

WHEREAS, Grantor is the fee owner of certain land located in the City of Rockledge, County of Brevard and State of Florida, hereinafter referred to as “**Parcel A**,” and more particularly described on Exhibit “A” attached hereto and made a part hereof;

WHEREAS, Grantee is the fee owner of certain land located in the City of Rockledge, County of Brevard and State of Florida, hereinafter referred to as “**Parcel B**,” and more particularly described on Exhibit “B” attached hereto and made a part hereof;

WHEREAS, Grantee desires for Grantor to grant to Grantee a vehicular and pedestrian access easement over a portion of Parcel A, and Grantor is willing to grant to Grantee an easement for vehicular and pedestrian access over such portion of Parcel A (the “**Easement Area**”), as more particularly described by a metes and bounds description and a diagrammatic sketch depicting the Easement Area on Exhibit “C” attached hereto and made a part hereof;

NOW, THEREFORE, for One Hundred and No/100 Dollars (\$100.00) and other good and valuable consideration paid by Grantee to Grantor and the mutual covenants, terms, and conditions set forth herein, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. **Recitals.** The foregoing recitals are true and correct in their entirety, and are incorporated herein by reference.

2. **Grant of Easement.** Grantor hereby grants and conveys to Grantee, its heirs, legal representatives, successors, and assigns, a perpetual, non-exclusive access easement for vehicular and pedestrian ingress, egress and access (the “**Easement**”) on, over, across, under and through the Easement Area, for the limited purpose of allowing Grantee and Grantee’s agents, employees, contractors, subcontractors, agents, guests and invitees (collectively, “**Grantee’s Permitted Parties**”) vehicular and pedestrian access to Parcel B. Notwithstanding the foregoing, the Easement specifically excludes: (i)

construction and heavy equipment ingress, egress and access; and (ii) parking of any cars within the Easement Area.

3. Use of Easement Area. Subject to the limitations set forth above, Grantee shall use the Easement Area only for the limited purposes of vehicular and pedestrian ingress, egress and access, and shall not extend the Easement to benefit any property other than Grantee's Property. At all times during the term of this Agreement, Grantee's use of the Easement Area shall comply with all applicable laws, codes, rules, orders, permits and approvals. Grantee shall be solely responsible for obtaining any and all permits or approvals necessary for Grantee's use, enjoyment, maintenance or repair of the Easement Area as contemplated by this Agreement.

4. "As-Is." Grantor makes no representation or warranty, express or implied, with respect to the Easement Area or the physical condition thereof, including, without limitation, the suitability of same for the purposes contemplated by this Agreement. Further, the Easement is granted to and accepted by Grantee in its "AS IS, WHERE IS" condition and without any warranty or representation, express or implied, by Grantor as to the condition or suitability of the Easement for Grantee's purposes, uses or otherwise. Grantee acknowledges that the Easement granted herein is subject to all easements, restrictions, reservations and all other matters of record.

5. Maintenance and Repair. Grantee hereby assumes the obligation, including all costs and expenses, to maintain and repair the Easement Area and all improvements located therein, in accordance with all applicable laws, codes, rules, orders, permits and approvals. In addition to the foregoing, Grantee shall perform necessary maintenance so as to keep the Easement Area at all times in the same condition as existed on the Effective Date of this Agreement. If Grantee fails to maintain or repair the Easement Area as required by this Section, Grantor may, upon thirty (30) day written notice to Grantee specifying the need for such maintenance or repair activities, repair or maintain same and receive a reimbursement from Grantee for all out of pocket costs incurred by Grantor in connection therewith. If Grantor elects to perform maintenance or repair activities as provided in this Section, all costs incurred by Grantor in connection therewith shall be due and payable immediately upon demand, and shall bear interest at a rate of ten percent (10%) per annum accruing from the date of payment by Grantor until reimbursed by Grantee. Nothing in this Section shall be construed as permitting Grantee to construct any new improvements, or enlarge any existing improvements, within the Easement Area, without Grantor's prior written consent, which consent may be withheld at Grantor's sole discretion.

6. No Liens. Grantee shall keep the Easement Area free and clear of all liens and encumbrances arising from the exercise by Grantee of its rights under this Agreement. In the event such liens attach to the Easement Area, Grantee shall immediately pay and remove or bond off the same. If Grantee causes or allows any such liens to be placed upon the Easement Area or any other property of Grantor and fails to pay and remove or bond off same within fifteen (15) days of receiving written notice of the lien, in addition to Grantor's rights or remedies Grantor may have hereunder, Grantor shall have the right to satisfy the lien and be reimbursed by Grantee for any and all sums paid, including interest at the rate of ten percent (10%) per annum accruing from the date of payment by Grantor until reimbursed by Grantee, and all reasonable costs and expenses incurred by Grantor in connection therewith. Nothing in this Agreement is intended or shall be

construed as Grantor having agreed to subject any of their property or premises to liability under any mechanic's or other similar lien law.

7. Reservation of Rights. All right, title, and interest in and to the Easement Area under this Agreement, which Grantor may use and enjoy without interfering with the rights conveyed by this Agreement, are reserved to Grantor. Grantor shall have the right to grant additional easement rights in the Easement Area, provided that the same shall not unreasonably interfere with, or otherwise adversely affect in a material manner, any of Grantee's rights herein.

8. Grantor's Use of Property. Grantor reserves the right to use Parcel A in any manner and for any purpose that does not interfere with Grantee's use of the Easement.

9. Relocation. Grantor may, upon thirty (30) day prior written notice to Grantee, relocate all or any portion of the Easement at Grantor's sole cost and expense, provided Grantor provides Grantee with a reasonably acceptable alternate easement across a portion of Grantor's property that provides at least the same level of service as the Easement. Upon such relocation, Grantor and Grantee will enter into an amendment to or termination of this Agreement, as applicable, to effectuate the relocation of the Easement.

10. Transferability. The parties to this Agreement hereby acknowledge and agree that the easements and other rights or obligations conferred by this Agreement are intended to, and do, constitute covenants that run with the land and shall inure to the benefit of and be binding upon the parties and their respective grantees, heirs, successors, and assigns.

11. Default and Remedies. In addition to any other remedy provided by this Agreement, in the event of a default by Grantor or Grantee, the non-defaulting party may seek any and all remedies permitted by law or in equity.

12. Insurance. Grantee shall maintain, at its expense, and keep in force at all times during the term of this Agreement, a policy of comprehensive general public liability insurance, including a contractual liability endorsement, and personal injury liability coverage, in such amounts and from an insurer acceptable to Grantor, which shall include coverage against claims for any injury, death, or damage to persons or property occurring on, in, or about the Easement Area with respect to the Easement Area and Grantee's use therein. Grantor and its agents, contractors, tenants, and any other third parties required by Grantor, shall be named as additional insureds on such insurance policies. Prior to making any entry onto Parcel A, Grantee shall furnish to Grantor: (a) a certificate of insurance evidencing the foregoing coverages, and providing that such insurance policy may not be cancelled on less than thirty (30) days prior written notice to Grantor; and (b) proof of payment of the insurance premium.

13. Abandonment. In the event Grantee or its successors and assigns abandon or terminate their use of the easement or all of the improvements within the Easement Area for a period of three (3) consecutive months, this Agreement and all easement rights granted hereunder shall terminate and revert back to Grantor. For the purposes of this Section, "abandon" shall mean non-use of the Easement or any associated improvements.

14. Grantor Not Liable. In no event shall Grantor be liable for any damage to, or loss of personal property or equipment sustained by Grantee or any of Grantee's Permitted Parties within the Easement Area, whether or not it is insured, even if such loss is caused by the negligence of Grantor.

15. Limitation of Damages. NOTWITHSTANDING ANYTHING TO THE CONTRARY CONTAINED IN THIS AGREEMENT, IN THE EVENT OF A DEFAULT BY GRANTOR HEREUNDER, OR FOR ANY OTHER REASON, GRANTOR SHALL NOT BE LIABLE TO GRANTEE FOR ANY INDIRECT, PUNITIVE, SPECIAL, CONSEQUENTIAL, OR INCIDENTAL DAMAGES WHATSOEVER, INCLUDING LOSS OF GOODWILL OR LOSS OF PROFITS.

16. Indemnification. Grantee shall indemnify, defend, and hold Grantor harmless from and against any and all losses, costs, damages, liens, claims, liabilities, or expenses (including, but not limited to, reasonable attorneys' fees, court costs, and disbursements) incurred by Grantor arising from or by reason of this Agreement or Grantee and Grantee's Permitted Parties' access to, or use of Easement and the Easement Area.

17. Attorneys' Fees. In the event of any dispute between the parties regarding the enforcement or effect of this Agreement, including one subject to arbitration, the non-prevailing party in any such dispute shall pay the prevailing party's reasonable attorneys' fees and costs incurred. In the event of arbitration, the fees of the arbitrator and the cost of the arbitration shall be paid by the non-prevailing party. In the event that neither party wholly prevails, the court or arbitrator, as applicable, may apportion the costs or fees as the court or arbitrator deems appropriate.

18. Notice. Unless specifically stated otherwise in this Agreement, all notices, waivers, and demands required or permitted hereunder shall be in writing and delivered to the addresses set forth below, by one of the following methods: (a) hand delivery, whereby delivery is deemed to have occurred at the time of delivery; (b) a nationally recognized overnight courier company, whereby delivery is deemed to have occurred the business day following deposit with the courier; (c) registered United States mail, signature required and postage-prepaid, whereby delivery is deemed to have occurred on the third business day following deposit with the United States Postal Service; or (d) electronic transmission (facsimile or email) provided that the transmission is completed no later than 4:00 p.m. EST on a business day and the original also is sent via overnight courier or United States Mail, whereby delivery is deemed to have occurred at the end of the business day on which electronic transmission is completed.

to Grantor:

VIERA EAST COMMUNITY DEVELOPMENT
DISTRICT
Attn:
219 E. Livingston Street
Orlando, Florida 32801
Telephone:
Email:

to Grantee:

DMI NEBRASKA, LLC
P.O. Box 7078
Wesley Chapel, Florida 33545
Telephone: (813)-391-3597
Email: dmitchell@davemitchell.com

Any party may change its address for purposes of this Section by giving written notice as provided in this Section. All notices and demands delivered by a party's attorney on a party's behalf shall be deemed to have been delivered by said party. Notices shall be valid only if served in the manner provided in this Section.

19. Amendment. This Agreement may not be modified, amended, or terminated except in a writing signed by each party hereto.

20. Time of the Essence. Both parties agree that time is of the essence and that time specifications contained herein shall be strictly construed.

21. Governing Law. THIS AGREEMENT SHALL BE GOVERNED AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF FLORIDA. EACH PARTY HERETO AGREES THAT ALL ACTIONS OR PROCEEDINGS ARISING IN CONNECTION WITH THIS AGREEMENT AND THE TRANSACTIONS CONTEMPLATED HEREBY SHALL BE TRIED AND LITIGATED IN STATE OR FEDERAL COURTS LOCATED IN THE STATE OF FLORIDA, UNLESS SUCH ACTIONS OR PROCEEDINGS ARE REQUIRED TO BE BROUGHT IN ANOTHER COURT TO OBTAIN SUBJECT MATTER JURISDICTION OVER THE MATTER IN CONTROVERSY. TO THE EXTENT PERMITTED BY LAW, EACH PARTY HERETO IRREVOCABLY WAIVES ANY RIGHT ANY PARTY HERETO MAY HAVE TO ASSERT THE DOCTRINE OF FORUM NON CONVENIENS, TO ASSERT THAT ANY PARTY HERETO IS NOT SUBJECT TO THE JURISDICTION OF THE AFORESAID COURTS, OR TO OBJECT TO VENUE TO THE EXTENT ANY PROCEEDING IS BROUGHT IN ACCORDANCE WITH THIS SECTION. SERVICE OF PROCESS, SUFFICIENT FOR PERSONAL JURISDICTION IN ANY ACTION AGAINST ANY PARTY HERETO, MAY BE MADE BY REGISTERED OR CERTIFIED MAIL, RETURN RECEIPT REQUESTED, TO ANY SUCH PARTY'S ADDRESS INDICATED IN SECTION 18 OF THIS AGREEMENT.

22. Counterparts. This Agreement may be executed by the parties hereto in separate counterparts, each of which when so executed and delivered shall be deemed an original for all purposes, and all such counterparts shall together constitute but one and the same instrument.

23. Authority. The undersigned each represent and warrant that they have are the duly authorized representatives of the signing party.

24. Further Cooperation. Each of the signatories to this Agreement agree to execute such other documents and to perform such other acts as may be reasonably necessary or desirable to further the expressed intent and purpose of this Agreement.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed as of the date first written above.

Witnesses:

GRANTOR

VIERA EAST COMMUNITY
DEVELOPMENT DISTRICT,
a Florida special purpose government entity

Print Name: _____

By: _____

Print Name: _____

Title: _____

Print Name: _____

STATE OF FLORIDA
COUNTY OF _____

The foregoing instrument was acknowledged before me by means of physical presence or online notarization, this ____ day of _____, 2022, by _____, as _____ of VIERA EAST COMMUNITY DEVELOPMENT DISTRICT, a Florida special purpose government entity, on behalf of said entity, who is personally known to me or produced _____ as identification.

Signature of Notary
Printed Name of
Notary: _____
Commission No.
Expiration: _____

[SIGNATURE PAGE TO ACCESS EASEMENT AGREEMENT]

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed as of the date first written above.

Witnesses:

GRANTEE

DMI NEBRASKA, LLC,
a Florida limited liability company

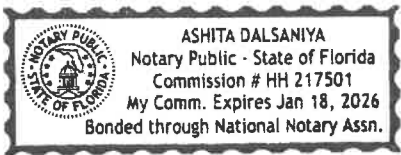
Ashitee Dalsaniya
Print Name: Ashitee Dalsaniya

By: David M. Mitchell, Manager

A. A. Dalsuniya
Print Name: Ashita Dalsuniya

STATE OF FLORIDA
COUNTY OF PASCO

The foregoing instrument was acknowledged before me by means of physical presence or online notarization, this 14th day of Oct 2022, 2022, by David M. Mitchell, as Manager of DMI NEBRASKA, LLC, a Florida limited liability company, on behalf of said company, who is personally known to me or produced AIDL as identification.



A. A. Dalsuniya
Signature of Notary
Printed Name of
Notary: # HH217501
Commission No.
Expiration: Jan 18 2026

[SIGNATURE PAGE TO ACCESS EASEMENT AGREEMENT]

Exhibit A
LEGAL DESCRIPTION OF PARCEL A

Parcel ID No.: 25-36-35-00-250

Legal Description:

**EXHIBIT B
LEGAL DESCRIPTION OF PARCEL B**

Parcel ID No.: 25-36-25-00-775

Legal Description:

A parcel of land lying in the Northwest Quarter of the Southeast Quarter of Section 35, Township 25 South, Range 36 East, Brevard County, Florida, being more particularly described as follows:

COMMENCE at the Southeast corner of the Northwest 1/4 of the Southeast 1/4 of said Section 35; thence South 89 degrees 16 minutes 58 seconds West along the South line of said Northwest 1/4, and the North line of HOLIDAY SPRINGS AT SUNTREE, according to the Plat thereof, as recorded in Plat Book 28, Page 73, of the Public Records of Brevard County, Florida, a distance of 752.96 feet to the intersection with the West right of way line of Turtle mound Road (100 foot right of way per Official Records Book 2409, Page 2153, of the Public Records of Brevard County, Florida); thence continue South 89 degrees 16 minutes 58 seconds West along said South line of the said Northwest 1/4 and said North line of HOLIDAY SPRINGS AT SUNTREE, a distance of 217.84 feet to the POINT OF BEGINNING of the herein described parcel; thence continue South 89 degrees 16 minutes 58 seconds West along said Northwest 1/4 and said North line of HOLIDAY SPRINGS AT SUNTREE a distance of 356.94 feet; thence North 00 degrees 18 minutes 21 seconds East a distance of 205.00 feet; thence North 89 degrees 16 minutes 58 seconds East parallel with the said South line of the Northwest 1/4 of the Southeast 1/4 of Section 35, a distance of 257.04 feet; thence North 00 degrees 20 minutes 13 seconds East a distance of 95.00 feet; thence North 89 degrees 16 minutes 58 seconds East parallel with the said South line of the Northwest Quarter of the Southeast Quarter of Section 35, a distance of 317.85 feet; thence South 00 degrees 20 minutes 13 seconds West along said West right of way, a distance of 100.00 feet; thence South 89 degrees 16 minutes 58 seconds West a distance of 217.84 feet; thence South 00 degrees 20 minutes 13 seconds West a distance of 200.00 feet to the POINT OF BEGINNING.

LESS AND EXCEPT lands described in Warranty Deed recorded in Official Records Book 3618, Page 4923, also **LESS AND EXCEPT** Road Right of Way for Viera Boulevard.

**EXHIBIT C
LEGAL DESCRIPTION OF EASEMENT AREA**

See attached.