

**ORDINANCE NO. 2009-13
BULOW ANNEXATION AREA**

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PALM COAST, FLORIDA, ANNEXING 10 PARCELS OF REAL PROPERTY, CONTAINING 942.33 GROSS ACRES MORE OR LESS, AND GENERALLY LOCATED SOUTH OF STATE ROAD 100 AND EAST OF I-95 ON OLD KINGS ROAD SOUTH, MORE PARTICULARLY AND LEGALLY DESCRIBED ON EXHIBIT A, ATTACHED HERETO AND FULLY INCORPORATED HEREIN BY THIS REFERENCE; PROVIDING FOR THE AMENDMENT OF CITY BOUNDARIES, TO INCORPORATE THE REAL PROPERTY INTO THE CITY BOUNDARIES; PROVIDING FOR REPEAL OF PRIOR INCONSISTENT ORDINANCES AND RESOLUTIONS, SEVERABILITY, AND AN EFFECTIVE DATE.

WHEREAS, Chapter 171, *Florida Statutes*, provides the exclusive method of municipal annexation, in order to ensure sound urban development and efficient provision of urban services; and

WHEREAS, BULOW CREEK, LC, hereinafter BULOW I, owns property identified by Flagler County Tax Parcel ID Number 09-12-31-0000-01010-0020, included in the property described in Exhibit A and illustrated in Exhibits B and C, attached hereto and incorporated herein by this reference, contiguous to the corporate limits of the City of Palm Coast; and

WHEREAS, BULOW CREEK, LC, hereinafter BULOW II, owns property identified by Flagler County Tax Parcel ID Number 10-12-31-0000-00020-0010, included in the property described in Exhibit A and illustrated in Exhibits B and C, attached hereto and incorporated herein by this reference, contiguous to the corporate limits of the City of Palm Coast; and

WHEREAS, BULOW CREEK, LC, hereinafter BULOW III, owns property identified by Flagler County Tax Parcel ID Number 15-12-31-0000-01010-0020, included in the property described in Exhibit A and illustrated in Exhibits B and C, attached hereto and incorporated herein by this reference, contiguous to the corporate limits of the City of Palm Coast; and

WHEREAS, BULOW CREEK, LC, hereinafter BULOW IV, owns property identified by Flagler County Tax Parcel ID Number 22-12-31-0000-01010-0010, included in the property described in Exhibit A and illustrated in Exhibits B and C, attached hereto and incorporated herein by this reference, contiguous to the corporate limits of the City of Palm Coast; and

WHEREAS, CITY OF PALM COAST, hereinafter CITY I, owns property identified by Flagler County Tax Parcel ID Number 15-12-31-0000-01010-0010, included in the property described in Exhibit A and illustrated in Exhibits B and C, attached hereto and incorporated herein by this reference, contiguous to the corporate limits of the City of Palm Coast; and

WHEREAS, CITY OF PALM COAST, hereinafter CITY II, owns property identified by Flagler County Tax Parcel ID Number 16-12-31-0000-01020-0010, included in the property described in Exhibit A and illustrated in Exhibits B and C, attached hereto and incorporated herein

by this reference, contiguous to the corporate limits of the City of Palm Coast; and

WHEREAS, CITY OF PALM COAST, hereinafter CITY III, owns property identified by Flagler County Tax Parcel ID Number 21-12-31-0000-01040-0010, included in the property described in Exhibit A and illustrated in Exhibits B and C, attached hereto and incorporated herein by this reference, contiguous to the corporate limits of the City of Palm Coast; and

WHEREAS, CITY OF PALM COAST, hereinafter CITY IV, owns property identified by Flagler County Tax Parcel ID Number 22-12-31-0000-01020-0000, included in the property described in Exhibit A and illustrated in Exhibits B and C, attached hereto and incorporated herein by this reference, contiguous to the corporate limits of the City of Palm Coast; and

WHEREAS, FLAGLER PALMS CEMETERY, hereinafter FLAGLER, owns property identified by Flagler County Tax Parcel ID Number 39-12-31-0000-04030-0000, included in the property described in Exhibit A and illustrated in Exhibits B and C, attached hereto and incorporated herein by this reference, contiguous to the corporate limits of the City of Palm Coast; and

WHEREAS, IROQUOIS, LLC, hereinafter IROQUOIS, owns property identified by Flagler County Tax Parcel ID Number 38-12-31-0000-00020-0020, included in the property described in Exhibit A and illustrated in Exhibits B and C, attached hereto and incorporated herein by this reference, contiguous to the corporate limits of the City of Palm Coast; and

WHEREAS, these afore referenced properties, are hereinafter collectively referred to as the "Consenting Annexation Properties", totaling 10 parcels comprising approximately 933.71 acres more or less as illustrated in Exhibit C; and

WHEREAS, the City wishes to annex the Consenting Annexation Properties and other property located adjacent to or near the Consenting Annexation Properties, in accordance with Chapter 171, Florida Statutes, more specifically described as the Department of Transportation Drainage Ponds, hereinafter DOT, non Flagler County tax parcels with no assigned Parcel ID numbers, included in the property described in Exhibit A and illustrated in Exhibits B and C, comprising approximately 8.62 acres, and attached hereto and incorporated herein by reference; and

WHEREAS, there are no registered electors on the BULOW, CITY, DOT, CEMETERY, or IROQUOIS; and

WHEREAS, the City has determined that the area to be annexed is contiguous and reasonably compact, is developable for urban purposes, is not within the boundaries of another municipality, does not have any registered electors, and has met all other requirements of Chapter 171, *Florida Statutes*, including but not limited to the prerequisites for annexation; and

WHEREAS, the Consenting Property Owners have consented, in writing, to the annexation of the Consenting Annexation Properties; and

WHEREAS, the Consenting Property Owners are the owners of parcels of land representing more than fifty percent (50%) of the parcels of land in the area and more than fifty percent (50%) of the land area to be annexed; and

WHEREAS, Flagler County has specifically asked the City to exclude the County Landfill

from this annexation, the land being shown and labeled as “Flagler County Board of County Commissioners” in Exhibit C; and

WHEREAS, the City Council has determined that the annexation of the Consenting Annexation Properties and other adjacent and nearby properties as more specifically set forth herein, have met all procedural requirements and that it will promote sound urban development and efficient provision of urban services; and

WHEREAS, the City Council while recognizing that exclusion of the County property is inconsistent with state statute, nevertheless, as a good neighbor wishes to honor the County’s request; and

WHEREAS, the annexation is in compliance and consistent with the goals and objectives of the City of Palm Coast Comprehensive Plan and City Code; and

WHEREAS, in the best interest of the public health, safety, and welfare of the citizens of Palm Coast, the City Council of the City of Palm Coast desires to annex the real property generally described below into the municipal boundaries of the City of Palm Coast; and

WHEREAS, upon adoption of this Ordinance, the municipal boundary lines of the City of Palm Coast, contained in Palm Coast Charter, Part I, Section 9(1), shall be redefined to include the subject real property.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF PALM COAST, FLORIDA HEREBY ORDAINS, AS FOLLOWS:

Section 1. Recitals. The foregoing recitals are true and correct and are fully incorporated herein by this reference.

Section 2. Annexation of Real Property. The real property shall be, and is hereby annexed into the City of Palm Coast, Florida. This real property is described in Exhibit A and illustrated in Exhibits B and C. The real property shall be known as existing within the boundaries of the City of Palm Coast, Florida, from the effective date of this ordinance.

Section 3. City Boundaries Redefined; Palm Coast Charter Amended. Pursuant to Section 166.031(3), *Florida Statutes*, and Section 171.091, *Florida Statutes*, the City of Palm Coasts Charter, is hereby amended to redefine the corporate boundaries of the City of Palm Coast to include the area of real property described in Section 2 of this Ordinance and any public rights-of-way included in the area described in Exhibit A and illustrated in Exhibits B and C. The City Clerk shall file the revised Palm Coast Charter, Part I, Section 9(1), with the Department of State within thirty (30) days from the effective date of this Ordinance. The City Clerk shall also file this Ordinance with the Clerk of the Circuit Court of Flagler County, the Chief Administrator of Flagler County, and the Department of State within seven (7) days of the effective date.

Section 4. Repeal of Prior Inconsistent Ordinances and Resolutions. All ordinances and resolutions or parts of ordinances and resolutions in conflict herewith are hereby repealed to the extent of the conflict.

Section 5. Severability. If any section, subsection, sentence, clause, phrase, word or

provision of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, whether for substantive, procedural, or any other reason, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions of this Ordinance.

Section 6. Effective Date. This Ordinance shall become effective immediately upon adoption by the City Council of the City of Palm Coast, Florida, and pursuant to the City Charter.

APPROVED on first reading the 19th day of May 2009 at a public hearing.

ADOPTED on the second reading the second day of June 2009 at a public hearing.

ATTEST:	CITY OF PALM COAST, FLORIDA	Formatted Table
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Clare M. Hoeni, City Clerk	Jon Netts, Mayor
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Approved as to form and legality

William E. Reischmann, Jr., Esq.

EXHIBIT A

Parcel ID	Owner	Legal Description
<u>09-12-31-0000-01010-0020</u>	Bulow Creek LC	40.70 AC (PART OF PARCEL #1) BOUNDED ON S BY SECTION LINE, BOUNDED ON W BY A LINE 100' E OF I-95, BOUNDED ON E BY OLD KINGS ROAD, BOUNDED ON N BY A LINE 1123.07' N OD SECTION LINE OF 9-12-31(EX 5.58AC RETENTION POND) & SUBJECT TO CONSERVATION EASEMENT 462/72-74) OFFICIAL RECORD 525 PAGE 990,992,995,1104,1670
<u>10-12-31-0000-00020-0010</u>	Bulow Creek LC	356.95 AC PART OF SECTIONS 38 & 39 TWP 12 31, BOUNDED ON WEST BY OLD KINGS ROAD AND S BY S LINE BULOW LOT 2 AND E BY A LINE BEGINNING 1400' EAST OF SW CORNER BULOW LOT 2, CON N ON N BY A LINE DESCRIBED AS BEGINNING OLD KINGS ROAD & S BOUNDARY HOPE CEMETERY, N69.4412E ALONG CEMETERY BOUNDARY & CONTINUING ALONG BOUNDARY & OLD KINGS ELEMENTARY SCHOOL TO A PT 1200' S OF SOUTHERLY R/W SR100, EASTERLY THRU S39,10,11 TO A PT ON HILLCREST SUBDIVISION SOUTH 01EAST 344.89S88.3613 WEST 150 SOUTH 01.2826 EAST 300.3 NORTH 88.3613 EAST 150 S01.0854 EAST 25 NORTH 88.5411EAST 749.13 FT TO JOHN ANDERSON. S88.5150W 103.69 S01.1613E 216.94 S88.5024W 126.47 S01.1036E 660.84 N88.3713E 158.75 S18.1444E 330.09 N88.50007E 330.04 TO JOHN ANDERSON HWY, OE 525 PAGE 990,992,995,1104 AND 1670 (EX PT WITHIN CITY OF FLAGLER BEACH) (EXCLUDING 117.21 AC DEEDED TO IROQUOIS, LC OFFICIAL RECORD 1501/751)
<u>15-12-31-0000-01010-0020</u>	Bulow Creek LC	173.12 AC BOUNDED ON N BY N LINE S 16, BOUNDED ON W BY A LINE 100' E OF I-95, BOUNDED ON E BY OLD KINGS ROAD EXTENDING FROM N LINE S 16 SOUTH 2837.63' TO BCC LANDFILL BOUNDED ON S BY A LINE OF IROQUOIS DRAINAGE EASEMENT 707.02' N 01 16 08 W 2452.93', N 89 12 18E 526.36 TO OLD KINGS ROAD OFFICIAL RECORD 525 PAGE 990,992,995,1104,1670 (EXCLUDING DOT RET POND OFFICIAL RECORD 986/1541 BEING 4.6 ACRES)

<u>22-12-31-0000-01010-0010</u>	Bulow Creek LC	227.22 AC PARCEL LYING WITHIN SECTIONS 21,22,26,27 & 34 TWP 12 RANGE 31, BOUNDED ON THE WEST BY A LINE 100' E OF EASTERLY RIGHT OF WAY I-95 EAST BY OLD KINGS ROAD, NORTH BY A LINE DESCRIBED AS BEGINNING 1086.19 S & 100 E OF E RIGHT OF WAY I-95 & SOUTHERLY RIGHT OF WAY IROQUOIS WATERWAY N 89 1402E 1000 FT, N 26.4944W 694.39 N60.3011E 300.62 TO OLD KINGS ROAD, SOUTH BY A LINE DESCRIBED AS BEGINNING 680.16 S OF INTER OLD KINGS ROAD & E LINE S 27,S68 4706W 1756.16, S 29 1254E 1083, S88 4004W 1756.16,S22 0231E 178.22 ALONG FENCED DRAINAGE DITCH THENCE CONTINUING ALONG DD S 17 2200E 898.01, S 13 5153W 1236.81 TO A PT 100 FT E OF EASTERLY RIGHT OF WAY I-95 OFFICIAL RECORD 525 PAGE 990,992,995,1104,1670 (EXCLUDING 8.4028 AC BEING 56.26' LOC ADJOINING DUMP SITE & EXTENDING NORTHWARD ALONG OLD KINGS ROAD 550/723) (EXCLUDING THAT 165.70 AC PIECE DEEDED TO HOMETOWN LYING ALONG SOUTHERLY PORTION OF SEC 27 OFFICIAL RECORD 1148/688)(EX 4.017 DOT #102 986/1541) (EXCLUDING 19.03 ACRES TO HOMETOWN OFFICIAL RECORD 1310/1490 LYING IN SEC 27 ALONG OLD KINGS ROAD) (EXCLUDING 204.19 AC DEEDED TO HOMETOWN COMMUNITIES OFFICIAL RECORD 1325/1958)
<u>15-12-31-0000-01010-0010</u>	City of Palm Coast	1.22 AC THAT PART OF IROQUOIS WATERWAY LYING WITHIN SECTION 15 (EXCLUDING NORTHERLY 8' OFFICIAL RECORD 563/502) EASEMENT TO COUNTY OFFICIAL RECORD 460 PAGE 1836 OFFICIAL RECORD 664 PAGE 1222
<u>16-12-31-0000-01020-0010</u>	City of Palm Coast	.90 AC THAT PART OF IROQUOIS WATERWAY LYING WITHIN SECTION 16 EASEMENT TO COUNTY OFFICIAL RECORD 460 PAGE 1836 OFFICIAL RECORD 664 PAGE 1222
<u>21-12-31-0000-01040-0010</u>	City of Palm Coast	1.30 ACRES THAT PART OF IROQUOIS WATERWAY LYING WITHIN SECTION OFFICIAL RECORD 460 PAGE 1736(EASEMENT TO COUNTY) E OF I-95 OFFICIAL RECORD 664 PAGE 1222

<u>22-12-31-0000-01020-0000</u>	City of Palm Coast	THAT PART OF IROQUOIS WATERWAY LYING WITHIN SECTION 22 BEING 5.26 ACRES EASEMENT TO COUNTY OFFICIAL RECORD 460 PAGE 1836 OFFICIAL RECORD 664 PAGE 1222
<u>39-12-31-0000-04030-0000</u>	Flagler Palms Cemetery	0009.83 ACRES PART OF PELLICER GRANT BOOK 6-PAGE 99 OFFICIAL RECORD BOOK 4 PAGE 338 & OFFICIAL RECORD BOOK 17 PAGE 229 OFFICIAL RECORD 146 PAGE 132-HOPE CEMETERY OFFICIAL RECORD 146 PAGE 134 OFFICIAL RECORD 147 PAGE 78 CD, 89IDA OFFICIAL RECORD 507 PAGE 1149 OFFICIAL RECORD 1057 PAGE 1715
38-12-31-0000-00020-0020	Iroquois, LLC	117.21 AC LYING ALONG ELY ROW OKR POR ELY ROW OKR & LANDS DES IN 26/558 THENCE N263929W- 4.52', N262814W-126.15', TO POB THENCE N262815W-1713.60', ALONG A CURVE-446.84', N124200 W-46.34',N832558E-385.59', N67 3347E-437.83', N283656E-276.93 ', N311059W-132.59',S873949W-1 08.69', N161947W-144.64', N030 051E-259.56', N313537W-163.87' , N264850W-349.43', N211011W-1 64.42', S505448W-173.14', N223 746E-133.79', N034616W-216.30' , N095213W-141.07', N281657E-1 63.32', N770300E-103.09', N240 000W-45.91', N660000E-375', N1 80224W-50.28, N660000E-241.84' , S114517-442.18', S213319E-48 1.89', S130414E-254.18', S3041 26-142.28', N764901E-205.26', S131059E-1877.17', S764901W-18 1.51', S204059E-881.67', S6918 54W-1415.84' TO ELY ROW OKR TO POB OR 1501/751 OR 1518/951
Drainage Ponds	Non-designated Presumed Owner DOT	INCLUDED IN PARCEL <u>15-12-31-0000-01010-0020</u> LEGAL DESCRIPTION.
Drainage Ponds	Non-designated Presumed Owner DOT	INCLUDED IN PARCEL <u>22-12-31-0000-01010-0010</u> LEGAL DESCRIPTION.

Note: Legal Descriptions are taken from the Flagler County Property Appraiser site. As noted on the Property Appraiser's site these "legal description shown here may be condensed for assessment purposes. Exact description may be obtained from the recorded deed."

EXHIBIT B



EXHIBIT C

