



REGULAR CITY COUNCIL MEETING

6:30 PM – COUNCIL CHAMBERS – CITY HALL

JANUARY 17, 2017

REVISED AGENDA

ALL CITIZENS DESIRING TO ADDRESS THE PORT ORANGE CITY COUNCIL DURING CITIZEN PARTICIPATION SHOULD COMPLETE A SPECIAL APPLICATION FORM WHICH IS LOCATED ON THE STANDS OUTSIDE THE COUNCIL CHAMBERS. AFTER COMPLETING THE FORM, PRESENT IT TO THE CITY CLERK.

A. OPENING

1. Pledge of Allegiance
2. Invocation - Rev. Dr. Diane Langworthy of the United Church of Christ
3. Roll Call

B. CONSENT AGENDA

4. Public Comments on Consent Agenda Items Only
5. Agenda Approval
6. Contract award to Athletic Resources Inc.
7. Hurricane Matthew Federally Funded Public Assistance State Agreement
8. City of New Smyrna Beach Police Range and Training Facility Agreements

C. ANNUAL MEETINGS OF CORPORATIONS

9. Port Orange Property Development, Inc. Joint Annual Meeting of the Members, Directors and Design Review Board

10. City Center Corporate Park Property Owner's Association, Inc. Joint Annual Meeting of Members and Directors

D. PUBLIC PARTICIPATION (Non-Agenda – 15 minutes)

E. COUNCIL COMMENTS

11. Comments/Concerns from Council Members

F. SPECIAL AWARDS, REPORTS, RECOGNITION AND PROCLAMATIONS

12. Report from KemperSports on Cypress Head Golf Course

G. BOARD APPOINTMENTS, INTERVIEWS, REPORTS

13. Citizen Advisory Committee for TPO

H. PUBLIC HEARING

14. First Reading - Ordinance No. 2017-2 – Master Development Agreement and Conceptual Development Plan/PC-A Workplace Zoning District/Thompson Pump and Manufacturing Company, Inc.

I. REGULAR AGENDA

15. Financial Report-November 2016

J. COMMENTS

16. City Attorney Comments

17. City Manager Comments

K. COUNCIL COMMITTEE REPORTS

18. City Council Committee Reports

- a. Arthaus
- b. Port Orange/South Daytona Chamber of Commerce
- c. Roundtable of Elected Officials

L. ADJOURNMENT

ANY PERSON WHO DECIDES TO APPEAL ANY DECISION MADE BY THE CITY COUNCIL WILL NEED A RECORD OF THE PROCEEDINGS, AND FOR SUCH PURPOSE HE OR SHE MAY NEED TO ENSURE AT HIS OR HER OWN EXPENSE FOR THE TAKING AND PREPARATION OF A VERBATIM RECORD OF ALL TESTIMONY AND EVIDENCE OF THE PROCEEDINGS UPON WHICH THE APPEAL IS TO BE BASED. NOTE: IF YOU ARE A PERSON WITH A DISABILITY WHO NEEDS ANY ACCOMMODATION IN ORDER TO PARTICIPATE IN THIS PROCEEDING, YOU ARE ENTITLED, AT NO COST TO YOU, TO THE PROVISION OF CERTAIN ASSISTANCE. PLEASE CONTACT THE CITY CLERK FOR THE CITY OF PORT ORANGE, 1000 CITY CENTER CIRCLE, PORT ORANGE, FLORIDA 32129, TELEPHONE NUMBER 386-506-5563, WITHIN 2 WORKING DAYS OF YOUR RECEIPT OF THIS NOTICE OR 5 DAYS PRIOR TO THE MEETING DATE; IF YOU ARE HEARING OR VOICE IMPAIRED, CONTACT THE RELAY OPERATOR AT 1-800-955-8771.

ANY INVOCATION THAT IS OFFERED BEFORE THE OFFICIAL START OF THE CITY COUNCIL MEETING SHALL BE THE VOLUNTARY OFFERING OF A PRIVATE PERSON, TO AND FOR THE BENEFIT OF THE CITY COUNCIL. THE VIEWS OR BELIEFS EXPRESSED BY THE INVOCATION SPEAKER HAVE NOT BEEN PREVIOUSLY REVIEWED OR APPROVED BY THE CITY COUNCIL OR THE CITY STAFF, AND THE CITY IS NOT ALLOWED BY LAW TO ENDORSE THE RELIGIOUS BELIEFS OR VIEWS OF THIS, OR ANY OTHER SPEAKER. PERSONS IN ATTENDANCE AT THE CITY COUNCIL MEETING ARE INVITED TO STAND DURING THE OPENING INVOCATION AND PLEDGE OF ALLEGIANCE. HOWEVER, SUCH INVITATION SHALL NOT BE CONSTRUED AS A DEMAND, ORDER, OR ANY OTHER TYPE OF COMMAND. NO PERSON IN ATTENDANCE AT THE MEETING SHALL BE REQUIRED TO PARTICIPATE IN ANY OPENING INVOCATION THAT IS OFFERED. A PERSON MAY EXIT THE CITY COUNCIL CHAMBERS AND RETURN UPON COMPLETION OF THE OPENING INVOCATION IF A PERSON DOES NOT WISH TO PARTICIPATE IN OR WITNESS THE OPENING INVOCATION.



CITY OF PORT ORANGE STANDARD CONTRACT FOR SERVICES

This Standard Contract for Services ("Contract") is entered into this ____ day of _____, 2017, by and between the **CITY OF PORT ORANGE**, a Florida municipal corporation, whose principal address is 1000 City Center Circle, Port Orange, Florida 32129 (the "City"), and **ATHLETIC RESOURCES, INC.** ("Contractor"), a Florida corporation whose principal address is 8162 Lowbank Drive, Naples, Florida 34109. The City and Contractor are collectively referred to herein as the "Parties."

1. Provision of Services

- (a) The Contractor hereby agrees to provide and install new Telescopic Bleachers with electronic operation by Sheridan Seating, to the City of Port Orange Parks and Recreation Gymnasium #1 and Gymnasium #2 located at 4655 City Center Circle, as more specifically described in Athletic Resources, Inc. BID Clarification, City Invitation to Bid ("ITB") No. 17-02, and Addendum No. 1, attached hereto as Exhibit "1."

- (b) The time, manner and place for performance of such services shall be:

Term: This Contract shall become effective on the last date the Contract is signed by the Parties. Work shall be substantially completed within 60 calendar days from issuance of a Notice to Proceed and final completion 30 days thereafter (the "Term").

Manner and Place: As outlined in Exhibit "1," in accordance with Standard Construction Details as required on all City owned facilities and properties (i.e. rights-of-way) and in a manner as required by all current federal, state, county, fire, building and land development codes, laws, ordinances and regulations, and with applicable permits and licenses per the City Code of Ordinances.

Time and Essence: Contractor acknowledges that time is of the essence for the Notice to Proceed issued hereunder.

Authorization for Services: This Contract standing alone does not authorize the purchase of any goods or services or require the City to place any orders for goods or service. Authorization for the purchase of goods or services from Contractor under this Contract shall be in the form of a written Notice to Proceed issued and executed by the City. The City reserves the right to contract with other parties for the goods and services contemplated by this Contract, as determined in the City's sole and absolute discretion

2. City Obligations. In return for the services identified above, the City agrees to compensate the Contractor at the prices set forth in Exhibit "1," subject to a limit up to but not to exceed Fifty-Eight Thousand One Hundred Ninety-Five and 50/100 Dollars (\$58,195.50), which includes an additional 10% for unforeseen conditions, during the term of this Contract. The City's obligation to pay Contractor under this Contract is limited to the budgeted amount for the fiscal year approved by the Port Orange City Council for the then current fiscal year. All payments shall be governed by the Local Government Prompt Payment Act as set forth in Sections 218.70 through 218.79, Florida Statutes, as amended.

3. Liens. Contractor acknowledges that Contractor shall not be entitled to lien the City or other public property.

4. Contract Administration. The Parks and Recreation Director, Susan Lovallo, shall perform contract administration of this Contract. For notice provisions, see the paragraph below entitled "Notice."

5. Termination for Convenience of the City

(a) The parties agree that the City may terminate this Contract, or any work or delivery required hereunder, from time to time either in whole or part, whenever the City Manager of Port Orange shall determine that such termination is in the best interest of the City.

(b) Termination, in whole or in part, shall be effected by delivery of a Notice of Termination signed by the City Manager or his designee, mailed or delivered to the Contractor, and specifically setting forth the effective date of termination.

(c) Upon receipt of such Notice, the Contractor shall:

- (i) cease any further deliveries or work due under this Contract, on the date, and to the extent, which may be specified in the Notice;
- (ii) place no further orders with any subcontractors except as may be necessary to perform that portion of this Contract not subject to the Notice;
- (iii) terminate all subcontracts except those made with respect to contract performance not subject to the Notice;
- (iv) settle all outstanding liabilities and claims which may arise out of such termination, with the ratification of the Finance Director of Port Orange; and
- (v) use best efforts to mitigate any damages which may be sustained by the Contractor as a consequence of termination under this clause.

(d) After complying with the provisions of subparagraph (c), above, the Contractor shall submit a termination claim, in no event later than six (6) months after the effective date of termination, unless one or more extensions of three (3) months each are granted by the Finance Director.

(e) The Finance Director, with the approval of the City Manager, shall pay from the using department's budget, reasonable costs of termination, including a reasonable amount for profit on supplies or services delivered or work completed. In no event shall this amount be greater than the original contract price, reduced by any payments made prior to Notice of Termination, and further reduced by the price of the supplies not delivered or the services not provided. This Contract shall be amended accordingly, and the Contractor shall be paid the agreed amount.

(f) In the event that the parties cannot agree on the whole amount to be paid to the Contractor by reason of termination under this clause, the Finance Director shall pay the Contractor the amounts determined as follows, without duplicating any amounts which may have already been paid under the preceding paragraph of this clause:

- (i) With respect to all Contract performance prior to the effective date of Notice of Termination, the total of:
 - (1) the cost of work performed or supplies delivered;
 - (2) the cost of settling and paying any reasonable claims as provided in paragraph (c) (iv), above;

(3) a sum as profit on (a) determined by the Finance Director to be fair and reasonable.

(ii) The total sum to be paid under (i) above shall not exceed the contract price, as further reduced by the contract price of work or supplies not terminated.

(g) In the event that the Contractor is not satisfied with any payments which the Finance Director shall determine to be due under this clause, the Contractor may appeal any claim to the City Council in accordance with Paragraph 20 of this contract concerning disputes.

6. Termination for Convenience for Subcontractors. In accordance with the termination for the convenience of the City provision of this contract, the Contractor shall include similar provisions in any subcontract, and shall specifically include a requirement that subcontractors make all reasonable efforts to mitigate damages which may be suffered. Failure to include such provisions shall bar the Contractor from any recovery from the City whatsoever of loss or damage sustained by a subcontractor as a consequence of termination for convenience.

7. Termination for Default. Either party may terminate this Contract, without further obligation, for the default of the other party or its agents or employees with respect to any agreement or provision contained herein.

8. Examination of Records

(a) The Contractor agrees that the City, or any duly authorized representative, shall, until the expiration of five (5) years after final payment hereunder, have access to and the right to examine and copy any pertinent books, documents, papers and records of the Contractor involving transactions related to this Contract.

(b) The Contractor further agrees to include in any subcontract for more than \$10,000 entered into as a result of this Contract, a provision to the effect that the subcontractor agrees that the City or any duly authorized representative shall, until the expiration of five (5) years after final payment under the subcontract, have access to and the right to examine and copy any pertinent books, documents, papers and records of such contractor involved in transactions related to such subcontract, or this Contract. The term subcontract as used herein shall exclude purchase orders for public utility services at rates established for uniform applicability to the general public.

(c) The period of access provided in subparagraphs (a) and (b) above for records, books, documents and papers which may relate to any arbitration, litigation, or the settlement of claims arising out of the performance of this contract or any subcontract shall continue until any appeals, arbitration, litigation or claims shall have been finally disposed of.

9. Public Records Compliance. Contractor shall comply with public records laws as set forth in Chapter 119, Florida Statutes, and shall specifically:

(a) Keep and maintain public records that ordinarily and necessarily would be required by the City in order to perform the service.

(b) Provide the public with access to public records on the same terms and conditions that the City would provide the records and at a cost that does not exceed the cost provided in Section 119, Florida Statutes, or as otherwise provided by law.

(c) Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the Contract term.

(d) Upon completion of the Contract, Contractor shall transfer to the City, at no cost, all public records in possession of the Contractor and destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. All records stored electronically must be provided to the City in a format that is compatible with the information technology systems of the City.

If Contractor does not comply with a public records request, the City shall enforce the contract provisions in accordance with the contract.

CONTRACTOR QUESTIONS RELATING TO CONTRACTOR'S DUTIES TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT MUST BE FORWARDED TO THE OFFICE OF THE CITY CLERK, CITY HALL, 1000 CITY CENTER CIRCLE, PORT ORANGE, FLORIDA 32129 TELEPHONE: (386) 506-5563 E-MAIL: CITYCLERK@PORT-ORANGE.ORG

10. Termination for Non-Appropriation of Funds

(a) If funds are not appropriated for any succeeding fiscal years subsequent to the one in which this contract is entered into, for the purpose of this Contract, then the City may terminate this Contract upon thirty (30) days prior written notice to the Contractor. Should termination be accomplished in accordance with this Section, the City shall be liable only for payments due through the date of termination.

(b) The City agrees that should it terminate in accordance with this Section, it shall not obtain services which are substantially equal to or similar to those for which this contract was entered into. This provision shall survive any termination of the Contract.

11. Insurance. Contractor shall maintain insurance during the life of this Contract. Contractor shall provide to the City a certificate of insurance identifying the City of Port Orange as an additional insured. For workers' compensation coverage, the bidder's insurance certificate shall include the insurer's waiver of subrogation in lieu of naming the city as an additional insured for workers' compensation.

Policies other than Workers' Compensation shall be issued by insurers licensed and/or duly authorized under Florida Law to do business in the State of Florida and all insuring companies are required to have a minimum rating of "A" in the "Best Key Rating Guide" published by A.M. Best & Company, Inc. Policies for Workers' Compensation may be issued by companies authorized as a group self-insurer by F.S. 440.572. Contractor shall not commence work under this Agreement until the City has received a certificate or certificates of insurance and endorsement evidencing the required insurance. Contractor shall provide the City written notice of cancellation, nonrenewal or any other changes in coverage no later than ten (10) days prior to the effective date of the change.

The City reserves the right to increase insurance coverage as determined for higher risk contracts and shall reimburse the Contractor for the reasonable additional costs of increased coverage.

Insurance	Standards	Comments
Workers' Compensation <u>Limits:</u>	Coverage A - Statutory Coverage B - \$100,000	If the contract requires work on or about navigable waters, require Longshoreman's and Harbor Workers' Coverage. If vessels involved, require Jones Act coverage with limits of \$500,000.
<u>Additional Coverage:</u>	All States (Broad Form) Voluntary Compensation	

Comprehensive General Liability (including Completed Operations and Contractual Liability)	<u>Limits:</u>	Combined Single Limit Bodily Injury and Property damage \$500,000 occurrence \$1,000,000 Aggregate	When the Contract work on or under Railroad rights of way or properties, the Contractor shall take out and maintain during the life of the Contract, Railroad protective liability and property damage insurance in amounts as requested by the Railroad.
Comprehensive Business, Automobile Liability to include all automobiles.	<u>Limits:</u>	Auto Liability Body Injury: \$100,000 each person \$300,000 each occurrence. Property Damage Liability \$100,000 each occurrence.	Or \$500,000 Combined Single Limit for Bodily Injury and Property Damage
<u>Additional Coverage:</u>		Non-Owned, Hired Car	
Property Insurance — Builders Risk.	<u>Limits:</u>	Buildings — Completed value of contract.	If the Contract requires handling or installation of Owner's equipment, coverage should be furnished on "All Risk" form, including transit and Owner shall be named.
<u>Additional Coverage:</u>		"All Risk" coverage on latest ISO form or its equivalent. Permission granted to occupy. Owner named as insured AIMA	
Professional Liability (Errors & Omissions)	<u>Limits:</u>	Coverage \$1,000,000 minimum	

12. Assignability of Contract. Neither this contract, nor any part hereof, may be assigned by the Contractor to any other party without the express written approval of the City Council.

13. Modifications or Changes to this Contract

(a) Change Orders. The Department Head, with the concurrence of the City's signatory as required by the City's Purchasing Policy, shall without notice to any sureties, have the authority to order changes in this Contract which affect the cost or time of performance. Such changes shall be ordered in writing specifically designated to be a change order. Such orders shall be limited to reasonable changes in the services to be performed or the time of the performance. The City will not be held liable for any changes which have not been properly authorized and approved in accordance with this Contract.

(b) If any change under this clause causes an increase or decrease in Contractor's cost of, or time required for the performance of the work hereunder, Contractor shall receive an equitable adjustment in accordance with subparagraph (d), which shall include all compensation to the Contractor, or the City, of any kind in connection with such change, including all costs and damages related to or incidental to such change.

(c) Contractor need not perform any work described in any change order unless it has received a certification from the City that there are funds budgeted and appropriated sufficient to cover the cost of such changes.

(d) No claim for changes ordered hereunder shall be considered if made after final payment in accordance with the Contract.

14. **Sovereign Immunity.** The City expressly retains all rights, benefits and immunities of sovereign immunity in accordance with Section 768.28, Florida Statutes. Notwithstanding anything set forth in any section of this Contract to the contrary, nothing in this Contract shall be deemed as a waiver of immunity or limits of liability of the City beyond any statutory limited waiver of immunity or limits of liability which may have been adopted by the Florida Legislature or may be adopted by the Florida Legislature and the cap on the amount and liability of the City for damages regardless of the number or nature of claims in tort or equity shall not exceed the dollar amount set by the legislature for tort. Nothing in this Contract shall inure to the benefit of any third party for the purpose of allowing any claim against the City which would otherwise be barred under the Doctrine of Sovereign Immunity or operation of law.

15. **Warranties.** Contractor warrants that (1) the supplies to be provided to the City pursuant to this Contract are fit and sufficient for the purpose intended; (2) the supplies are merchantable, of good quality, and free from defects, whether patent or latent, in material or workmanship, and (3) the supplies sold to the City pursuant to this Contract conform to the standards required by this Contract.

Contractor further warrants that Contractor has title to the supplies provided, and that the supplies are free and clear of all liens encumbrances, and security interests. All warranties made in this Contract, together with service warranties and guarantees, shall run to the City and its successors and assigns.

16. **Additional Warranties.** Contractor further expressly warrants that materials and workmanship are warranted from defect for a one-year period. This is a minimum acceptable warranty.

17. **Inspection**

(a) All supplies (which term throughout this clause includes without limitation raw materials, components, intermediate assemblies, and their products) shall be subject to inspection and test by the City, to the extent practicable at all times and places including the place of manufacturer, and in any event prior to acceptance.

(b) In the event any supplies or lots of supplies are defective in material or workmanship, or otherwise not in conformity with the requirements of this Contract, the City shall have the right either to reject them (with or without instructions as to their disposition) or to require their correction. Supplies or lots of supplies which have been rejected or required to be corrected shall be removed or, if permitted or required by the Finance Director, corrected in place by and at the expense of Contractor promptly after notice, and shall not thereafter be tendered for acceptance unless the former rejection or requirement of correction is disclosed. If Contractor fails promptly to remove such supplies or lots of supplies which are required to be removed or promptly to replace or correct such supplies or lots of supplies, the City may either (i) by contract or otherwise replace or correct such supplies and charge Contractor the cost for such replacement or correction; or (ii) may terminate this Contract for default as provided in the clause of this Contract entitled "Termination for Default." Unless Contractor corrects or replaces such supplies within the delivery schedule, the Finance Director may require the delivery of such supplies at a reduction in price, which is equitable under the circumstances. Acceptance or rejection of the supplies shall be made as promptly as practicable after delivery, except as otherwise provided in this Contract. Failure to inspect and accept or reject supplies shall neither relieve Contractor from responsibility for such supplies as are not in accordance with the Contract requirements nor impose liability on the City therefor.

(c) The inspection and test by the City of any supplies or lots thereof does not relieve Contractor from any responsibility regarding defects or other failures to meet the Contract requirements, which may be discovered prior to acceptance. Except as otherwise provided in this Contract, acceptance shall be conclusive except as regards latent defects, fraud, or such gross mistakes as amount to fraud.

18. Liability for Loss or Damage. Contractor shall be liable for any loss of, or damage to, City property caused by the negligence, recklessness, or intended wrongful misconduct of Contractor, his/its agents, servants and employees and shall indemnify and save the City harmless against all actions, proceedings, claims, demands, costs, damages and expenses, including attorney's fees, by reason of any suit or action brought for any actual or alleged injury to or death of any person or damage to property other than City property, resulting from the performance of the Contract by Contractor, his/its agents, servants and employees. Contractor shall submit a full written report to the Finance Director within twenty-four (24) hours following the occurrence of such damage, loss or injury.

19. Non-discrimination. During the performance of this Contract, Contractor agrees as follows:

(a) Contractor will not discriminate against any employee or applicant for employment because of race, religion, color, sex, disability, marital status, age or national origin, except where such is a bona-fide occupational qualification reasonably necessary to the normal operation of Contractor. Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this non-discrimination clause. Contractor agrees and fully supports and complies with the Americans with Disabilities Act of 1990.

(b) Contractor shall state in all solicitations or advertisements for employees placed by or on behalf of Contractor that Contractor is an equal opportunity employer.

(c) Notices, advertisements and solicitations placed in accordance with federal law, rule or regulation shall be deemed sufficient compliance with this provision. Contractor shall include the provisions of the foregoing subparagraphs (a), (b), and (c) in every subcontract or purchase order of over \$10,000 so that the provisions will be binding upon each subcontractor or vendor.

20. Disputes. The Finance Director, who shall reduce his decision to writing and mail or otherwise furnish a copy thereof to Contractor, shall decide disputes with respect to this Contract in the first instance. The decision shall be final and binding unless, within thirty-(30) days from the date of such decision, Contractor mails or otherwise furnishes to the Finance Director a written appeal addressed to the City Manager. The decision by the City Manager shall be final and binding unless, within ten (10) days from the date of receipt of the decision of the City Manager, appeal is made to the City Council. The decision of the City Council shall be final and binding unless set aside by a court of competent jurisdiction as fraudulent, capricious, arbitrary, or so grossly erroneous as necessary to imply bad faith, or not to be supported by any evidence. Pending a final determination of a properly appealed decision of the Finance Director, Contractor shall proceed diligently with the performance of this Contract in accordance with that decision.

21. Force Majeure. Neither party shall be liable for any delay in performance or failure to perform any obligation hereunder if, and to the extent that, such failure or delay is caused by an event of Force Majeure. Force Majeure shall mean any act, event or condition that is beyond the party's reasonable control, that materially and adversely affects the party's ability to perform its obligations hereunder, and that is not the result of the party's willful neglect, error, omission or failure to exercise reasonable due diligence.

22. Controlling Law. **THIS AGREEMENT CONTAINS IMPORTANT MATTERS AFFECTING LEGAL RIGHTS AND IS ACCEPTED AND ENTERED INTO IN FLORIDA AND ANY QUESTION REGARDING ITS VALIDITY, CONSTRUCTION, ENFORCEMENT, OR PERFORMANCE SHALL BE GOVERNED BY FLORIDA LAW. ANY LEGAL PROCEEDING ARISING FROM OR IN ANY WAY REGARDING THE AGREEMENT SHALL HAVE ITS VENUE LOCATED EXCLUSIVELY IN THE CIRCUIT COURT OF VOLUSIA COUNTY, FLORIDA, AND THE PARTIES HEREBY EXPRESSLY CONSENT AND SUBMIT THEMSELVES TO THE PERSONAL JURISDICTION AND VENUE OF THE COURT.**

23. Additional Provisions. As may have been outlined in ITB No. 17-02, written quotes and purchase orders and any attachments or exhibits to this Contract whether delivered herewith or subsequently approved as a part hereof, such as drawings or technical specifications prepared in the performance of this work.

24. Integration. This Contract and the documents incorporated herein by reference shall constitute the whole agreement between the parties. There are no promises, terms, conditions, or obligations other than those contained herein, and this Contract shall supersede all previous communications, representations, or agreements, written or verbal, between the parties hereto.

25. Notice. For purposes of this agreement, notices shall be sent as follows:

City: City of Port Orange
Attention: City Manager
1000 City Center Circle
Port Orange, Florida 32129
(386) 506-5501

Copy to: City of Port Orange
Attention: Susan Lovallo, Parks and Recreation Director
1000 City Center Circle
Port Orange, Florida 32129
(386) 506-5852

Contractor: Athletic Resources, Inc.
Attention: John M. Kriegbaum, President
8162 Lowbank Drive
Naples, Florida 34109
(239) 793-8900 – business
(239) 643-8988 – facsimile
matt@athleticresources.com

Any notice or other communication given under the Contract will be in writing and delivered by hand, sent by facsimile (provided acknowledgement of receipt thereof is delivered to the sender), sent by certified, registered mail, or sent by any nationally recognized overnight courier service to the addresses provided herein. The parties may, from time to time and at any time, change their respective addresses and each will have the right to specify as its address any other address by at least 10 days written notice to the other party.

26. Contract Construction

This Agreement may be executed in one or more counterparts, each of which shall be deemed to be an original but all of which together shall constitute one and the same instrument. The delivery by facsimile or e-mail of an executed copy of this Agreement shall be deemed valid as if an original signature was delivered. No contract shall be formed between Contractor and the City until the City signs this Agreement.

27. Authority to Sign. Each person signing this Agreement warrants that he or she is duly authorized to do so and to bind the respective party to the Agreement.

[Remainder of this page intentionally left blank]

Witnesses:

ATHLETIC RESOURCES, INC.

By: _____

John M. Kriegbaum, President

If this Contract is signed by an individual not identified as the President of the corporation in the records of the Florida Department of State, Division of Corporations, please provide written authorization for that individual to enter into contracts on behalf of the corporation.

Printed Name: _____

Printed Name: _____

Date: _____

STATE OF FLORIDA
COUNTY OF COLLIER

The foregoing instrument was acknowledged before me this ____ day of _____, 2017, by John M. Kriegbaum, as President of Athletic Resources, Inc., a Florida corporation, and who:

[Notary: Please select one]

☐ is personally known to me; or

☐ has produced _____ as identification.

Notary Public, State of Florida

Printed, typed or stamped name, commission and expiration:

Witnesses:

CITY OF PORT ORANGE

By: _____
Printed Name: _____ Donald O. Burnette, Mayor

Date: _____
Printed Name: _____

STATE OF FLORIDA
COUNTY OF VOLUSIA

The foregoing instrument was acknowledged before me this ____ day of _____, 2017, by Donald O. Burnette, as Mayor of the City of Port Orange, a Florida municipal corporation, on behalf of the city, and who is personally known to me.

Notary Public, State of Florida
Printed, typed or stamped name, commission and expiration:

Witnesses:

ATTEST:

By: _____
Printed Name: _____ Robin L. Fenwick, CMC, City Clerk

Date: _____
Printed Name: _____

STATE OF FLORIDA
COUNTY OF VOLUSIA

The foregoing instrument was acknowledged before me this ____ day of _____, 2017, by Robin L. Fenwick, as City Clerk of the City of Port Orange, a Florida municipal corporation, on behalf of the city, and who is personally known to me.

Notary Public, State of Florida
Printed, typed or stamped name, commission and expiration:

[CA 5709]

Exhibit “1”

Athletic Resources, Inc. BID Clarification,

ITB # 17-02, and

ITB # 17-02 Addendum No. 1

(Exhibit “1” includes a total of 81 pages)



8162 Lowbank Drive
Naples, Florida 34109
(239) 793-8900

WWW.ATHLETICRESOURCES.COM

BID CLARIFICATION

Sunday, December 04, 2016

PROJECT NAME: City of Port Orange Bleacher Replacement Services – ITB # 17-02

FOR DELIVERY / COMPLETION: 2017

ATHLETIC RESOURCES, INC. will provide all new material as specified below. All work will be performed in a substantial and timely, workmanlike manner to the manufactures specifications. Any changes or deviations will be approved in writing.

SCOPE OF WORK:

Gymnasium No. 1

\$9,490.00

1. Deliver and Install One Bank of Telescopic Bleachers by Sheridan Seating
 - a. 5 Rows x 34'6" Long
 - b. 115 Gross Plastic Molded Seats
 - c. Rails
 - d. Aisles
 - e. Column Cutouts
 - f. Manual Operation

Gymnasium No. 2

\$37,125.00

1. Deliver and Install Two Banks of Telescopic Bleachers by Sheridan Seating
 - a. 1 Bank: 5 Rows x 66' Long; 1 Bank: 5 Rows x 70' Long
 - b. 450 Gross Plastic Molded Seats
 - c. Rails
 - d. Aisles
 - e. Column Cutouts
 - f. Manual Operation

Electric Operation

1. Add \$2,020.00 for electric operation on Gymnasium No. 1 bleachers.
2. Add \$4,270.00 for electric operation on Gymnasium No. 2 bleachers.

EXCLUSIONS AND CLARIFICATIONS:

All electrical work to be completed by others.

Existing bleachers to be removed by others.

Price based on ordering, shipping, and installing Gymnasium No. 1 and Gymnasium No. 2 bleachers at the same time.

TOTAL AMOUNT PROPOSED: \$46,615.00

ATHLETIC RESOURCES: John M. Kriegbaum, President
John M. Kriegbaum, President

DATE: 12/4/16

Athletic Resources is a State of Florida Certified MBE Company

CITY OF PORT ORANGE, FLORIDA

INVITATION TO BID

BLEACHER REPLACEMENT SERVICES

ITB #17-02



City of Port Orange Purchasing Division
Diana M. Fye, CPPB, FCPA, Purchasing Manager

Prepared by: David Battaglia, Purchasing Agent
Release Date: October 11, 2016

Bid Due Date and Time: November 15, 2016 at 2:30 p.m.

City of Port Orange, Florida
1000 City Center Circle
Port Orange, FL 32129
(386) 506-5718
purchdiv@port-orange.org
www.port-orange.org



Legal Notice to Proposers

ITB #17-02 BLEACHER REPLACEMENT SERVICES

Notice is hereby given that the City of Port Orange is soliciting bids for **BLEACHER REPLACEMENT SERVICES**. Bids will be accepted in the City Clerk's Office, Port Orange City Hall, 1000 City Center Circle, Port Orange, Florida 32129 until **2:30 P.M. on November 15, 2016** which may be amended by addendum issued by the City. All untimely Bids will not be considered and will be returned to the Bidder unopened. All Bids will be evaluated to ensure they contain all required forms in order to deem the Bidder responsive or non-responsive. Bids will be opened and read aloud at 2:30 P.M. in Council Chambers.

There will be a Non-Mandatory Pre-Bid Conference and site visit for the project at 10:00 A.M. (local time) on **October 25, 2016** at City Hall, Council Chambers (1st floor), 1000 City Center Circle, Port Orange, Florida 32129. All attendees to the Pre-Bid Conference must sign in. The representative of each Bidder shall be an authorized employee of the Bidder and shall sign in accordingly. Bidders are urged to obtain Bid documents and familiarize themselves with the documents prior to the Pre-Bid meeting.

A Bid Guarantee in the form of a Bid Bond executed by the Bidder and an acceptable surety or a certified check or bank draft payable to the City of Port Orange, Florida in an amount equal to five percent (5%) of the proposed bid shall be submitted with each submission

DESCRIPTION: The City of Port Orange is seeking proposals from firms qualified and experienced in replacing the six sets of bleachers in the two gyms. The current bleachers are over 15 years old, un-repairable and do not meet ADA requirements.

All Bids are solicited and shall be made pursuant to the Code of Ordinances, City of Port Orange, Chapter 2, Article VI, Division 2; Section 2-256, and all Bids will be evaluated in accordance with the provisions thereof. Code of Ordinances, City of Port Orange is on file in the Office of the City Clerk, City Hall, 1000 City Center Circle, Port Orange, Florida 32129, and at www.municode.com. Local vendors may be given a local preference pursuant to the Code of Ordinances, City of Port Orange, Chapter 2, Article VI, Division 2, Section 2-275.

Copies of the Bid documents, requirements, scope of service and all other pertinent information necessary to submit a complete package may be obtained electronically from Onvia (DemandStar) via their website at www.demandstar.com. All questions shall be directed **in writing** to the Purchasing Manager, Diana M. Fye, CPPB, FCPA, purchdiv@port-orange.org and reference "Questions on ITB #17-02 BLEACHER REPLACEMENT SERVICES" in the subject line. Last day for questions will be **November 1, 2016 at 5:00 PM**.

All Bidders are required to complete and submit a Public Entity Crime Statement, the Anti-Collusion Statement, and Drug Free Tie Proposal Preference Statement, as well as other documents as required by the solicitation.

NO bid shall be withdrawn for a period of ninety (90) days subsequent to the bid opening without the consent of the City of Port Orange, Florida. Upon award, the successful bidder will also be required to furnish and pay for a satisfactory contract one hundred percent (100%) Payment and Performance Bond

to be recorded by the City, with the Clerk of the Circuit Court, Volusia County, Florida and to enter into a contract for services with the City of Port Orange.

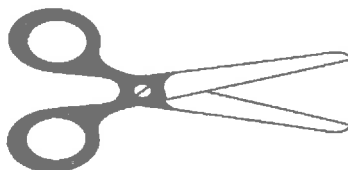
No Bids received after the time and date specified for the opening will be considered. The City of Port Orange, Florida reserves the right to reject any and all Bids, to waive any and all non-substantial irregularity in Bids received, whenever such waiver or rejection is in the best interest of the City.

Bids shall be **submitted in the City Clerk's office** with one (1) original and one (1) identical digital (CD or flash drive) version in pdf format, addressed to Diana M. Fye, CPPB, FCPA, Purchasing Manager, Finance Department, City Hall, 1000 City Center Circle, Port Orange, Florida 32129 in a **SEALED ENVELOPE/PACKAGE** plainly marked on the outside: **“ITB #17-02 BLEACHER REPLACEMENT SERVICES”**.

Diana M. Fye, CPPB, FCPA, Purchasing Manager
Legal Ad - One Time – **October 11, 2016**

[Remainder of this page left intentionally blank]

Cut along the outer border and affix this label to the outside of your sealed bid envelope/package to identify it as a "Sealed Bid". Be sure to include the name of the company submitting the bid where requested.



SEALED BID • DO NOT OPEN	
SEALED BID NO.	ITB #17-02
BID TITLE:	BLEACHER REPLACEMENT SERVICES
DUE DATE/TIME:	November 15, 2016 at 2:30 P.M.
SUBMITTED BY:	(Name of Company)
DELIVER TO:	City of Port Orange City Clerk's Office Attn: Diana M. Fye, CPPB, FCPA Purchasing Manager Finance Department 1000 City Center Circle Port Orange, Florida 32129
DATE/TIME RECEIVED:	(To be stamped by Clerk's Office)

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SECTION 1 – PURPOSE AND OVERVIEW

The purpose for this Invitation to Bid (ITB) is to solicit competitive sealed bids from Firms or Companies (Vendors) for the provision of The City of Port Orange is seeking proposals from firms qualified and experienced in replacement of six sets of bleachers in the two gyms as outlined within this document.

It is the intent and purpose of the City of Port Orange (City) that this Invitation to Bid promotes competitive selection. It shall be the Bidder's responsibility to advise the Purchasing Division if any language, requirements, etc., or any combination thereof, inadvertently restricts or limits the requirements stated in this ITB to a single source.

[Remainder of this page left intentionally blank]

SECTION 2 – INSTRUCTIONS TO BIDDERS

Firms or companies (Vendor) desiring to provide services, as described herein shall submit sealed bids including one original copy and one (1) digital (CD or flash drive) version in PDF format, in conformance with the detailed submittal instructions.

TIMELINE (Local Time):

The City reserves the right to alter dates as needed.

Date of Distribution:.....October 11, 2016
 Non-Mandatory Pre-Bid Conference October 25, 2016 at 10:00 A.M.
 Deadline for Questions: November 1, 2016 by 5:00 P.M.
 Final Addendum Posting: November 8, 2016 by 5:00 P.M.
Bids Due:November 15, 2016 by 2:30 P.M.
 City Council Meeting for Approval of Recommendation of AwardTo Be Determined

Bids must be delivered in a sealed envelope/package and delivered to the City of Port Orange City Clerk's Office, Attn: Diana M. Fye, CPPB, FCPA, Purchasing Manager, Finance Department, 1000 City Center Circle, Port Orange, Florida 32129 no later than date and time listed in the Timeline above. All times referenced are local time.

Bids shall be sealed and Vendors shall clearly indicate on the outside of their bid the following:

- a) Invitation to Bid (ITB) Number and Title
- b) Date of Opening
- c) Name of Vendor
- d) Address of Vendor

Due to the timing of mail service, the City Cautions Vendors to assure actual delivery of Bids to the City prior to the deadline set for receiving bids. Carrier and hand deliveries of bids will be accepted in the City Clerk's Office, Port Orange City Hall, 1000 City Center Circle, Port Orange, Florida 32129 until the date and time referenced in the Timeline above or as amended by addendum issued by the City. Bids received after the established deadline shall not be considered.

Vendors are cautioned that they are responsible for delivery to the specific location cited above. Therefore, if your bid, proposal, statement or quotation is delivered by an express mail carrier or by any other means, it is your responsibility to ensure delivery to the above address. This office will not be responsible for deliveries made to any place other than the specified address.

Offers by telephone, email or telegram shall not be accepted. Also, Vendors are instructed NOT to fax their bid package. **Faxed bids shall be rejected as non-responsive regardless of where or when the fax is received.**

All Bids will be opened publicly and the names of all Vendors shall be read aloud. All conferences, and meetings (including opening of proposals) regarding this RFP are recorded electronically (audio only).

The City of Port Orange reserves the right to reject any or all Bids or parts of Bids, if it is in the best interest of the City.

NON-MANDATORY PRE-BID CONFERENCE/SITE VISIT:

There will be a Non-Mandatory Pre-Bid Conference for the project on the date and time referenced in the Timeline above at City Hall, Council Chambers (1st Floor), 1000 City Center Circle, Port Orange, Florida 32129. All prospective Vendors are strongly encouraged to attend because the Pre-Bid Conference will offer potential Vendors the opportunity to ask questions and discuss the project directly with staff. All attendees to the Pre-Bid Conference must sign in. The representative of each Vendor shall be an authorized employee of the Vendor and shall sign in accordingly.

All prospective Vendors are strongly encouraged to attend because this will be the ONLY opportunity to tour the site. City staff will not give individual tours after the Pre-Bid Conference. No questions will be answered during the Site Visit. Any questions that Vendors have during or after the Site Visit must be submitted in writing following the instructions below in "Questions Regarding this ITB"

QUESTIONS REGARDING THIS ITB:

All questions shall reference "Questions on ITB # 17-02 and BLEACHER REPLACEMENT SERVICES" in the subject line. All questions concerning this ITB shall be submitted in writing no later than the date and time referenced in the Timeline above to:

Diana M. Fye, CPPB, FCPA
Purchasing Manager
1000 City Center Circle
Port Orange, FL 32129
dfye@port-orange.org or
purchdiv@port-orange.org

ADDENDA REGARDING THE INVITATION TO BID:

The City will issue responses to inquiries and any other corrections or amendments it deems necessary in written addenda issued prior to the Bid Due Date. Vendors should not rely on any representations, statements or explanations other than those made in this ITB or in any addendum to this ITB. Where there appears to be a conflict between the ITB and any addenda issued, the last addendum issued will prevail. It is the Vendor's responsibility to be sure all correct number of addenda was received. The Vendor should verify with the designated contact persons prior to submitting a Bid that all addenda have been received. Vendors should acknowledge the correct number of addenda received as part of their Bids. It is the responsibility of the Vendor to ensure all addenda have been received prior to submitting a bid.

Written responses, in the form of an addendum, will be provided via the Demand Star website at: www.demandstar.com.

The failure of Vendors to submit acknowledgement of any addenda that affects the ITB price(s) is considered a major irregularity and will be cause for rejection of the Bid.

The City of Port Orange reserves the right to consider the omission of an acknowledgement of addendum as cause for rejection of the ITB submittal.

This provision exists solely for the convenience and administrative efficiency of the City of Port Orange. No Vendor or other third party gains any rights by virtue of this provision or the application thereof, nor shall any Vendor or third party have any standing to sue or cause of action arising there from.

CLARIFICATIONS:

It is the Vendor's responsibility to become familiar with and fully informed regarding the terms, conditions and specifications of this ITB. Lack of understanding and/or misinterpretation of any portions of this ITB shall not be cause for withdrawal of your Bid after opening or for subsequent protest of award. Vendors must contact the Purchasing Representative, at the email provided, should clarification be required.

Modification or alteration of the documents contained in the solicitation or contract shall only be valid if mutually agreed to in writing by the parties.

MINIMUM QUALIFICATIONS:

Vendors shall be licensed to do business in the State of Florida. Submit Sunbiz report showing your company registered as "Active".

Vendors must be properly registered and licensed to provide the goods or services identified in the scope of work, by all applicable state and local agencies.

Vendors must provide a minimum of three (3) verifiable references from similar scopes of work as identified in this ITB on the provided "Professional References" form. Failure to provide references that verify required experience will cause the Vendor to be deemed non-responsive. The City of Port Orange is not to be used as a reference.

NO LOBBYING:

All Vendors are hereby placed on notice that the City of Port Orange Council, City Employees/Staff, nor Members of the Evaluation Committee (with the exception of the City of Port Orange Purchasing Division personnel designated to receive requests for interpretations or corrections) are not to be lobbied, directly or indirectly either individually or collectively, regarding this ITB. During the entire procurement process, all Vendors and their subcontractors, sub-consultants, or agents are hereby placed on notice that they are not to contact any persons listed above for such purposes as holding meetings of introduction, dinners, etc., if they intend to submit or have submitted Bids for this project. Any Vendor contacting individuals mentioned herein in violation of this warning may automatically be disqualified from further consideration for this ITB.

PRICING SHEETS:

Pricing sheets/Bid Forms are to be completed as directed and without modification and returned as part of the ITB submittal prior to the ITB deadline for submission. Failure to fill out the price sheets/bid forms as directed and without modification may negatively affect the evaluation of your bid.

EXCEPTIONS TO SPECIFICATIONS:

If taking exception to any portion of the ITB specifications, the Vendor must indicate those exceptions as stated on the Vendor's Acknowledgement Form.

BID SUBMISSION AND WITHDRAWAL:

Unless otherwise specified, Vendor shall use the forms supplied by the Purchasing Division. Bids, once opened, become the property of the City, cannot be withdrawn, and will not be returned to the Vendors. Upon opening, Bids become subject to public disclosure in accordance with Chapter 119, Florida Statutes.

CORRECTION OF BIDS:

Correction of inadvertently erroneous Bids shall be permitted up to the time of ITB opening. Vendors shall not be allowed to modify their Bids after the opening time and date.

WITHDRAWAL OF BIDS:

NO Bid shall be withdrawn for a period of ninety (90) days subsequent to the Bid opening without the consent of the City of Port Orange, Florida. Negligence on the part of the Vendor in preparing the Bid confers no right of withdrawal or modification after the Bid has been opened, at the appointed time and place by the City of Port Orange. Any such withdrawn Bid shall not be resubmitted.

OPENING OF BIDS:

Bids will be received until the date and time stated in this ITB and will be publicly opened and read at the place, time and date stated. No responsibility will attach the Purchasing Department for the premature opening of a Bid not properly addressed and identified.

LITIGATION HISTORY:

The City will consider a Vendor's litigation history information in its review and determination of responsibility. All Vendors are required to disclose to the City all "material" cases filed, pending, or resolved during the last five (5) years prior to the solicitation response due date, whether such cases were brought by or against the Vendor, any parent or subsidiary of the Vendor, or any predecessor organization. If the Vendor is a joint venture, the information provided should encompass the joint venture (if it is not newly-formed for purposes of responding to the solicitation) and each of the entities forming the joint venture. Although the review of a Vendor's litigation history is an issue of responsibility, the failure to provide litigation history as required in the Evaluation Criteria may result in a recommendation of non-responsive by the Purchasing Manager.

DEBARMENT HISTORY:

The City will consider a Vendor's debarment history information in its review and determination of responsibility. All Vendors are required to disclose to the City all cases of debarment filed, pending, or resolved by the City or other public entity during the last five (5) years prior to the solicitation response due date, whether such actions were brought by or against the Vendor, any parent or subsidiary of the Vendor, or any predecessor organization. If the Vendor is a joint venture, the information provided should encompass the joint venture (if it is not newly-formed for purposes of responding to the solicitation) and each of the entities forming the joint venture. Although the review of a Vendor's debarment history is an issue of responsibility, the failure to provide debarment history as required in the Proposal Submittal and Requirements Section may result in a recommendation of non-responsive by the Purchasing Manager.

REJECTION OF BIDS:

The City reserves the right to reject any and/or all Bids when such rejection is in the best interest of the City.

BIDS MAY BE REJECTED AND/OR VENDOR(S) DISQUALIFIED FOR THE FOLLOWING REASONS:

- (a) Failure to update the information on file including address, product, service or business descriptions.
- (b) Failure to perform according to contract provisions.
- (c) Conviction in a court of law of any criminal offense in connection with the conduct of business.
- (d) Evidence of a violation of any federal or state anti-trust law based on the submission of bids or proposals, or the awarding of contracts.
- (e) Evidence that the vendor has attempted to give a Board employee a gratuity of any kind for the purpose of influencing a recommendation or decision in connection with any part of the Board's purchasing activity.
- (f) Other reasons deemed appropriate by the City.

OWNERSHIP OF DOCUMENTS:

All documents resulting from this project will become the sole property of the City of Port Orange. The Vendor must meet all requirements for retaining public records and transfer, at no cost, to the City all public records in possession of the Vendor upon termination of this Agreement and destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. All records stored electronically must be provided to the City in a format that is compatible with the information technology systems of the City.

AMERICANS WITH DISABILITIES ACT (ADA):

If you need special services provided for under the Americans with Disabilities Act, contact the ADA Coordinator in our Human Resources office at 386-506-5560 at least 48 hours before the scheduled event.

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SECTION 3 – SCOPE OF WORK

INTRODUCTION

The City of Port Orange is seeking proposals from firms that are qualified and experienced to provide and install new bleachers at the Parks & Recreation Gymnasium located at 4655 City Center Circle, Port Orange, Florida 32129. The current bleachers are over 15 years old, un-repairable and do not meet ADA requirements.

SPECIFICATIONS

GYMNASIUM #1

Deliver and install one bank of telescopic bleachers by Sheridan Seating with the following dimensions and criteria as follows:

- A. 5 Rows X 34'6" long.
- B. 115 gross plastic molded seats.
- C. Rails.
- D. Aisles.
- E. Column cut outs.
- F. Manual operation and Electric operation on bleachers.
- G. Must Meet ADA requirements.

GYMNASIUM #2

Deliver and install one bank of telescopic bleachers by Sheridan Seating with the following dimensions and criteria as follows:

- A. 1 Bank - 5 rows X 66' long 1 bank - 5 rows x 70' long.
- B. 450 gross plastic molded seats.
- C. Rails.
- D. Aisles.
- E. Column cutouts.
- F. Manual operation and Electric operation on bleachers.
- G. Must Meet ADA requirements.

Specifications may reference name brands and model numbers. It is not the intent of the City of Port Orange to restrict these bids in such cases, but to establish a desired quality level of merchandise or to meet a pre-established standard due to like existing items. Vendors may offer items of equal stature and the burden of proof of such stature rests with the Vendor, unless otherwise specified by the City. The City of Port Orange shall act as sole judge in determining equality and acceptability of products offered. These products must convey same workmanship and warranty.

SECTION 4 – STANDARD PURCHASE DEFINITIONS

The City will use the following definitions in instructions to bidders, terms and conditions, special provisions, technical specifications and any other solicitation documents.

1. **Addendum** is a formal written document, released prior to the public opening that modifies any aspect of a Solicitation. Plural: Addenda
2. **Alternate Bid** means multiple Bids with substantive variations from the same Bidder in response to a Solicitation.
3. **Amendment** is a formal written agreement, signed by both parties, that modifies an existing contractual agreement.
4. **Appropriate, Appropriated, or Appropriation** means the adoption by the City Council of the City of a budget for a fiscal year that includes payments to be made under the Contract during the respective fiscal year.
5. **Best Value** means the highest overall value to the City based on factors that include, but are not limited to, price, quality, design, and workmanship.
6. **Bid** is a complete, properly signed response to an Invitation to Bid, which if accepted, would bind the Bidder to perform the resultant Contract.
7. **Bid Guaranty (Bid Bond)** guarantees that the Bidder (a) will not withdraw the Bid within the period specified for acceptance, and (b) will execute a Contract and furnish required bonds and any necessary insurance within the time specified in the Solicitation, unless a longer time is allowed by the City. The guarantee will be returned to the Bidder upon execution of a Contract
8. **Bidder or Proposer** is a person, firm, or entity that that submits a Response to a Solicitation. Any Bidder/Proposer may be represented by an agent after submitting evidence demonstrating the agent's authority. The agent cannot certify as to his own agency status. (See also "Vendor")
9. **City** means the City of Port Orange.
10. **Competitive Negotiation** means a method for acquiring goods, services, and construction for public use in which discussions or negotiations may be conducted with responsible offerors who submit Responses through a Request for Proposals, Request for Statements of Qualifications, or Invitation to Negotiate.
11. **Competitive (Formal) Solicitation** is the process of requesting and receiving two or more sealed bids, proposals, statements of qualifications or replies submitted by responsive vendors in accordance with the terms of a competitive process, regardless of the method of procurement.
12. **Competitive Range** means the responsive submissions that meet the evaluation criteria and are considered to be reasonably susceptible of award.
13. **Construction** means the process of building, repairing, improving, and alterations, conversion or extension of building, parks, utilities, streets or other improvements or alterations to real property.
14. **Contract** is a written agreement or purchase order issued for the purchase of goods or services.

15. **Contractor** means the person, firm or entity selling goods or services to the City under a Contract.
16. **Deliverables** means the goods, products, materials, and/or services to be provided to the City by a Bidder.
17. **Due Date** means the date and time specified for receipt of Responses to a Solicitation.
18. **End User** is a person, program, agency, or other eligible user who uses a contract to purchase a commodity or contractual service.
19. **Evaluation Committee/Team** is a temporary group of City personnel who are responsible for evaluation of proposals, statements of qualifications or replies as part of a Request for Proposals (RFP), Request for Submission of Qualifications (RFSQ), or Invitation to Negotiate (ITN), or competitive grant process.
20. **Evaluator** is a member of the evaluation committee/team.
21. **Goods** are supplies, materials, or equipment.
22. **Intent to Award** is a document, published on Onvia/DemandStar, that informs the public and respondents of the City's decision to award a contract pursuant to a previously issued competitive solicitation.
23. **Invitation to Bid (ITB) or Bid** means a formal request to prospective vendors requesting pricing for a specified Good or Service which has been advertised for Bid in a newspaper.
24. **Invitation to Negotiate (ITN)** means a formal request to prospective vendors requesting proposed specifications and pricing of a product and/or service which has been advertised for replies in a newspaper.
25. **Issues** means points, matters, or concerns to be addressed during negotiations.
26. **Lead Negotiator** is the negotiator responsible for leading and facilitating the formal negotiation discussions and selecting other required negotiation team members. Is often the "driver of change" and seeks alternatives/options.
27. **Lowest Responsible Bid means the responsive Bid** meeting all requirements of the specifications, terms, and conditions of the Invitation to Bid resulting in the lowest cost to the City in a total cost concept or based solely on price, taking into consideration the financial and practical ability of the Bidder to perform the Contract, past performance of the Bidder, and compliance with all City ordinances concerning the purchasing process.
28. **Lowest Responsible Bidder** means the Bidder submitting Lowest Responsible Bid.
29. **Negotiation Team** is a temporary group of City personnel who are responsible for negotiations as part of an Invitation to Negotiate (ITN).
30. **Negotiator** is a member of the negotiation team.
31. **Non-Professional Services** are services performed that are not of a professional nature such as lawn care, security, janitorial, etc.
32. **Offer** means a complete signed Response submitted to the City in response to a Solicitation including, but not limited to, a Bid submitted in

- response to an Invitation to Bid, a Proposal submitted in response to a Request for Proposal, a Quote submitted in response to a Request for Quotation, a Statement of Qualifications and interest submitted in response to a Request for Statements of Qualifications, or a Reply submitted in response to an Invitation to Negotiate.
33. **Onvia/DemandStar** is the official online repository for all City competitive solicitations.
 34. **Outlier** is a bid, offer, or proposal which is determined by the Purchasing Director or Manager to be significantly dissimilar to or inconsistent with, competing bids or offers.
 35. **Pre-Bid/Proposal/Statement/Reply Conference** means a meeting conducted by the Purchasing Office, held in order to allow Vendors to ask questions about the proposed Contract and particularly the Contract specifications with the City department requesting the goods/services.
 36. **Price Analysis** is an evaluation of the total cost of a contract in order to determine if the price is reasonable.
 37. **Procurement (Process)** is a term used in the governmental sector for the combined functions of acquiring (purchasing) needed goods and/or services, receiving and inspection, inventory management, contract administration, and disposal/surplus.
 38. **Professional Services** means those services within the scope of the practice of architecture, professional engineering, landscape architecture, or registered surveying and mapping, as defined by the laws of the state, or those performed by any architect, professional engineer, landscape architect, or registered surveyor and mapper in connection with his or her professional employment or practice.
 39. **Protest** is a formalized process by which respondents have an opportunity to challenge a procurement practice or contract award.
 40. **Proposal** is a complete, properly signed Response to a Request for Proposal, based on performance that is offered rather than on that of price alone, which if accepted, would bind the Vendor to perform the resultant Contract.
 41. **Purchase Order** is an order placed by the Purchasing Division for the purchase of Goods or Services written on the City's standard Purchase Order form and which, when accepted by the Bidder, becomes a contract. The Purchase Order is the Bidder's authority to deliver and invoice the City for Goods or Services specified, and the City's commitment to accept the Goods or Services for an agreed upon price.
 42. **Request for Proposal (RFP)** means a formal request to prospective vendors requesting qualifications of the vendor and pricing for a specified Good or Service which has been advertised for Proposal in a newspaper.
 43. **Request for Statement of Qualifications (RFSQ)** means a formal request to prospective vendors requesting statements of qualifications pursuant to Florida Statute 287.055 "Consultant's Competitive Negotiation Act" which has been advertised for Statement in a newspaper.
 44. **Respondent** means an entity that has (or will, i.e. "prospective respondents") submitted a response to a competitive solicitation conducted to create a

- contractual relationship for the provision of commodities or services.
45. **Response/Submission** means all materials submitted to the City by a respondent as part of a solicitation. A response may be called a bid, proposal, statement of qualifications, or a reply, depending on the type of competitive solicitation being issued.
46. **Responsible (Vendor)** is a vendor who has the capability in all respects to fully perform the contract requirements and the integrity and reliability that will assure good faith performance.
47. **Responsive (Vendor)** is a vendor that has submitted a bid, proposal, statement of qualifications, or reply that conforms in all material respects to the solicitation.
48. **Scope** means the extent of the area or subject matter that something deals with or to which it is relevant.
49. **Scope of Work** means a description of the work activities, deliverables, and/or timeline that a vendor must execute in terms of delivering specific commodities or in performance of contractual services.
50. **Services** include all work or labor performed for the City on an independent contractor basis other than construction.
51. **Solicitation** means a formal request, as applicable, for prospective vendors to submit responses to an Invitation to Bid, Request for Proposal, Request for Qualifications, Invitation to Negotiate, or a Request for Quotation.
52. **Solicitation Document** means a document, or collection of documents, either paper or electronic, that contains all information required to conduct a competitive procurement project according to § 287.057, Florida Statutes.
53. **Stakeholder** means an individual, who is not likely to become a vendor, who has an interest in the commodities/contractual services needed.
54. **Subcontractor** means a person, firm or entity providing goods or services to a Vendor to be used in the performance of the Vendor's obligations under the Contract.
55. **Subject Matter Expert** means a person who has working or expert knowledge about a particular topic or field.
56. **Unbalanced Bid** means a Bid that is based on prices which are significantly less than cost for some bid items and significantly more than cost for others.
57. **Vendor** is a person, firm, or entity that that provides commodities or services and submits a Response to a Solicitation. Any Vendor may be represented by an agent after submitting evidence demonstrating the agent's authority. The agent cannot certify as to his own agency status. (Also called "Bidder" or "Proposer".)

SECTION 5 – GENERAL TERMS AND CONDITIONS

These instructions are standard for all contracts for commodities or services issued through the City of Port Orange Purchasing Division. General Requirements apply to all advertised Solicitations; however, **these may be superseded, in whole or in part, by the SPECIAL REQUIREMENTS/INSTRUCTIONS OR OTHER DATA CONTAINED HEREIN.**

READ THIS ENTIRE DOCUMENT CAREFULLY. FOLLOW ALL INSTRUCTIONS. YOU ARE RESPONSIBLE FOR FULFILLING ALL REQUIREMENTS AND SPECIFICATIONS. BE SURE YOU UNDERSTAND THEM.

1. **ACCEPTANCE BY CITY**

The City shall have a reasonable time (but not less than 30 days) after receipt to inspect the goods and services tendered by vendor. The City at its option may reject all or any portion of such goods or services which do not, in City's sole discretion, comply in every respect with all terms and conditions of the contract. The City may elect to reject the entire goods and services tendered even if only a portion thereof is nonconforming. If the City elects to accept nonconforming goods and services, the City, in addition to its other remedies, shall be entitled to deduct a reasonable amount from the price thereof to compensate the City for the nonconformity. Any acceptance by the City, even if non-conditional, shall not be deemed a waiver or settlement of any defect in such goods and services. The material delivered as a result of this solicitation shall remain the property of the seller until a physical inspection and actual usage of the item(s) is made and thereafter deemed acceptable to the satisfaction of the City, in compliance with the terms and specifications contained herein. In the event that the item(s) supplied to the City is/are found to be defective, or does/do not conform to specifications, the City reserves the right to cancel the order upon written notice to the seller and return the item(s) to the seller at the seller's expense.

2. **ADDENDUM**

When specifications are revised, the City of Port Orange Purchasing Division will issue an addendum addressing the nature of the change. Vendors should acknowledge all addenda by circling the quantity of addenda received on the "Vendor Acknowledgment Form" and include it in the returned Response package. Failure to acknowledge the correct number of addenda issued may result in rejection of the Response. It is the responsibility of the Vendor to ensure all addenda have been received prior to submitting a bid. All Addenda shall be posted by the CITY on www.demandstar.com.

The City shall issue responses to inquiries and any other corrections or amendments it deems necessary in written addenda issued prior to the Solicitation Response Due Date. Vendors should not rely on any representations, statements or explanations other than those made in this Solicitation or in any addendum to the Solicitation. Where there appears to be a conflict between the Solicitation and any addenda issued, the last addendum issued shall prevail.

3. **ADDITIONAL GOODS**

Products, Materials and Goods not specifically identified in this bid request may be added to any resultant contract upon mutual consent of the contracting parties. The City reserves the right to add or delete products or materials of similar nature, within the family of products of "ITB Item(s)" and their commodity codes, to those items requested in this bid.

4. **ANTI-COLLUSION STATEMENT**

By submitting this Response to a Formal Solicitation, the Vendor affirms that this Response is without previous understanding, agreement, or connection with any person, business, or corporation submitting a Response for the same materials, supplies, or equipment, and that this Response is in all respects fair, and without collusion or fraud. Additionally, Vendor agrees to abide by all conditions of this Solicitation and certifies that they are authorized to sign this Response for the Vendor. In submitting a Response to the City of Port Orange, the Vendor offers and agrees that if the Response is accepted, the Vendor shall convey, sell, assign or transfer to the City of Port Orange all rights, title and interest in and to all causes of action it may now or hereafter acquire under the Anti-trust laws of the United States and the State of Florida for price fixing relating to the particular commodities or services purchased or acquired by the City of Port Orange. At the City's discretion, such assignment shall be made and become effective at the time the City tenders final payment to the Vendor.

5. **APPLICABLE LAWS**

In connection with the furnishing of supplies or performance of work under the Contract, the Vendor agrees to comply with the Fair Labor Standards Act, Equal Opportunity Employment Act, and all other applicable federal and state laws, regulations and executive orders to the extent that the same may be applicable.

6. **ASSIGNMENT**

The successful Vendor shall not sell, assign, transfer or convey this contract in whole or in part, without the prior written consent of the City of Port Orange. Any such assignment or transfer shall not release Vendor from all contractual obligations.

7. **AUTHORITY TO CONDUCT BUSINESS IN FLORIDA:**

A Florida corporation or partnership is required to provide evidence with its response that the Vendor is authorized to transact business in Florida and is in good standing with the Florida Department of State. If not with its response, such evidence must be submitted to the City no later than five (5) business days from request of the Purchasing Manager.

A foreign (out-of-state) corporation or partnership is required to provide evidence with its response that the Vendor is authorized to transact business in Florida and is in good standing with the Florida Department of State. If not with its response, such evidence must be submitted to the City no later than five (5) business days from request of the Purchasing Manager.

A joint venture is required to provide evidence with its response that the joint venture, or at least one of the joint venture partners, is authorized to transact business in Florida and is in good standing with the Florida Department of State. If not with its response, such evidence must be submitted to the City no later than five (5) business days from request of the Purchasing Manager. However, the joint venture is required to provide evidence prior to contract execution that the joint venture is authorized to transact business in Florida and provide the City with a copy of the joint venture Agreement.

A joint venture is also required to provide with its response a Statement of Authority indicating that the individual submitting the joint venture's proposal has the legal authority to bind the joint venture. If not with its response, such evidence must be submitted to the City no later than five (5) business days from request of the Purchasing Manager.

8. **AWARDS**

Results from the evaluation committee will be considered by the City of Port Orange City Council at the earliest possible regular meeting subsequent to the evaluation process. This RFP is issued in accordance with and shall be governed by the provisions of the City's Purchasing Policy.

The City of Port Orange City Council reserves the right to make award(s) by individual sections, groups, all or none, or a combination thereof, with one or more Vendors; to reject any and all proposals, or to waive any informality or technicality in proposals received as deemed to be in the best interest of the City.

The City does not award publicly funded contracts to those who knowingly employ unauthorized alien workers in violation of section 274A(e) of the Immigration and Naturalization Act, 8 United States Code s1324a(e). Such employment deprives legal workers of job opportunities. Violation of section 274A(e) shall be grounds for unilateral cancellation of the contract, Contract, proposal or quote for purchase of services and goods by the City of Port Orange.

9. **AWARD AND EXECUTION OF CONTRACT:**

When a bid received has been determined to be satisfactory, a Contract will be awarded to the lowest responsible Bidder within the time designated in the Contract Documents.

The Bidder(s) to whom the award is made shall execute the Contract(s) and return it, together with the properly executed bonds and insurance certificates to the office of the Owner, within the time specified

10. **BID RETURNS**

Vendors shall return all completed Responses to the City of Port Orange at the address set forth in Section 2 of this document on the date and at the time specified. Late submissions will not be accepted and shall be returned to Vendors unopened.

11. **BID PROTEST**

Any person who is adversely affected by the City's decision or intended decision shall file with the City Purchasing Manager a notice of protest in writing within 72 hours after the posting of the notice of decision or intended decision. With respect to a protest of the terms, conditions, and specifications contained in a solicitation, including any provisions governing the methods for ranking Bids, Proposals, Statements, or Replies, awarding contracts, reserving rights of further negotiation, or modifying or amending any contract, the notice of protest shall be filed in writing within 72 hours after the posting of the Solicitation. Saturdays, Sundays, and state holidays shall be excluded in the computation of the 72-hour time period established herein. The formal written protest shall be filed with the Purchasing Manager in writing within ten (10) days after the date the notice of protest is filed. The formal written protest shall state with particularity the facts and law upon which the protest is based. Failure to file a notice of protest or failure to file a formal

written protest shall constitute a waiver of proceedings. Upon receipt of the formal written protest that has been timely filed, the City shall stop the solicitation or contract award process until the subject of the protest is resolved by final City action. However, the City may continue the solicitation or award process, provided the City Manager sets forth in writing particular facts and circumstances which require the continuance of the solicitation or contract award process without delay in order to avoid an immediate and serious danger to the public health, safety, or welfare. The City shall provide an opportunity to resolve the protest by mutual agreement between the parties. The policy this City has established is as follows:

- a. As soon as possible after receipt, the Purchasing Manager shall provide written bid protest to City Manager, City Attorney, Department Head involved, and Supervisor directly involved in the acquisition.
- b. Purchasing Manager shall schedule within seven (7) business days, excluding weekends and holidays, a meeting with the above mentioned individuals or designee and protestor. The intent of the meeting is to provide a review and/or solution prior to going before Council. After reviewing all relevant information, the City Manager shall render a decision.
- c. If the protestor disagrees, he may appeal to the City Council at a formal council meeting. After reviewing the evidence, the City Council will issue their decision. The City Council's decision is final; however, the protestor can appeal the decision to the Circuit Court in Volusia County, Florida within thirty (30) days of the City Council's final decision. Decisions at all levels shall be in writing to the protestor.

12. **BID/PROPOSAL TABULATION**

Vendors who wish to receive a copy of the bid/proposal tabulation may obtain it via www.demandstar.com or by contacting the City of Port Orange, Purchasing Manager at purchdiv@port-orange.org.

13. **BONDS**

If this Solicitation requires submission of bid guarantee and performance bonds, there will be a separate page explaining those requirements. Responses submitted without the required bid bond or certified check shall be deemed non-responsive. When the Purchasing Manager deems it necessary, bid bonds/deposits shall be prescribed and are advertised in the public notices inviting bids. Normally, if a bid bond/deposit is requested, it is in the amount of five percent (5%) of the bid amount. Payment and Performance Bonds requested for construction projects shall be in an amount equal to one hundred percent (100%) of the total contract amount. Upon award, the successful Vendor may also be required to furnish and pay for a satisfactory contract one hundred percent (100%) Payment and Performance Bond which will be recorded by the City, at the Vendor's sole cost and expense, with the Clerk of the Circuit Court, Volusia County, Florida, and to enter into a written contract with the City of Port Orange. After recording, the City will furnish to the contractor the recording information for the bond to evidence that the contractor has met the requirements of Florida law. The City will bill the cost of recording to the contractor. Payment and Performance Bonds shall also be recorded at the Vendor's expense in the Office of the Clerk of the Circuit Court, Volusia County, Florida. All bonds no matter which kind, are advertised in the Solicitation which appears in the newspaper. Unsuccessful Vendors are entitled to the return of their surety where the Purchasing Manager has required such. A successful Vendor shall forfeit

any surety required by the Purchasing Manager upon failure on the part of the Vendor to enter into a contract within the time specified after the award of bid.

14. **CHANGE ORDERS**

No oral statement of any person shall modify or otherwise change, or affect the terms, conditions or specifications stated in the resulting contract. All change order requests shall be made in writing by the Contractor for review by the Contract Administrator for the City of Port Orange. No work shall be performed as set forth in the change order until the Contractor receives an executed Purchase Order for the requested change.

15. **CHANGE ORDER REQUEST NOTIFICATION**

The Successful Contractor is responsible for giving the City of Port Orange, prior to the Contract expiration date, at least forty-five (45) calendar day's advance notice for any anticipated changes in price greater than \$25,000.00, time and/or scope of the awarded Contract. The Contractor shall not continue to provide services past the Contract expiration date unless approved by a written Change Order Notice from the City.

16. **CLEAN UP**

Upon completion of the delivery of materials, the Contractor shall restore any/all public and private property which was damaged during delivery. Restoration is meant to include removal of any spillage or restoring damage to the edge of pavement, sidewalks, driveways, landscaped areas, etc. Contractor shall make repairs consistent with or better than what existed prior to delivery. This shall be understood to include the use of sod or seed and mulch to replace (if necessary) existing grass that has been damaged.

If sod is used it shall match the sod present on the effected property. Contractor shall make all repairs and restorations at his expense.

17. **CONDUCT OF VENDORS**

All Vendors or individuals acting on behalf of a Vendor are hereby prohibited from lobbying or otherwise attempting to persuade or influence any member of the Evaluation Committee, City Council members, or City staff at any time during the course of the solicitation process. The solicitation process shall end upon issuance of the written City Manager and staff recommendation for selection of a Vendor. All Vendors or individuals acting on behalf of a Vendor are further prohibited from contacting or otherwise attempting to communicate with any member of the staff, Evaluation Committee or City Council members regarding the pending solicitation or its outcome until after the issuance of the written recommendation of the most qualified Vendor. Until such recommendation is issued in writing, any questions regarding the pending solicitation shall be submitted to the Purchasing Manager. Failure to comply with this procedure shall result in rejection/disqualification of said submittal without exception. Contact with staff, City Council members and the Evaluation Committee during a public meeting shall not be considered a violation of this requirement.

18. **CONE OF SILENCE**

The Cone of Silence is designed to protect the integrity of the procurement process by shielding it from undue influences prior to the execution of the award.

The Cone of Silence is defined as the period beginning with the issuance of the solicitation document and continues through the execution of the award document. During this time vendors, service providers and the like are prohibited from all communications regarding the solicitation with City staff, City consultants, City legal counsel, City Agents, or elected officials. Any vendor who initiates any discussions or attempts to influence a member or members of the aforementioned shall be disqualified from continued participation in the procurement process with regard to that particular solicitation.

Exceptions to the Cone of Silence:

- Written communication directed to the Procurement Officer;
- All communications occurring at Pre-Proposal Conferences;
- Oral presentations before publicly notice committee meetings;
- Procurement of goods and services for Emergency situations; and
- Contractors already on contract with the City to perform services for the City are allowed discussions necessary for the completion of an existing contract.

19. **CONFLICT OF INTEREST**

For purposes of determining any possible conflict of interest, all Vendors must disclose if any City of Port Orange employee is also an owner, corporate officer, or employee of Vendor's business. No official or employee of the City who exercises any functions or responsibilities in the review or approval of the undertaking or carrying out of the Scope of Work covered by the Contract shall voluntarily acquire any personal interest, directly or indirectly, in the contract or proposed Contract.

20. **CONFLICT OF INSTRUCTIONS**

If a conflict exists between the General Terms and Conditions and instructions contained herein, and the Special Terms and Conditions and instructions contained herein, the Special Terms and Conditions shall govern.

21. **CONTRACT**

Any acquisition above the \$25,000 level shall be done through one of the formal competitive methods except upon City Council waiver and/or shall have City Council approval. Only the Purchasing Manager and/or City Manager, have the authority to obligate the City by entering into a written contract to purchase goods and/or services up to \$25,000.00. The City of Port Orange, Florida reserves the right to reject any and all Responses or to waive any and all non-substantial irregularity in Responses received, whenever such waiver or rejection is in the best interest of the City.

22. **CONTRACT OBLIGATION**

The City of Port Orange City Council shall approve the contract if greater than \$25,000.00 annually. The Mayor or other person authorized by the Mayor must sign the contract before it becomes binding on the City of Port Orange or the Vendor. Department heads are NOT authorized to sign contracts for the City of Port Orange. Binding agreements shall remain in effect until all products and/or services covered by this purchase have been satisfactorily delivered and accepted.

23. **CONTRACT RENEWALS**

Renewals may be made ONLY by written agreement between the City of Port Orange and the Vendor. Any price escalations are limited to those stated by the Vendor on the original Response.

24. **COOPERATIVE PURCHASING**

The City Manager may elect to purchase through or join with other governmental units in cooperative purchasing ventures when the best interest of the City would be served thereby, provided the same is in accordance with all applicable laws. In the event the City Manager should elect to purchase through or join with other governmental agencies in cooperative purchasing ventures, all purchases in excess of twenty-five thousand dollars (\$25,000.00) shall require council approval before the purchasing contracts are entered into. (Code 1981, § 8-33, Ord. 1997-22, § 5. 5-6-1997; Ord. No. 2004-15, § 4, 7-20-2004)

25. **COPYRIGHT AND PATENT RIGHTS**

Vendor warrants that there has been no violation of copyrights or patent rights in manufacturing, producing and/or selling the item(s) ordered or shipped as a result of this Response, and successful Vendor agrees to hold the City harmless from any and all liability, loss or expense by any such violation.

26. **COST INCURRED BY VENDOR**

All expenses, including costs for required bonds, involved with the preparation and submission of Responses to the City, or any work performed in connection therewith shall be borne by the Vendor. No payment shall be made for any response received, nor for any other effort required of or made by the Vendor prior to commencement of work as defined by the contract approved by the City Council.

27. **DAMAGE**

Any damage to driveways, irrigation systems, sidewalks, pavement, or landscaping will be evaluated by the County's representative and the Contractor. If the Contractor is found to be at fault, all repairs, restitution, or reimbursements to the County must be completed within one week of discovery.

28. **DEBARMENT HISTORY**

The City will consider a Vendor's debarment history information in its review and determination of responsibility. All Vendors are required to disclose to the City all cases of debarment filed, pending, or resolved by the City or other public entity during the last five (5) years prior to the solicitation response due date, whether such actions were brought by or against the Vendor, any parent or subsidiary of the Vendor, or any predecessor organization. If the Vendor is a joint venture, the information provided should encompass the joint venture (if it is not newly-formed for purposes of responding to the solicitation) and each of the entities forming the joint venture. Although the review of a Vendor's debarment history is an issue of responsibility, the failure to provide debarment history as required in the Proposal Submittal and Requirements Section may result in a recommendation of non-responsive by the Purchasing Manager.

29. **DEFAULT PROVISIONS**

In the event of default by the Vendor, the City reserves the right to procure the item(s) bid from other sources and hold the Vendor responsible for excess costs incurred as a result. If a contractor defaults on a City contract the City Council may elect to refrain from doing business with the Vendor for a period of 36 months from the date of default.

30. **DELIVERY OF GOODS/SERVICES**

All materials are to be delivered F.O.B.; City of Port Orange designated facility.

Delivery dates pertaining to this invitation must be clearly stated in the bid form where required and include weekends and holidays. Failure to comply with this requirement may be a cause for disqualification of bid. Unless otherwise specified, delivery at the earliest date is required. The Vendor shall clearly state in the Response the time required for delivery upon receipt of contract or purchase order. Proposed delivery time must be specific and such phrases "as required," "as soon as possible" or "prompt" may result in disqualification of the bid. Delivery time will be a factor for any orders placed as a result of this Response. The City reserves the right to cancel such order(s) or any part thereof, without obligation, if delivery is not made within the time(s) specified herein and hold the vendor in default.

Upon approval of a contract, the vendor is obligated to deliver the goods to the destination specified in the Solicitation or the Purchase Order and bears the risk of loss until delivery. If this Solicitation or Purchase Order does not contain delivery instructions, Vendor shall request instructions in writing from the Purchasing Manager. If the delivery instructions contained in the Solicitation allocate delivery costs and risks in a manner contrary to this section, the provisions of this Competitive Solicitation shall prevail.

When delivery is not met as provided for in the contract, the Purchasing Division reserves the right to make the purchase on the open market, with any cost in excess of the contract price paid by the Vendor, in addition to any other damages, direct or consequential, incurred by the City as a result thereof. In addition, failure of the Vendor to meet the contract delivery dates will be cause for removal of the Vendor from the City's list of eligible Bidders/Proposers as determined by the Purchasing Division.

31. **DETERMINATION OF LOWEST AND BEST RESPONSIBLE BIDDER /PROPOSER**

In determining the lowest and best responsible Bidder/Proposer, in addition to price, there will be considered the following:

- a. The ability, capacity and skill of the Bidder/Proposer to perform the contract.
- b. Whether the Bidder/Proposer can perform the contract within the time specified, without delay or interference.
- c. The character, integrity, reputation, judgment, experience, and efficiency of the Bidder/Proposer.
- d. The quality of performance of previous contracts.
- e. The previous and existing compliance by the Bidder/Proposer with laws and ordinances relating to the contract.

- f. The sufficiency of the financial resources and ability of the Bidder/Proposer to perform the contract or provide the service.
- g. The quality, availability and adaptability of the supplies or contractual services to the particular use required.
- h. The ability of the Bidder/Proposer to provide further maintenance and service for the use of the subject of the contract.
- i. The number and scope of conditions attached to the bid.
- j. Such other factors as appear to the city council to be pertinent to the bid or the contract under all of the circumstances involved.

32. **DISCLOSURE OF CONFLICTS**

The award is subject to the provisions of Chapter 112.313, Florida Statutes. All Vendors must disclose with their Response the name of any officer, director, or agent who is also an employee of the City. Further, all Vendors must disclose the name of any employee who owns, directly or indirectly, an interest in the Vendor's firm or any of its branches. The Vendor shall not compensate, in any manner, directly or indirectly, any officer, agent, or employee of the City for any act or service that he/she may do, or perform for, or on behalf of any officer, agent or employee of the Vendor. No officer, agent, or employee of the City shall have any interest, directly or indirectly, in any contract or purchase made, or authorized to be made by anyone for, or on behalf of the City. The Vendor shall have no interest and shall not acquire any interest that shall conflict in any manner or degree with the performance of the services required under the Solicitation.

33. **DISQUALIFICATION OF BIDDER/PROPOSER**

The Purchasing Manager shall maintain a current listing of qualified Bidders. The Purchasing Manager may, from time to time, remove any vendor's name from the list of qualified Bidders. Normally the removal of a vendor from the vendor list is done after non response from that vendor for three (3) consecutive Solicitations. Such action may also arise out of breach of contract, default, or irregular business practice, based on the Finance Director and City Attorney's recommendation. Any or all Responses may be rejected if the City believes that collusion exists among the Bidders/Proposers. Responses in which the prices are obviously unbalanced may be rejected. If multiple Responses are submitted by a Bidder/Proposer and after the Responses are opened one of the Responses is withdrawn, the result will be that all of the Responses submitted by that Bidder/Proposer will be withdrawn; however, nothing herein prohibits a vendor from submitting multiple Responses for different products or services.

34. **EVALUATION**

Evaluation shall be used as a determinant as to which Response items or services are the most efficient and/or most economical for the City. It shall be based on all factors which have a bearing on price and performance of the items in the user environment. All Responses are subject to tabulation by the City of Port Orange Purchasing Division and recommendation to the governing body. Compliance with all Solicitation requirements, delivery and needs of the using department are considerations in evaluating Responses. Pricing is NOT the only criteria for making a

recommendation. The City of Port Orange Purchasing Division reserves the right to contact any Bidder/Proposer, at any time, to clarify, verify or request information with regard to any Response.

35. **EVALUATING RFPs/RFSQs/ITNs**

The evaluation process is formally conducted by a committee appointed by the Purchasing Manager or requesting department as required by general law. The Purchasing Manager leads and oversees the entire process. The evaluation is based upon specific criteria outlined in the Solicitation. The user department shall assign a weight to each of the evaluation criteria by its relative importance, with the total weights equaling 100. Each committee member establishes a summary of total scores for all the vendors. The summary of total scores is used to rank the vendors. Based upon the scores/ranking of the committee members, consensually a short list is obtained. In this Solicitation process this short list will consist of no less than three vendors (unless less than three were received). This committee falls under the Florida Sunshine Law and therefore cannot speak with one another concerning the Solicitation unless in a public committee meeting. These meetings also shall be announced publicly in a designated area and meetings are recorded. In the case of the Solicitation, one member of the Evaluation Committee may consist of one (1) member from the City Council; and at least one (1) member from the user department, except as otherwise required by general law. The Evaluation Committee, through the Purchasing Division, schedules oral presentations from the firms that were short-listed. At the oral presentation, the short listed firms present an over view of their company and their approach to the scope of work outlined. Upon conclusion of the oral presentations, with the same criteria and procedures used to evaluate the written Responses, the committee members then evaluate those three firms again to determine a second ranking. Then, by consensus a final ranking is determined. That final ranking is then presented to the City Council by the using department head requesting approval to negotiate with the individual/firm ranked as number one. A contract is completed pursuant to the negotiations with this individual and/or firm. If a successful contract cannot be obtained with the number one ranked firm, the negotiations then move to the team ranked as number two, never to return to the number one again.

36. **EXCEPTIONS TO SPECIFICATIONS**

For purposes of evaluation, the Vendor must indicate any exception to the specifications, terms, and/or conditions, no matter how minor. This includes any agreement or contract forms supplied by the Vendor that are required to be signed by the City. If exceptions are not stated by the Vendor, in his bid, it will be understood that the item(s)/services fully comply with the specifications, terms and/or conditions stated by the City. Exceptions are to be listed by the Vendor on an attachment included with the bid. The City will not determine exceptions based on a review of any attached sales or manufacturer's literature.

37. **E-VERIFY**

Vendors shall utilize the U.S. Department of Homeland Security's E-Verify system to verify the employment eligibility of all new employees hired by the Vendor during the term of contract and shall expressly require any subcontractor performing services pursuant to the contract to likewise utilize the U.S. Department of Homeland Security's E-Verify system to verify the employment eligibility of all new employees hired by the subcontractor during the term of contract.

38. **FACILITIES**

The City reserves the right to inspect the Vendor's facilities at any time.

39. **FAILURE TO RESPOND**

If the vendor elects not to bid, please return the enclosed "Bidder Acknowledgement Form" by the bid due date, and state the reason(s) for not bidding. Failure to respond, either by submitting a bid, or by submitting a "Statement of No Bid", three (3) times, shall result in the vendor's name being removed from the City's mailing list.

40. **FINANCIAL STABILITY**

Vendors shall be prepared to supply a financial statement upon request, preferably a certified audit of the last available fiscal year. A third party prepared financial statement and the latest Dunn & Bradstreet report will be accepted in lieu thereof.

41. **FORCE MAJEURE**

Neither party shall be liable for any delay in performance or failure to perform any obligation hereunder if, and to the extent that, such failure or delay is caused by an event of Force Majeure. Force majeure shall mean any act, event or condition that is beyond the party's reasonable control, that materially and adversely affects the party's ability to perform its obligations hereunder, and that is not the result of the party's willful neglect, error, omission or failure to exercise reasonable due diligence.

42. **GOVERNING FORMS**

In the event of any conflict between the terms and provisions of these requirements and the specifications, the specifications shall govern. In the event of any conflict of interpretation of any part of this overall document, the City's interpretation shall govern.

43. **GOVERNING LAW**

Vendors shall comply with all applicable federal, state and local laws and regulations. All Responses are solicited and shall be made pursuant to the Code of Ordinances, City of Port Orange, Chapter 2, Article VI, Division 2, Section 2-263, and all Responses will be evaluated in accordance with the provisions thereof. Code of Ordinances, City of Port Orange is on file in the Office of the City Clerk, City Hall, 1000 City Center Circle, Port Orange, Florida and at www.municode.com.

The City of Port Orange is also governed by the Consultants' Competitive Negotiation Act, Section 287.055, Florida Statutes, as the method of selecting architects, engineers and land surveyors. The City has utilized the procedures in the Act for Professional counselors, environmentalists, planners, general contractors, computer systems, designers, telecommunications consultants, maintenance technicians, financial services and other professional services.

Every acquisition equal to or greater than \$10,000.00 must have a signed, notarized "Public Entity Crimes Form" to comply with Section 287.133(3)(a), Florida Statutes. Also required is the "Drug Free Preference Form" to comply with Section 287.087, Florida Statutes. Each form is included in the Solicitation.

44. **GRANT FUNDING**

Any contract entered into by the City that is to be paid from grant funds shall be limited to payment from the grant funding and the vendor/provider understands that the City has not set aside any City funds for the payment of obligations under a grant contract. If grant funding should become unavailable at any time for the continuation of services paid for by the grant, and further funding cannot be obtained for the contract, then *the sole recourse of the provider shall be to terminate any further services under the contract and the contract shall be null and void.*

45. **HIPAA COMPLIANCE**

The Vendor agrees to comply with the Standards for Privacy of Individually Identifiable Health Information of the Health Insurance Portability and Accountability Act of 1996, PL 104-191, 45 CFR Parts 160-164, as amended, referred to as "HIPAA," to the extent that the Vendor uses, discloses or has access to protected health information as defined by HIPAA.

46. **IDENTICAL TIE BIDS**

In accordance with Section 287.087, Florida Statutes, preference shall be given to businesses with Drug-Free Workplace Programs. Whenever two or more Responses that are equal with respect to price, quality, and service are received for the procurement of commodities or contractual service, a Response received from a business that certifies that it has implemented a Drug-Free Workplace Program shall be given preference in the award process.

47. **INDEMNIFICATION/HOLD HARMLESS**

Contractor covenants and agrees that it will indemnify and hold harmless the City and all of the City's officers, agents, and employees from any claim, loss, damage, costs, charge or expense arising out of any act, action, neglect or omission by contractor during the performance of the contract, whether direct, or indirect, and whether to any person or property to which the City of said parties may be subject, except that neither the contractor nor any of its sub-contractors will be liable under this section for damages arising out of injury or damage to persons or property directly caused or resulting from the sole negligence of City or any of its officers, agents, or employees.

48. **INDEPENDENT CONTRACTOR**

It is expressly understood and agreed by both parties hereto that the City is contracting with the successful vendor as an independent contractor. The parties hereto understand and agree that the City shall not be liable for any claims which may be asserted by any third party occurring in connection with the services to be performed by the successful vendor under this contract and that the successful vendor has no authority to bind the City.

The Vendor represents itself to be an independent contractor offering such services to the general public and shall not represent himself or his employees to be an employee of the City. Therefore, the Vendor shall assume all legal and financial responsibility for taxes, FICA, employee fringe benefits, worker's compensation, employee insurance, minimum wage requirements, overtime, etc., and agrees to indemnify, save, and hold the City, its officers, agents, and employees, harmless from and against, any and all loss; cost (including attorney's fees); and damage of any kind related to such matters. The Vendor shall further understand that the City cannot save and hold harmless and or indemnify the Vendor and/or the Vendor's employees against any liability

incurred or arising as a result of any activity of the Bidder/Proposer or any activity of the Vendor's employees performed in connection with the Contract.

49. **INSPECTIONS AND TESTING**

City of Port Orange reserves the right to inspect any item(s) or service location for compliance with specifications and requirements and needs of the using department. If a Vendor cannot furnish a sample of a Response item, where applicable, for review, or fails to satisfactorily show an ability to perform, the City can reject the Response as inadequate and non-responsive.

50. **INSURANCE**

Please submit a copy of your insurance certificate with your Response. Upon execution of a contract, the Vendor shall maintain insurance during the life of this agreement, and the City of Port Orange shall be listed as additional insured on that insurance document. A waiver of subrogation must be added in all areas and shall suffice in lieu of additional insured on workers' compensation, in an amount and a form set forth herein, to insure against risks, which are identified herein. Insurance providers must be rated "A" or better accordingly to the A.M. Best Company.

51. **INSURANCE CANCELLATION**

No change or cancellation in insurance shall be made without thirty (30) days' written notice by the Vendor to the City. Insurance coverage required in these specifications shall be in force throughout the contract term. Should any awardee fail to maintain or to provide acceptable evidence of current insurance within five (5) days after receipt of written notice at any time during the contract term, the City shall have the right to consider the Contract breached which shall justify the termination thereof.

52. **INSURANCE REQUIREMENTS**

Please submit a copy of your insurance certificate with your proposal. Upon execution of a contract, the Vendor shall maintain insurance during the life of the Contract. The Vendor shall provide to the City a certificate of insurance identifying the City of Port Orange as an additional insured. For workers' compensation coverage, the Vendor's insurance certificate shall include the insurer's waiver of subrogation in lieu of naming the city as an additional insured for workers' compensation.

Policies other than Workers' Compensation shall be issued by insurers licensed and/or duly authorized under Florida Law to do business in the State of Florida and all insuring companies are required to have a minimum rating of "A" in the "Best Key Rating Guide" published by A.M. Best & Company, Inc. Policies for Workers' Compensation may be issued by companies authorized as a group self-insurer by F.S. 440.572. The Vendor shall not commence work under the contract until the City has received a certificate or certificates of insurance and endorsement evidencing the required insurance. The Vendor shall provide the City written notice of cancellation, nonrenewal or any other changes in coverage no later than ten (10) days prior to the effective date of the change.

The City reserves the right to increase insurance coverage as determined for higher risk contracts and shall reimburse the Contractor for the reasonable additional costs of increased coverage.

Insurance	Limits: Standards	Comments
Workers' Compensation <u>Additional Coverage:</u>	Coverage A - Statutory Coverage B - \$100,000 All States (Broad Form) Voluntary Compensation	If the contract requires work on or about navigable waters, require Longshoreman's and Harbor Workers' Coverage. If vessels involved, require Jones Act coverage with limits of \$500,000.
Comprehensive General Liability (including Completed Operations and Contractual Liability)	Combined Single Limit Bodily Injury and Property damage \$500,000 occurrence \$1,000,000. Aggregate	When the Contract work on or under Railroad rights of way or properties, the Contractor shall take out and maintain during the life of the Contract, Railroad protective liability and property damage insurance in amounts as requested by the Railroad.
Comprehensive Business, Automobile Liability to include all automobiles. <u>Additional Coverage:</u>	Auto Liability Bodily Injury: \$100,000 each person, \$300,000 each occurrence. Property Damage Liability \$100,000 each occurrence. Non-Owned, Hired Car	Or \$500,000 Combined Single Limit for Bodily Injury and Property Damage
Property Insurance Builders Risk. <u>Additional Coverage:</u>	Buildings - Completed value of contract. "All Risk" coverage on latest ISO form or its equivalent. Permission granted to occupy. Owner named as insured AIMA	If the Contract requires handling or installation of Owner's equipment, coverage should be furnished on "All Risk" form, including transit and Owner shall be named.
Professional Liability (Errors & Omissions)	Coverage- \$1,000,000 minimum	

53. **INVOICES AND PAYMENTS**

All invoices shall be sent to: City of Port Orange, Accounts Payable, P.O. Box 291759, Port Orange, Florida, 32129. In accordance with Florida Statutes, Chapter 218, payment will be made within 45 days after receipt of merchandise and a proper invoice. The City will attempt to pay within fewer days if Vendor offers a payment discount. The City cannot make advance payments, make deposits in advance of receipt of goods, or pay C.O.D. Vendors should state any payment discount in the space provided on the bid form for construction services.

54. **IRREVOCABILITY OF RESPONSES**

Each Vendor agrees that Responses shall remain open until the effective date not to exceed 90 days after selection, shall not be subject to revocation or withdrawal, and shall be subject to the City Council's acceptance of a contract with the Vendor.

55. **LATE SUBMISSIONS, LATE MODIFICATIONS AND LATE WITHDRAWALS**

Responses received after the Response Due Date and time are late and shall not be considered. Modifications received after the Response Due Date are also late and shall not be considered. Letters of withdrawal received after the Response Due Date are late and shall not be considered. Letters of withdraw received after contract award shall be deemed a breach of contract, subject to penalties as set forth in the contract and Solicitation.

56. **LEGAL REQUIREMENTS**

Applicable provision of all federal, state, county and local laws, and all ordinances, rules, and regulations shall govern development, submittal and evaluation of all Responses received in response hereto and shall govern any and all claims and disputes which may arise between person(s) submitting a response to a Solicitation hereto and the City by and through its officers, employees and authorized representatives, or any other person, natural or otherwise; and lack of knowledge by any Vendor shall not constitute a cognizable defense against the legal effect thereof.

Upon execution of a contract, the successful Vendor shall hold harmless, indemnify and defend the City of Port Orange, its members, officials, officers and employees against any claim, action, loss, damage, injury, liability, cost and expense of whatsoever kind or nature (including, but not by way of limitation, attorneys' fees and court costs) arising out of or incidental to the performance of the Contract, whether or not due to or caused by negligence of the City of Port Orange, its members, officials, officers or employees. This Contract requirement shall be reflected in the insurance coverage certificate.

57. **LICENSES, PERMITS AND TAXES**

The Vendor shall comply with all rules, regulations, laws and permitting requirements of the City, Volusia County, the State of Florida, and the United States Government now in force or hereafter to be adopted. The Vendor shall abide by all ordinances and laws pertaining to his operations and shall secure, at his expense, all licenses and permits necessary for construction and operation.

58. **LITERATURE (if applicable):**

If no particular brand, model or make is specified, Vendors shall submit with the RFP two (2) copies of descriptive literature and technical data, fully detailing all features, designs, construction, appointments, finishes and the like not covered in the specifications, necessary to fully describe the equipment, material, and/or services he proposes to furnish.

59. **LITIGATION HISTORY:**

The City will consider a Vendor's litigation history information in its review and determination of responsibility. All Vendors are required to disclose to the City all "material" cases filed, pending, or resolved during the last five (5) years prior to the solicitation response due date, whether such cases were brought by or against the Vendor, any parent or subsidiary of the Vendor, or any predecessor organization. If the Vendor is a joint venture, the information provided should encompass the joint venture (if it is not newly-formed for purposes of responding to the solicitation) and each of the entities forming the joint venture. Although the review of a Vendor's litigation history is an issue of responsibility, the failure to provide litigation history as required in the Evaluation Criteria may result in a recommendation of non-responsive by the Purchasing Manager.

60. **LOCAL PREFERENCE**

In accordance with City of Port Orange City Code 2-275, except where federal or state law, or any other funding source, mandates to the contrary, the City shall give preference to local businesses in the following manner:

(a) Competitive Bids

- (1) Port Orange Business: In any competitive bidding process where a bid submitted by a Port Orange business is within eight percent (8%) of the lowest and best responsible bid submitted by a non-Port-Orange business, then the Port Orange business shall have the opportunity to submit, within five (5) working days of the bid opening, a best and final bid equal to or lower than the amount of the original low bid. The bid shall then be awarded to the lowest and best responsible bidder.
- (2) Volusia County business: In any competitive bidding process where a Volusia County business is within five percent (5%) of the lowest and best responsible bid submitted by a business other than a Port Orange business or Volusia County business, then the Volusia County business shall have the opportunity to submit, within five (5) working days of the bid opening, a best and final bid equal to or lower than the amount of the original low bid. The bid shall then be awarded to the lowest and best responsible bidder.
- (3) Florida Business: In any competitive bidding process where a State of Florida business is within three percent (3%) of the lowest and best responsible bid submitted by a non-local business, then the Florida business shall have the opportunity to submit, within five (5) working days of the bid opening, a best and final bid equal to or lower than the amount of the original low bid. The bid shall then be awarded to the lowest and best responsible bidder.
- (4) Tied Bid Preference: In case of a tie bid between a local business and a non-local business, the local business shall prevail. In case of a tie between two or more local businesses, the

following order of preference shall control: first priority to Port Orange business, second priority to Volusia County business, and third priority to Florida business.

- (b) Request for Proposals, Qualifications or other Qualitative Submittals. In any ranking conducted pursuant to a request for proposals, qualifications, or other qualitative submittals where the bidders are rated by a point system, local businesses shall be granted the following preference:
- (1) Port Orange business shall be granted up to eight percent (8%) of the available points.
 - (2) Volusia County business shall be granted up to five percent (5%) of the available points.
 - (3) Florida business shall be granted up to three percent (3%) of the available points.
 - (4) Tied bid preference. In case of a tie between a local business and a non-local business, the local business shall prevail. In case of a tie between two or more local businesses, the following order of preference shall control: first priority to Port Orange business, second priority to Volusia County business, and third priority to Florida business.
- (c) Definitions. The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Port Orange Business means a business having its headquarters and principal place of business within the City of Port Orange at least twelve (12) months prior to the bid or proposal opening date, as evidenced by a valid business tax receipt or such other documentation, to the City's satisfaction, demonstrating the physical business presence of the firm within the limits of the City of Port Orange.

Volusia County Business means a business having its headquarters and principal place of business within the County of Volusia, and not within the City of Port Orange, at least twelve (12) months prior to the bid or proposal opening date, as evidenced by a valid business tax receipt or such other documentation, to the City's satisfaction, demonstrating the physical business presence of the firm within the limits of Volusia County.

Florida Business means a business having its headquarters and principal place of business within the State of Florida, and not within Volusia County, at least twelve (12) months prior to the bid or proposal opening date, as evidenced by a valid business tax receipt or such other documentation, to the city's satisfaction, demonstrating the physical business presence of the firm within the limits of the State of Florida.

61. **MAINTENANCE**

Maintenance required for equipment Solicitation is preferred to be available in the City of Port Orange by a manufacturer-authorized maintenance facility. Costs for this service shall be shown on the Pricing/Delivery Information form. If the City of Port Orange opts to include maintenance, it shall be so stated in the purchase order and said cost will be included. Service will commence only upon expiration of applicable warranties and shall be priced accordingly.

62. **NAME BRANDS**

Specifications may reference name brands and model numbers. It is not the intent of the City of Port Orange to restrict these bids in such cases, but to establish a desired quality level of merchandise or to meet a pre-established standard due to like existing items. Vendors may offer items of equal stature and the burden of proof of such stature rests with the Vendor, unless otherwise specified by the City. The City of Port Orange shall act as sole judge in determining equality and acceptability of products offered.

63. **NON-DISCRIMINATION**

There shall be no discrimination as to race, color, religion, gender, age, marital status, national origin, ancestry, and physical or mental disability in the operations conducted under this contract. Included as applicable activities by the contractor under this section are the solicitation for or purchase of goods or services, or the subcontracting of work in performance of this contract.

64. **NON-EXCLUSIVITY OF CONTRACT**

The selected Vendor understands and agrees that any resulting contractual relationship is non-exclusive and the City of Port Orange reserves the right to seek similar or identical services elsewhere if deemed in the best interest of the City of Port Orange.

65. **NON-PERFORMANCE:**

Failure to meet the expected quality of workmanship, schedule, or other criteria agreed upon, shall be considered a default.

In case of default, the City may procure the required services from other sources and hold the Consultant responsible for any excess costs occasioned thereby and may immediately cancel the contract.

66. **NOTICE TO CONTRACTOR**

The employment of unauthorized aliens by any contractor is considered a violation of Section 274A (e) of the Immigration and Nationality Act. If the contractor knowingly employs unauthorized aliens, such violation shall be cause for unilateral cancellation of the contract.

67. **OPTIONAL CONTRACT USAGE**

As provided in Section 287.042(16), Florida Statutes, State of Florida agencies may purchase from a contract resulting from this solicitation, provided the Department of Management Services, Division of Purchasing, has certified its use to be cost effective and in the best interest of the State. Contractor(s) may sell such commodities or services certified by the Division to State of Florida agencies at the contractor's option.

68. **OTHER AGENCIES**

- (a) All Vendors awarded contracts from this Bid may, upon mutual agreement, permit any municipality or other governmental agency to participate in the contract under the same prices, terms, and conditions, if agreed to by both parties.
- (b) It is understood that at no time will any city, municipality, or other agency be obligated for placing an order for any other city, municipality, or agency; nor will any city, municipality, or agency be obligated for any bills incurred by any other city, municipality, or agency. Further, it is understood that each agency will issue its own purchase order to the awarded Vendor(s).

69. **PATENTS/COPYRIGHTS**

The successful vendor agrees to indemnify and hold the City harmless from any claim involving patent infringement or copyrights on goods supplied.

70. **PRE-BID CONFERENCE OR PRE-PROPOSAL CONFERENCE**

The Purchasing Manager shall determine if the pre-bid or pre-proposal conference is mandatory and provide the date, time and location in the Solicitation legal advertisement and Solicitation specifications. The conference shall normally be held in the Council Chambers, located on the first floor of City Hall, 1000 City Center Circle, Port Orange, Florida. A site visit may be included and shall immediately follow. Attendance to the pre-bid and pre-proposal conference is normally mandatory. Only Vendors attending a mandatory pre-bid conference will be eligible to submit a Response. The representative of each Vendor shall be an authorized employee of the Vendor and shall sign in accordingly.

71. **PREPARATION OF RESPONSES**

In preparing Responses, the Proposal Form, the Bid Form (when a Bid Bond is permitted as proposal security), Certificate as to Corporate Principal, Public Entity Crimes Statement, Anti-Collusion Statement, and Drug Free Preference Statement must be properly executed in ink.

Upon the prescribed Schedule of Unit Prices, all bid prices shall be typewritten or written in ink, in both words and numerals, in the blank spaces for each item, with the amounts extended if a unit price bid, and all amounts totaled. In the event of any discrepancy between the written amounts and the numerals, the written amounts shall govern and will be considered as the price bid. The sum of the Total Bid as calculated from the individual items, Schedule of Unit Prices, shall equal the Total Price. Except as provided below, bids containing substitutions or combinations of alternates will not be considered unless such substitutions or combinations are specifically authorized by the Proposal. The Vendor shall sign his/her name and give his/her business address in the spaces provided therefore. If the Proposal is made as a partnership, it shall be signed by all partners; if made by a corporation, it shall be signed in the name of the corporation by one of the officers thereof and shall have affixed the seal of the corporation.

72. **POSTPONEMENT / CANCELLATION / WAIVER OF IRREGULARITIES**

The City may, at its sole and absolute discretion, reject any and all, or parts of, Responses; re-advertise the Solicitation for new Responses; postpone or cancel, at any time, the Solicitation process; or waive any irregularities in the Solicitation or in the Responses received as a result of the Solicitation, or to accept that Response which best serves the interest of the City.

73. **PRICING**

The Vendor certifies that prices, terms and conditions in the Response will be firm for acceptance for a period of ninety (90) days from the date of Response opening unless otherwise stated by the City. Responses may not be withdrawn before the expiration of ninety (90) days. Prices shall be firm, with no escalator clauses unless specified by the City. Responses may be withdrawn after ninety (90) days only upon written notification to the City. Prices for all goods and/or services shall be firm for the duration of this contract and shall be stated on the Pricing/Delivery Information form.

Prices shall be all inclusive: no price changes, additions, or subsequent qualifications will be honored during the course of the contract. All prices must be written in ink or typewritten. Pricing on all transportation, freight, drayage and other charges are to be prepaid by the contractor and included in the bid prices. If there are any additional charges of any kind, other than those mentioned above, specified or unspecified, the Vendor shall indicate the items required and attendant costs or forfeit the right to payment for such items. Where unit pricing and extended pricing differ, unit pricing prevails. In the event of any discrepancy between the written amounts and the numerals, the written amounts shall govern and will be considered as the price bid.

When submitting Bids/Proposals based on a Lump Sum basis, Vendors shall be required to submit a Schedule of Unit Pricing for each line item listed on the Bid Proposal in order to be considered for award.

74. **PRODUCTS/ESTIMATES:**

Items included on the Bid Form represent the needs of various departments within the City. This is in no way to be construed as the entire or complete list of products to be purchased from the resulting contract.

There is no anticipated dollar volume for this contract and cannot be guaranteed. Items shall be ordered on an as needed, when needed basis. Exact quantities or estimated quantities cannot be predetermined.

75. **PROPRIETY INFORMATION**

Upon receipt by the City, responses to Solicitations, become public records subject to the provisions Florida's state policy on public records, Section 119, Florida Statutes. If you believe that any portion of your response is exempt, you should clearly identify the specific documents for which confidentiality is claimed, and provide specific legal authority of the asserted exemption. Any financial statement that an agency requires a prospective Vendor to submit in order to prequalify for bidding or for responding to a proposal for a road or any other public works project is exempt from Section 119.07, Florida Statutes, and Article I, 24(a), Florida Constitution.

76. **PROTECTION**

Precaution shall be exercised at all times for the protection of persons, (including employees) and property. All existing structures, utilities, services, roads, trees, shrubbery, etc. shall be protected

against damage or interrupted service at all times by the Vendor during the term of contract, and the Vendor shall be held responsible for any damage to the property occurring by reason of his operation on the property.

77. **PUBLIC ENTITY CRIMES**

In accordance Section 287.133 (2)(a), Florida Statutes: A person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a bid on a contract to provide any goods or services to a public entity, may not submit a bid on a contract with a public entity for the construction or repair of a public building or public work, may not submit bids on leases of real property to a public entity, may not be awarded or perform work as a contractor, supplier, subcontractor or consultant under a contract with any public entity, and may not transact business with any public entity in excess of the threshold amount provided Section 287.017, Florida Statutes, for CATEGORY TWO for a period of 36 Months from the date of being placed on the convicted vendor list.

78. **PUBLIC RECORDS COMPLIANCE**

Contractor shall comply with public records laws as set forth in Section 119, Florida Statutes, and shall specifically:

- a. Keep and maintain public records that ordinarily and necessarily would be required by the City in order to perform the service.
- b. Provide the public with access to public records on the same terms and conditions that the City would provide the records and at a cost that does not exceed the cost provided in Section 119, Florida Statutes, or as otherwise provided by law.
- c. Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law.
- d. Meet all requirements for retaining public records and transfer to the City, at no cost, all public records in possession of the Contractor upon termination of the Contract and destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. All records stored electronically must be provided to the City in a format that is compatible with the information technology systems of the City.

The failure of Contractor to comply with a public records request shall constitute a material breach of the contract.

79. **PUBLIC RECORDS/PUBLIC MEETINGS EXEMPTION STATEMENT**

Section 119.071(1)(c), Florida Statutes: **Any financial statement that an agency requires a prospective Vendor to submit in order to prequalify for bidding or for responding to a proposal for a road or any other public works project is exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. On June 2, 2011, Governor Scott signed HB 7223 into law. This new legislation amends Florida's Public Records and Sunshine Laws, by expanding "exemptions" applicable to bids, proposals and replies to sealed competitive solicitations, and closes evaluation meetings from the public in certain instances. First, Section 119.071, Florida Statutes was amended to provide that sealed bids, proposals, or replies received by a Florida public agency**

shall remain exempt from disclosure until an intended decision is announced or until 30 days from the opening, whichever is earlier. This means that Vendors will not be able to procure a copy of their competitor's bids until an intended decision is reached or 30 days has elapsed since the time of the bid opening. The prior version of the law provided for a 10-day exemption. Next, Section 286.0113, Florida Statutes was amended to provide that meetings of persons appointed to evaluate bids or proposals and negotiate contracts shall be closed in certain circumstances. Specifically, portions of such meetings may now be closed to the public during oral presentations made by a vendor, or where a vendor answers questions. In other words, neither Vendors, nor the public will be permitted to sit in on meetings, unless this exemption is waived by the City Council, wherein their competitors are making presentations or discussing their bid or proposal with the committee members. The portions of these meetings must still be recorded and are subject to disclosure at the time of an intended award decision or within 30 days of the bid or proposal opening, whichever is earlier. Portions of the meetings that do not involve presentations, questions and answers, or negotiation strategy or negotiation sessions are still open to the public and competing Vendors, but the new law limits public attendance to portions of such meetings.

80. **PURCHASE ORDER AND DELIVERY**

The successful Vendor shall not deliver products or provide services without a City of Port Orange Purchase Order, signed by an authorized agent of the City of Port Orange. The fastest, most reasonable delivery time shall be indicated by the Vendor. Any special information concerning delivery should also be included, on a separate sheet, if necessary. All items shall be shipped F.O.B. INSIDE DELIVERY unless otherwise stated in the specifications. This shall be understood to include bringing merchandise to the appropriate room or place designated by the using department. Every tender or delivery of goods must fully comply with all provisions of these requirements and the specifications including time, delivery and quality. Nonconformance shall constitute a breach which shall be rectified prior to expiration of the time for performance. Failure to rectify within the performance period shall be considered cause to reject future deliveries and cancellation of the contract by City of Port Orange without prejudice to other remedies provided by law. Where delivery times are critical, the City of Port Orange reserves the right to award accordingly.

81. **QUALITY**

All materials used for the manufacture or construction of any supplies, materials or equipment covered by this bid shall be new. The items bid must be new, the latest model, of the best quality and highest grade workmanship unless otherwise specified in this bid by the City.

82. **QUESTIONS, INTERPRETATIONS**

Questions regarding interpretation of Responses, Solicitation results or Solicitation awards shall be directed in writing to the Purchasing Division and referenced by the Solicitation number no later than the last day for questions as specified in the Solicitation documents. The City of Port Orange shall not be responsible for oral interpretations given by any City personnel or representative or others. The issuance of a written addendum is the only official method whereby interpretation, clarification or additional information can be given.

83. **RECORDS/AUDIT**

The Vendor shall maintain records sufficient to document their completion of the scope of services as a public record and as a requirement of the Contract. At all reasonable times, these

records, unless exempt or confidential, shall be subject to review, inspection, copy and audit by persons duly authorized by the City. These records shall be kept for a minimum of three (3) years after completion of the Contract and in accordance with the requirements of public records retention as prescribed by general law. Records which relate to any litigation, appeals or settlements of claims arising from performance under this requirement shall be made available until a final disposition has been made of such litigation, appeals, or claims.

84. **RECYCLED MATERIALS**

City of Port Orange encourages the use of products made of recycled materials.

85. **REJECTING OF RESPONSES, REBIDDING**

The City reserves the right to accept or reject any or all Responses or parts of Responses, to waive irregularities and technicalities, and to request re-bids. The City also reserves the right to award the contract on such items the City deems will best serve the interests of the City. The City further reserves the right to award the contract on a "split order" basis, or such combination as shall best serve the interests of the City unless otherwise specified. The City Council shall have the authority to reject any and all Responses. If the lowest and best Response exceeds the budgeted amount and the City Council does not make additional funds available, the purchasing agent with the help of the department head shall have the authority to re-advertise the article or articles for bidding after making sufficient changes in the plans or specifications to bring the cost within the limit of the money available. (Code 1981, § 8-28.)

86. **REQUEST FOR ADDITIONAL INFORMATION**

Prior to the final Solicitation selection, Vendors may be required to submit additional information which the City may deem necessary to further evaluate the Vendor's qualifications to perform under the terms of the Solicitation and subsequent Contract.

87. **REVIEW OF RESPONSES/SUBMISSIONS**

Each Response will be reviewed to determine if the Response is responsive to the submission requirements outlined in the Solicitation. A responsive Response is one which follows the requirements of the Solicitation, includes all required documentation, is submitted in the format outlined in the Solicitation, is of timely submission, and has the appropriate signatures as required on each document. Failure to comply with these requirements may deem your Response non-responsive.

88. **RIGHT OF NEGOTIATION RFP/RFSQ/ITN**

The City reserves the right to negotiate with the selected Vendor the exact terms and conditions of the Contract.

89. **RIGHT OF WITHDRAWAL**

A bid, proposal, statement, or reply may not be withdrawn before the expiration of ninety (90) days from the Response due date.

90. **RIGHTS TO SOLICITATION SUBMITTED MATERIAL**

All Responses, inquiries, or correspondence relating to or in reference to a Solicitation, and all reports, charts, and other documentation submitted by Vendors shall become the property of the City when received.

91. **RULES, REGULATIONS AND LICENSING REQUIREMENT**

The Vendor shall comply with all laws, ordinances and regulations applicable to the services contemplated herein, including those applicable to conflict of interest and collusion. Vendors are presumed to be familiar with all federal, state and local laws, ordinances, codes and regulations that may in any way affect the services offered.

92. **SAMPLES**

Samples, when requested, must be furnished at, or before, Response opening, (unless otherwise specified), and will be delivered at no charge to the City. If not used and/or destroyed in testing, said sample(s) will, at the Vendor's request, be returned within thirty (30) days after bid award at the Vendor's expense. If requested by the City, samples and/or inspection of like items are to be made available in the central Florida area.

93. **SEPARATION AND DISTRIBUTION**

The Solicitation has been designed for transmittal as a complete document to interested parties. It is recommended that it not be separated; however, it may be reproduced in its entirety as additional distribution might dictate.

The City will utilize Demand Star for distribution of Formal Solicitations at: www.demandstar.com.

94. **SEVERABILITY**

If any section, subsection, paragraph, sentence, clause, phrase or word of these requirements or the specifications shall be held invalid, such holding shall not affect the remaining portions of these requirements and the specifications and it is hereby declared that such remaining portions would have been included in these requirements and the specifications as though the invalid portion had been omitted.

95. **SIGNATURE REQUIRED**

All Responses must show the company name and be signed by a company officer or employee who has the authority to bind the company or firm by their signature. UNSIGNED RESPONSES WILL BE REJECTED. All manual signatures must be original - no rubber stamp, photocopy, etc.

96. **SIGNED RESPONSE CONSIDERED AN OFFER**

The signed Response is considered an offer on the part of the Vendor, which offer shall be considered accepted upon approval by the City of Port Orange City Council (if required). The City of Port Orange will issue a purchase order or a letter of authorization to the successful Vendor, as authorization for delivery of the items awarded subject to requirements of detailed specifications and those contained herein. In the event of default on the part of the Vendor after such acceptance, the City may take such action as it deems appropriate including legal action for damages or specific performance.

97. **SILENCE OF SPECIFICATIONS**

The apparent silence of specifications as to any detail, or the apparent omission from it of a detailed description concerning any point, shall be regarded as meaning that only the best commercial practice is to prevail and that only material and workmanship of the finest quality are to be used. All interpretations of specifications shall be made on the basis of this statement. The items furnished under this contract shall be new, unused of the latest product in production to commercial trade and shall be of the highest quality as to materials used and workmanship. Manufacturer furnishing these items shall be experienced in design and construction of such items and shall be an established supplier of the item bid.

98. **SOLICITATION FORM COMPLETION, SUBMISSION AND RECEIPT OF RESPONSES**

Unless otherwise specified, Vendors shall use the Solicitation forms supplied by the Purchasing Division. Responses shall be typewritten or handwritten in ink and shall bear the original signature of the Vendor's authorized representative. Responses containing erasures or corrections must be initialed by the Vendor in ink. Responses shall be submitted by mail or hand delivery only. No Response will be accepted by facsimile transmission, e-mail or other electronic delivery. Responses submitted by mail shall be addressed to: Diana M. Fye, CPPB, FCPA, Purchasing Manager, Purchasing Office, a division of the Finance Department, Port Orange City Hall, 1000 City Center, Port Orange, Florida 32129. Responses submitted by hand delivery shall be delivered to: City Clerk, Port Orange City Hall, 1000 City Center Circle, Port Orange, Florida 32129. Responses will be accepted until 2:30 p.m. on the date indicated in the Solicitation documents or as addenda issued by the City. One (1) sealed envelope or package shall be submitted. The sealed envelope/package must contain the required forms and price proposals, where applicable, and will be evaluated and deemed responsive or non-responsive. All Responses deemed non-responsive will be returned to the Vendor and will not be opened.

Bids (Envelope/Package) shall contain one (1) original and one (1) digital (Cd or flash drive) version unless otherwise indicated in the legal advertisement and shall be mailed or delivered as set forth in the preceding paragraph in one (1) SEALED ENVELOPE/PACKAGE. The envelope/package shall be clearly marked on the outside to include the bid project name, bid number and name of the Vendor.

99. **STATE LICENSING REQUIREMENTS**

All entities defined under Chapters 607, 608, 617 or 620, Florida Statutes, seeking to do business with the City shall be on file and in good standing with the State of Florida's Department of State. Prior to making an offer, the Vendor shall have met the license, certification, and any other requirements of the state, county, city and/or other agency of authority with jurisdiction in such matters and should provide copies of documentation that evidence such qualifications with the response to the Solicitation; and, that the Vendor shall provide follow-up evidence that the Vendor maintains such credentials throughout the period of the agreement. A copy of a current certificate of authority from the Secretary of State authorizing the Bidder/Responder to do business in the State of Florida, or other evidence of legal authority to do business in the state, county, city and/or any other agency of authority should be provided with your response to the Solicitation. Information concerning certification with the Secretary of State may be obtained at <http://ccfcorp.dos.state.fl.us/index.html>. Contract documents shall be executed by the entity's duly authorized officer as evidence by entity records.

100. **SUBCONTRACTING**

The Vendor will not sub-contract, or enter into any subcontracting agreements pertaining to this contract, without obtaining approval from the City of Port Orange.

101. **SUPPLEMENTAL MATERIALS**

Vendors are responsible for including all pertinent product data in the returned bid package. Literature, brochures, data sheets, specification information, completed forms requested as part of the bid package and any other facts which may affect the evaluation and subsequent contract award should be included. Materials such as legal documents and contractual agreements that the Vendor wishes to include as a condition of the bid must also be in the returned bid package. Failure to include all necessary and proper supplemental materials may be cause to reject the entire bid.

102. **TAXES**

The City of Port Orange is exempt from all federal excise, state and local taxes unless otherwise stated in this document. A Tax Exemption Certificate will be furnished upon written request to the City of Port Orange Purchasing Division.

103. **TERM CONTRACTS**

Acceptance by the City of Port Orange of Vendor's offer shall be limited to the terms herein unless expressly agreed in writing by the City. If the contract is intended to cover a specific time period, the term will be given in the bid specifications.

104. **TERMINATION**

The City of Port Orange reserves the right to terminate the contract for default if the Vendor breaches any of the terms therein, including warranties of the Vendor or if the Vendor becomes insolvent or commits acts of bankruptcy. Such right of termination is in addition to and not in lieu of any other remedies which the City of Port Orange may have in law or equity. Default may be construed as, but not limited to, failure to deliver the proper goods and/or services within the proper amount of time, and/or to properly perform any and all services required to the City's satisfaction and/or to meet all other obligations and requirements. The City may cancel the Contract at any time for breach of contractual obligations by providing the Vendor with a written notice of such cancellation. Should the City exercise its right to cancel the contract for such reasons, the cancellation shall become effective on the date as specified in the notice of cancellation sent to the Vendor.

105. **TERMINATION - NOTICE**

Either party may cancel the contract at any time after award, unless otherwise specified. The City shall be required to give the vendor notice thirty days prior to the date of cancellation of the contract. The vendor shall be required to give the City written notice (60) sixty days prior to the date of cancellation of the contract. The City of Port Orange may terminate the contract without cause upon thirty (30) days written notice.

106. **TITLE TRANSFER**

Title and Risk of Loss of goods shall not pass to City of Port Orange until City of Port Orange actually receives and takes possession of the goods at the point or points of delivery. Receiving times may vary with the using department. Generally, deliveries may be made between 8:30 a.m. and 3:00 p.m., Monday through Friday. The Vendor is advised to consult the using department for instructions. The place of delivery shall be specified in the bid specification and/or on the Purchase Order as a "Deliver To:" address.

107. **UNBALANCED BID**

A mathematically unbalanced bid is where a bidder places a high price on some items and a low price on other items in a unit price contract. A bid is materially unbalanced when there is reasonable doubt that acceptance of a mathematically unbalanced bid will result in the lowest overall cost to the City. Unbalanced Bids will be rejected if the prices are deemed materially unbalanced.

108. **USE OF SOLICITATION FORMS**

The Vendor shall complete the appropriate Solicitation Form(s) included in the Solicitation. All blanks on the Solicitation Forms shall be completed. If a question or confirmation is not applicable, it should be answered with an "N/A."

Supplemental information may be attached to the Solicitation Forms. Failure to fully complete the appropriate Solicitation Forms may result in disqualification of the Response.

If additional space for a response is required, attach an additional page to the page on which the question is stated. Clearly identify the number of the question to which the response is attached. Further, if additional Solicitation Form pages are needed, photocopy or replicate as appropriate, and attach such additional pages to the page on which the question or chart is stated.

The signature of the Authorized Person or Entity must be that of an officer, partner or a sole proprietor of the entity making the Response. The original Response, and each copy submitted, shall contain an original signature on the Vendor's Acknowledgement Form contained in each Solicitation.

109. **VARIANCES**

For purposes of Response evaluation, Vendors must indicate any variances, no matter how slight, contained in the Response. No variations or exceptions by a Vendor will be considered or deemed a part of the Response submitted unless such variances or exceptions are listed in the Response and referenced in the space provided on the Response pages. If variances are not stated, or referenced as required, it will be assumed that the product or service complies with the City's terms, conditions and specifications. By receiving a Response, the City does not necessarily accept any variances contained in the Response. All variances submitted are subject to review and approval by the City. If any Response contains material variances that, in the City's sole opinion, make that Response conditional in nature, the City reserves the right to reject the Response or part of the Response that is declared, by the City, as conditional.

110. **VENDOR'S PRODUCT OR SERVICES**

The Vendor's product (if applicable) delivered to the City shall be free of all liens, claims or encumbrances, and the vendor warrants that it has a clear title to the product being delivered.

- a. If the Vendor is contracted to provide services, such services shall be fully satisfactory to the City as determined by the City.
- b. The Vendor shall provide the City with any data, reports or other information as required and requested by the City to enable it to utilize the product or service furnished by the Vendor.
- c. In furnishing the service or product to the City, the Vendor shall comply with all federal, state, county laws, and city rules, regulations and codes and their successors or amendments. Violation of such laws, rules, regulations and codes may be grounds for delaying or reducing the amount due, or in rescinding the contract, Contract, proposal or quote.

111. **WAIVER OF IRREGULARITIES**

The City of Port Orange reserves the right to waive and/or reject any non-substantial irregularity in Responses received whenever such waiver or rejection is in the best interest of the City and/or it does not meet the minimum requirements set forth. All reasonably responsive Responses will be considered. However, the City reserves the right to waive formalities or informalities in Responses, to reject, with or without cause, any or all Responses or portions of Responses, or to interview or not interview individual Vendors, and to accept any Responses or portions of Responses deemed to be in the best interest of the City. The city council shall grant the City Manager to waive any and all non-substantial irregularities in any and all formal Solicitations. (Code 1981, § 8-29; Ord. No. 2015-17, § 1, 5-19-2015)

112. **WARRANTIES**

Vendors shall furnish all data pertinent to warranties or guarantees which may apply to items in the Response. Vendors may not limit or exclude any implied warranties. The Vendor warrants that product sold to the City shall conform to the standards established by the U.S. Department of Labor under the Occupational Safety and Health Act of 1970. In the event product does not conform to OSHA Standards, where applicable, City of Port Orange may return the product for correction or replacement at the Vendor's expense. If the Vendor fails to make the appropriate correction within a reasonable time, City of Port Orange may correct at the Vendor's expense.

[Remainder of this page left intentionally blank]

SECTION 6 – SPECIAL CONDITIONS

PERIOD OF OFFER VALIDITY:

Bids offered in this ITB must remain firm for a period of ninety (90) days from the ITB opening date.

CONTRACT TERM / COMPLETION TIME:

The term of the contract shall be upon notice to proceed. Substantial completion will be 60 days with 30 days more for final completion.

ELIGIBILITY OF VENDOR:

To be eligible to respond to this ITB, the Vendors must have a minimum of five (5) years' prior successful experience working with the services described in this ITB. Please provide eligibility experience with your submittal.

[Remainder of this page left intentionally blank]

SECTION 7 – REQUIRED FORMS

FORM 7.1 – BID SUBMITTAL CHECKLIST

- _____ Form 7.2 – Vendor’s Acknowledgement
- _____ Form 7.3 – Addendum and Change Order Procedure Acknowledgement
- _____ Form 7.4 – Drug Free/Tie Preference Statement
- _____ Form 7.5 – Public Entity Crimes Statement
- _____ Form 7.6 – Affidavit of Anti-Collusion
- _____ Form 7.7 – Authorized Signatures/Negotiators
- _____ Form 7.8– Statement of Vendor’s Qualifications
- _____ Form 7.9 – Professional References for Previous Experience
- _____ Form 7.10 – Listing of Subcontractors
- _____ Form 7.11 – Vendor Application
- _____ W-9 Form
- _____ Form 7.12 – Local Business Affidavit of Eligibility
- _____ Attachment 1 – Bid Proposal
- _____ Bid Bond
- _____ Copy of Certificate of Insurance
- _____ Submission of one (1) original marked “ORIGINAL” and one (1) digital (CD or flash drive) version in PDF format.

BY: _____
Name of Business

Authorized Signature

Date

This document must be completed and returned with your Submittal

FORM 7.2 – VENDOR’S ACKNOWLEDGEMENT FORM

I have carefully examined the Invitation to Bid (ITB), Instructions to Vendors, General and/or Special Conditions, Specifications, and any other documents accompanying or made a part of this invitation.

I hereby propose to furnish the goods or services specified in the Invitation to Bid at the prices or rates as finally negotiated. I agree that my bid will remain firm for a period of up to ninety (90) days in order to allow the City of Port Orange adequate time to evaluate the proposed bid. Furthermore, I agree to abide by all conditions of the Invitation to Bid.

I certify that all information contained in this Bid is truthful to the best of my knowledge and belief. I further certify that I am a duly authorized to submit this Bid on behalf of the Vendor / Contractor as its act and deed and that the Vendor / Contractor is ready, willing and able to perform if awarded the contract.

I further certify that this Bid is made without prior understanding, Contract, connection, discussion, or collusion with any person, firm or corporation submitting a Bid for the same product or service; no officer, employee or agent of the City of Port Orange City Council or of any other Vendor interested in said ITB; and that the undersigned executed this Vendor’s Acknowledgement with full knowledge and understanding of the matters therein contained and was duly authorized to do so.

I further certify that having read and examined the specifications and documents for the designated services and understanding the general conditions for contract under which services will be performed, does hereby propose to furnish all labor, equipment, and material to provide the services set forth in the ITB.

I hereby declare that the following listing states any clarifications, any and all variations from and exceptions to the requirements of the specifications and documents. The undersigned further declares that the “work” will be performed in strict accordance with such requirements, and understands that any exceptions to the requirements of the specifications and documents may render the Bid non-responsive.

NO EXCEPTIONS ALLOWED AFTER THE BID IS SUBMITTED:

Please check one: ☐ I take NO exceptions. ☐ Exceptions (list below; add additional pages if necessary):

NAME OF BUSINESS

MAILING ADDRESS

AUTHORIZED SIGNATURE

CITY, STATE & ZIP CODE

NAME, TITLE, TYPED

TELEPHONE NUMBER / FAX NUMBER

FEDERAL IDENTIFICATION #

E-MAIL ADDRESS

STATE OF _____ COUNTY OF _____

The foregoing instrument was acknowledged before me this day of _____, 20____ by _____, who is personally known to me or who has produced ad identification and who did take an oath.

My Commission Expires:

Notary Public

This document must be completed and returned with your Submittal

FORM 7.3 – ADDENDUM and CHANGE ORDER PROCEDURE ACKNOWLEDGEMENT

ADDENDUM ACKNOWLEDGEMENT

I have carefully examined the Invitation to Bid (ITB), Instructions to Vendors, General and/or Special Conditions, Specifications, and any other documents accompanying or made a part of this invitation to Bid.

I acknowledge receipt and incorporation of the following addenda, and the cost, if any, of such revisions has been included in the price of the bid proposal.

Addendum # _____ Date: _____ Addendum # _____ Date: _____

Addendum # _____ Date: _____ Addendum # _____ Date: _____

CHANGE ORDER PROCEDURE ACKNOWLEDGEMENT

If awarded the Contract for this Solicitation, I acknowledge that no oral statement of any person shall modify or otherwise change, or affect the terms, conditions or specifications stated in the resulting contract. All change orders requests shall be made in writing by the Contractor for review by the Contract Administrator for the City of Port Orange. No work shall be performed as set forth in the change order until the Contractor receives an executed Purchase Order for the requested change.

I acknowledge the following statement regarding Change Orders to the awarded Contract:

“The Successful Contractor is responsible for giving the City of Port Orange, prior to the Contract expiration date, at least forty-five (45) calendar days’ advance notice for any anticipated changes in price greater than \$25,000.00, time and/or scope of the awarded Contract. The Contractor shall not continue to provide services past the Contract expiration date unless approved by a written Change Order Notice from the City.”

Name of Business

By: _____

Printed Name: _____

Title: _____

STATE OF _____

COUNTY OF _____

Sworn to (or affirmed) and subscribed before me this ____ day of _____, 20____, by _____, as _____ of _____

(NAME)

(TITLE)

and who:

(NAME OF ORGANIZATION)

[Notary: Please select one]

☐ is personally known to me; or

☐ has produced _____ as identification.

Notary Public, State of _____

Printed, typed or stamped name, commission and expiration:

This document must be completed and returned with your Submittal

FORM 7.4 – DRUG FREE PREFERENCE STATEMENT

IDENTICAL TIE BIDS - Preference shall be given to businesses with drug-free workplace programs. Whenever two or more bids, proposals, statements, or replies that are equal with respect to price, quality, and service are received by the city for the procurement of commodities or contractual services, a bid received from a business that certifies that it has implemented a drug-free workplace program shall be given preference in the award process. Established procedures for processing tie bids will be followed if none of the tied vendors have a drug-free workplace program.

In order to have a drug-free workplace program, a business shall:

1. Publish a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the workplace and specifying the actions that will be taken against employees for violations of such prohibition.
2. Inform employees about the dangers of drug abuse in the workplace, the business's policy of maintaining a drug-free workplace, any available drug counseling, rehabilitation and employee assistance programs, and the penalties that may be imposed upon employees for drug abuse violations.
3. Give each employee engaged in providing the commodities or contractual services that are under bid a copy of the statement specified in subsection (1).
4. In the statement specified in subsection (1), notify the employees that, as a condition of working on the commodities or contractual services that are under bid, the employee will abide by the terms of the statement and will notify the employer of any conviction of, or plea of guilty or nolo contendere to, any violation of chapter 893 or of any controlled substance law of the United States or any state, for a violation occurring in the workplace no later than five (5) days after such conviction.
5. Impose a sanction on, or require the satisfactory participation in a drug abuse assistance or rehabilitation program if such is available in the employee's community, by any employee who is so convicted.
6. Make a good faith effort to continue to maintain a drug-free workplace through implementation of Section 287.087, Florida Statutes.

As an authorized representative of the firm, I certify that this firm complies fully with the above requirements.

Name of Business

By: _____

Printed Name: _____

Title: _____

STATE OF _____

COUNTY OF _____

Sworn to (or affirmed) and subscribed before me this ____ day of _____, 20____, by
_____, as _____ of
(NAME) (TITLE)

_____, and who:
(NAME OF ORGANIZATION)

[Notary: Please select one]

☐ is personally known to me; or

☐ has produced _____ as identification.

Notary Public, State of _____

Printed, typed or stamped name, commission and expiration:

This document must be completed and returned with your Submittal

FORM 7.5 – SWORN STATEMENT UNDER SECTION 287.133(3)(A), FLORIDA STATUTES, ON PUBLIC ENTITY CRIMES

(To be signed in the presence of notary public or other officer authorized to administer oaths.)

Before me, the undersigned Authority, personally appeared affiant _____, who, being by me first duly sworn, made the following statement:

1. The business address of _____ (name of Offeror or business) is _____.
2. My relationship to _____ (name of Offeror or business) is _____ (relationship such as sole proprietor, partner, president, vice president).
3. I understand that a public entity crime as defined in Section 287.133 of the Florida Statutes includes a violation of any state or federal law by a person with respect to and directly related to the transaction of business with any public entity in Florida or with an agency or political subdivision of any other state or with the United States, including, but not limited to, any proposal or contract for goods or services to be provided to any public entity or such an agency or political subdivision and involving antitrust, fraud, theft, bribery, collusion, racketeering, conspiracy or material misrepresentation.
4. I understand that "convicted" or "conviction" is defined by the Florida Statutes to mean a finding of guilt or a conviction of a public entity crime, with or without an adjudication of guilt, in any federal or state trial court of record relating to charges brought by indictment or information after July 1, 1989, as a result of a jury verdict, non-jury trial, or entry of a plea of guilt or nolo contendere.
5. I understand that "affiliate" is defined by the Florida Statutes to mean (1) a predecessor or successor of a person or a corporation convicted of a public entity crime, or (2) an entity under the control of any natural person who is active in the management of the entity and who has been convicted of a public entity crime, or (3) those officers, directors, executives, partners, shareholders, employees, members, and agents who are active in the management of an affiliate, or (4) a person or corporation who knowingly entered into a joint venture with a person who has been convicted of a public entity crime in Florida during the preceding 36 months.
6. Neither the Offeror or contractor, nor any officer, director, executive, partner, shareholder, employee, member or agent who is active in the management of the Offeror or contractor, nor any affiliate of the Offeror or contractor has been convicted of a public entity crime subsequent to July 1, 1989. (Draw a line through paragraph 6 if paragraph 7 below applies.)
7. There has been a conviction of a public entity crime by the Offeror or contractor, or an officer, director, executive, partner, shareholder, employee, member or agent of the Offeror or contractor who is active in the management of the Offeror or contractor or an affiliate of the Offeror or contractor. A determination has been made pursuant to Section 287.133(3) by order of the Division of Administrative Hearings that it is not in the public interest for the name of the convicted person or affiliate to appear on the convicted vendor list. The name of the convicted person or affiliate is _____. A copy of the order of the Division of Administrative Hearings is attached to this statement. (Draw a line through paragraph 7 if paragraph 6 above applies.)

Name of Business

By: _____

Printed Name: _____

Title: _____

STATE OF _____

COUNTY OF _____

Sworn to (or affirmed) and subscribed before me this ____ day of _____, 20____, by _____, as _____ of _____

and who:

[Notary: Please select one]

☐ is personally known to me; or

☐ has produced _____ as identification.

Notary Public, State of _____

This document must be completed and returned with your Submittal

Printed, typed or stamped name, commission and expiration:

FORM 7.6 – ANTI-COLLUSION FORM

ANTI-COLLUSION STATEMENT BID FORM:

By signing this form, the Proposer agrees that this Bid is made without any other understanding, agreement, or connection with any person, corporation, or firm submitting a bid for the same purpose and that the bid is in all respects fair and without collusion or fraud.

SIGN in ink in the space provided below. Unsigned Bids will be considered incomplete, and will be disqualified, and rejected.

IT IS AGREED BY THE UNDERSIGNED VENDOR THAT THE SIGNING AND DELIVERY OF THE BID REPRESENTS THE VENDORS ACCEPTANCE OF THE TERMS AND CONDITIONS OF THE FOREGOING SPECIFICATIONS, CONTRACT AND PROVISIONS, AND IF AWARDED, THIS CONTRACT WILL REPRESENT THE AGREEMENT BETWEEN THE VENDORS AND THE CITY OF PORT ORANGE.

NAME OF FIRM: _____

SIGNED BY: _____
(MUST BE SIGNED BY A COMPANY OFFICER OR AUTHORIZED AGENT)

PRINTED SIGNATURE: _____

TITLE: _____

ADDRESS: _____

CITY: __ STATE: _____ ZIP CODE: _____

TELEPHONE: _____ FAX: _____

COMPLETION TIME: _____

F.E.I.N. NUMBER: _____

NO Bid may be withdrawn for a period of ninety (90) days subsequent to the submittal of the Bids, without the consent of the City of Port Orange.

NO BID (REASON): _____

This document must be completed and returned with your Submittal

FORM 7.7 – AUTHORIZED SIGNATURES/NEGOTIATORS

The Vendor represents that the following persons are authorized to sign and/or negotiate contracts and related documents to which the Vendor will be duly bound:

<u>Name</u>	<u>Title</u>	<u>Phone #</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

(Authorized Signature)

This document must be completed and returned with your Submittal

FORM 7.8 – STATEMENT OF VENDOR’S QUALIFICATIONS

The undersigned warrants that he or she is duly authorized to complete this document, and hereby affirms that the information contained in Form 7.8 is complete, true, and correct to the best of their knowledge and belief. If necessary, questions may be answered on separate paper and attached, with any additional information that may be pertinent.

- A. Name of Vendor.
- B. Permanent main office address.
- C. Date organized.
- D. If a corporation, where incorporated.
- E. How many years have you been engaged in the contracting business under your present firm or trade name?
- F. Contracts on hand: (Schedule these, showing amount of each contract and the appropriate anticipated dates of completion.)
- G. General character of work performed by your company.
- H.⁽¹⁾ Have you ever failed to complete any work awarded to you? If so, where and why?
- H.⁽²⁾ Provide list of any lawsuits or judgments filed by or against your company in the last three years, indicating the nature and outcome.
- I. Have you ever defaulted on a contract? If so, where and why?
- J. List the more important projects recently completed by your company, stating the approximate cost for each and the month and year completed.
- K. List your major equipment currently owned or leased.
- L. Experience in work similar to this type of project.
- M. Background and experience of the principal members of your organization, including the officers.
- N. Credit currently available: \$ _____
- O. Give bank reference: _____
- P. Will you, upon request, fill out a detailed financial statement and furnish any other information that may be required by the Owner?

(Form 7.8 Statement of Vendor's Qualifications – Page 2)

- Q. The undersigned hereby authorizes and requests any person, firm, or corporation to furnish any information requested by the Owner in verification of the recitals comprising this Statement of Vendor's Qualifications.

Name of Business

By: _____

Printed Name: _____

Title: _____

STATE OF _____
COUNTY OF _____

Sworn to (or affirmed) and subscribed before me this ____ day of _____, 20____, by
_____, as _____
of _____ and who:

[Notary: Please select one]

☐ is personally known to me; or

☐ has produced _____ as identification.

Notary Public, State of _____

Printed, typed or stamped name, commission
and expiration:

This document must be completed and returned with your Submittal

FORM 7.9 – PROFESSIONAL REFERENCES FOR PREVIOUS EXPERIENCE

The Vendor proposes that he/she is qualified to perform the referenced work and has successfully done so on recent projects similar in nature and size. The City reserves the right to check references and confirm information provided herein.

Please provide three (3) current and correct references from clients for similar services.

(Do not include the City of Port Orange)

1. Company Name: _____
Contact Person: _____
City, State: _____
Telephone Number: _____
Email Address: _____
Description of goods or
Services provided: _____
Contract Amount: _____
Start/End Date of Contract: _____
2. Company Name: _____
Contact Person: _____
City, State: _____
Telephone Number: _____
Email Address: _____
Description of goods or
Services provided: _____
Contract Amount: _____
Start/End Date of Contract: _____
3. Company Name: _____
Contact Person: _____
City, State: _____
Telephone Number: _____
Email Address: _____
Description of goods or
Services provided: _____
Contract Amount: _____
Start/End Date of Contract: _____

This document must be completed and returned with your Submittal.

FORM 7.10 – LISTING OF SUBCONTRACTORS

The Vendor proposes that the following subcontractors are qualified to perform the referenced work and have successfully done so on recent projects similar in nature and size. All subcontractors whose work product accounts for 5% or more of the total contract value shall be listed. Upon approval of subcontractors listed, the successful Vendor shall not substitute subcontractors without approval from the Engineer. Vendor shall attach additional sheets as necessary.

Subcontractor No. 1

Name: _____

Description of Work: _____

Percent of Contract Price: _____

Previous Experience Together: Yes/No _____

Subcontractor No. 2

Name: _____

Description of Work: _____

Percent of Contract Price: _____

Previous Experience Together: Yes/No _____

Subcontractor No. 3

Name: _____

Description of Work: _____

Percent of Contract Price: _____

Previous Experience Together: Yes/No _____

Subcontractor No. 4

Name: _____

Description of Work: _____

Percent of Contract Price: _____

Previous Experience Together: Yes/No _____

Subcontractor No. 5

Name: _____

Description of Work: _____

Percent of Contract Price: _____

Previous Experience Together: Yes/No _____

This document must be completed and returned with your Submittal

FORM 7.11 – VENDOR APPLICATION



City of Port Orange Vendor Application

City of Port Orange

Date: _____

Attn: Purchasing Division
(386) 506-5704
purchdiv@port-orange.org
1000 City Center Circle
Port Orange, FL 32129

FIRM NAME: _____

ADDRESS: _____

CITY: _____ STATE: _____ ZIP CODE: _____

If remittance payment address is different than application or W9 please fill out below:

ADDRESS: _____

TEL. # (including area code): _____ FAX # _____

SIGNATURE PERSON FILING APPLICATION: _____

PRINTED NAME: _____

TITLE: _____

FEDERAL I.D. (F.E.I.N.) # _____

E-MAIL ADDRESS: _____

(Authorized Company Representative)

COMPANY STATUS:

INCOPRORATED: ☐ Y ☐ N State Incorporated: _____ Year: _____

TYPE OF ORGANIZATION: ☐ Indiv. ☐ Partnership ☐ Corp. ☐ Non-Profit ☐ LLC

ATTORNEY TRUST ACCOUNT NAME: _____

INSURANCE: Proof of adequate coverage for professional general liability, errors and omissions and workers' compensation may be required for certain types of procurements.

☐ Check this box to waive insurance requirements **only** if you are providing goods for F.O.B destination with no installation services.

*** NOTE TO VENDORS***

The City of Port Orange, Florida does not maintain a prospective vendor's list, classified by commodities for the purpose of inviting sealed bids and quotation.

The City utilizes DemandStar www.demandstar.com to release Bids/RFP's and quotes. While the City advertises the Invitation to Bid in the local newspaper (Daytona News Journal) only in rare cases does the City mail out announcement notices to vendors. Vendors interested in becoming a member of DemandStar may visit their web site at: www.demandstar.com or by calling them at 1-800-711-1712.

Vendors will automatically receive notice of request for Bids/RFP's or quotes after they sign up on DemandStar. It is important that vendors sign, complete and return this application. Also include the W-9 and insurance information requirements in order for the City to assign a vendor number on our computer system.

It is also the vendor's responsibility to keep the Purchasing Division informed as to any change of address or insurance that may occur.

If your company is interested in bidding on commodities/services in addition to those specified, on any specific article related to the main category, insert the type of those materials on the blank space provided for each category group. Attorney services are secured by direct telephone quotes or written price inquiries.

Drug Free Workplace: A statement as to whether or not your firm has implemented a drug-free workplace program, as described in Section 287.087 of the Florida Statutes should be noted. Failure to respond in affirmative to this request will not disqualify you from consideration. Preference will be given to firms which have implemented a drug-free workplace program in the case where the City has received two or more bids what are equal with respect to price, quality, and service.

Equal Employment Opportunity (EEO). All vendors will be required to make an affirmative statement as to their support of all applicable equal opportunity affirmative action requirements. A copy of the City's Equal Employment Opportunity statement (EEO) will be available to the vendor upon request.

I certify that the information supplied herein is correct and that neither the applicant nor any person (or concern) in any connection with the applicant as a principal or officer, so far as is known, is now disqualified from the public contracting and purchasing process by any agency of the federal government, the State of Florida or the City of Port Orange.

Signature of Person Completing Form: _____

Printed/Types Name: _____ Title: _____

Commodity/Services _____

This document must be completed and returned with your Submittal

W-9 Form

Form **W-9**
(Rev. January 2011)
Department of the Treasury
Internal Revenue Service

**Request for Taxpayer
Identification Number and Certification**

Give Form to the
requester. Do not
send to the IRS.

Print or type See Specific Instructions on page 2.	Name (as shown on your income tax return)	
	Business name/disregarded entity name, if different from above	
	Check appropriate box for federal tax classification (required): ☐ Individual/sole proprietor ☐ C Corporation ☐ S Corporation ☐ Partnership ☐ Trust/estate	
	☐ Limited liability company. Enter the tax classification (C=C corporation, S=S corporation, Partnership) _____	
	☐ Other (see instructions)*	
	☐ Exempt payee	
Address (number, street, and apt. or suite no.)		Requester's name and address (optional)
City, state, and ZIP code		
List account number(s) here (optional)		

Part I Taxpayer Identification Number (TIN)

Enter your TIN in the appropriate box. The TIN provided must match the name given on the "Name" line to avoid backup withholding. For individuals, this is your social security number (SSN). However, for a resident alien, sole proprietor, or disregarded entity, see the Part I instructions on page 3. For other entities, it is your employer identification number (EIN). If you do not have a number, see *How to get a TIN* on page 3.

Note. If the account is in more than one name, see the chart on page 4 for guidelines on whose number to enter.

Social security number								
Employer identification number								

Part II Certification

Under penalties of perjury, I certify that:

1. The number shown on this form is my correct taxpayer identification number (or I am waiting for a number to be issued to me), and
2. I am not subject to backup withholding because: (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding, and
3. I am a U.S. citizen or other U.S. person (defined below).

Certification instructions. You must cross out item 2 above if you have been notified by the IRS that you are currently subject to backup withholding because you have failed to report all interest and dividends on your tax return. For real estate transactions, item 2 does not apply. For mortgage interest paid, acquisition or abandonment of secured property, cancellation of debt, contributions to an individual retirement arrangement (IRA), and generally, payments other than interest and dividends, you are not required to sign the certification, but you must provide your correct TIN. See the instructions on page 4.

Sign Here	Signature of U.S. person ^a	Date ^a

This document must be completed and returned with your Submittal

General Instructions

Section references are to the Internal Revenue Code unless otherwise noted.

Purpose of Form

A person who is required to file an information return with the IRS must obtain your correct taxpayer identification number (TIN) to report, for example, income paid to you, real estate transactions, mortgage interest you paid, acquisition or abandonment of secured property, cancellation of debt, or contributions you made to an IRA.

Use Form W-9 only if you are a U.S. person (including a resident alien), to provide your correct TIN to the person requesting it (the requester) and, when applicable, to:

1. Certify that the TIN you are giving is correct (or you are waiting for a number to be issued),
2. Certify that you are not subject to backup withholding, or
3. Claim exemption from backup withholding if you are a U.S. exempt payee. If applicable, you are also certifying that as a U.S. person, your allocable share of any partnership income from a U.S. trade or business is not subject to the withholding tax on foreign partners' share of effectively connected income.

Note. If a requester gives you a form other than Form W-9 to request your TIN, you must use the requester's form if it is substantially similar to this Form W-9.

Definition of a U.S. person. For federal tax purposes, you are considered a U.S. person if you are:

- An individual who is a U.S. citizen or U.S. resident alien,
- A partnership, corporation, company, or association created or organized in the United States or under the laws of the United States,
- An estate (other than a foreign estate), or
- A domestic trust (as defined in Regulations section 301.7701-7).

Special rules for partnerships. Partnerships that conduct a trade or business in the United States are generally required to pay a withholding tax on any foreign partners' share of income from such business. Further, in certain cases where a Form W-9 has not been received, a partnership is required to presume that a partner is a foreign person, and pay the withholding tax.

Therefore, if you are a U.S. person that is a partner in a partnership conducting a trade or business in the United States, provide Form W-9 to the partnership to establish your U.S. status and avoid withholding on your share of partnership income.

FORM 7.12 – LOCAL BUSINESS AFFIDAVIT OF ELIGIBILITY

City of Port Orange

This declaration is executed under penalty of perjury of the laws to the United States and State of Florida

THIS AFFIDAVIT IS SUBMITTED IN REFERENCE TO THE FOLLOWING SOLICITATION:

RFSQ/RFP/ITN/BID/CONTRACT/PROJECT # (as applicable): _____

BUSINESS NAME: _____

CONTACT PERSON/TITLE: _____

MAILING ADDRESS: _____

CITY-STATE-ZIP: _____

Length of Time at Address Provided: _____

Physical Presence of Business: ☐ Headquarters, ☐ Manufacturing Facility, or ☐ Locally Owned Franchise

And within Legal Boundaries: ☐ The City of Port Orange ☐ Volusia County ☐ The State of Florida

FEIN (Federal Employer Identification Number): _____

BUSINESS STRUCTURE: ☐ Corporation ☐ LLC ☐ Partnership ☐ Sole Proprietorship

☐ Other (Specify): _____

PHONE NUMBER: _____ FAX: _____

EMAIL: _____

****Please attach a valid business tax receipt, or other such documentation****

ATTESTATION – I understand that:

- In accordance with City Of Port Orange City Code 2-275, local businesses shall have five (5) business days from bid/proposal opening to submit a best and final bid for evaluation. To qualify: A Port Orange business initial bid must be within (8%) of the lowest and best responsible bid from a non-Port Orange business; A Volusia County business initial bid must be within (5%) of the lowest and best responsible bid from a non-Volusia County business; A State of Florida business initial bid must be within (3%) of the lowest and best responsible bid from a non-State of Florida business.
- A local business must have its headquarters, manufacturing facility, or locally owned franchise located within the legal boundaries of the City of Port Orange, Volusia County, or the State of Florida, as indicated herein, for at least twelve (12) months prior to the bid or proposal opening date and a valid business license, issued by the corresponding government agency. Post office boxes are not verifiable and shall not be used for the purpose of establishing said physical address. Bidders shall attach to this affidavit of eligibility with a bid or proposal, a copy of a valid business tax receipt or such other documentation, to the city's satisfaction, demonstrating the physical business presence of the firm within corresponding local limits.
- The preference does not apply to goods or services exempted by statute or prohibited by Federal law, State law, or other funding source restrictions.
- The preference established in this policy does not prohibit the right of the City, or other authorized purchasing authority, to compare quality or fitness for use of supplies, materials, equipment and services proposed for purchase and compare qualifications, character, responsibility and fitness of all persons, firms or corporations submitting bids or proposals.
- The information contained herein may be subject to verification.
- A vendor who misrepresents the local preference status of its firm in a proposal or bid submitted to the City of Port Orange will lose the privilege to claim local preference status, and shall lose eligibility to claim local preference for a period of one (1) year. The City Manager may also recommend that the firm be referred for debarment.

BEFORE ME; the undersigned authority, in and for the State of Florida and the City of Port Orange personally appeared _____ who, after being sworn according to law, stated that he or she was authorized to represent _____ and to execute this affidavit on behalf of the said Business Entity and attests, under penalty of perjury, to the above.

(Form 7.12 – Local Business Affidavit of Eligibility – Page 2)

SWORN AND SUBSCRIBED BEFORE ME

SIGNATURE OF NOTARY PUBLIC

THIS _____ DAY OF _____, 20____

My Commission Expires: _____

NOTARY SEAL

SIGNATURE OF AFFIANT

DATE

PRINTED NAME OF AFFIANT / TITLE

COMPANY

This document must be completed and returned with your Submittal

ATTACHMENT 1 – BID PROPOSAL

Attachment 1 – Bid Proposal is available as a fillable Excel file on DemandStar.com for the Vendor to download, complete electronically, and submit with the Vendor's Bid package.



ATTACHMENT 1 BID PROPOSAL SCHEDULE OF UNIT PRICING BID FORM

CITY OF PORT ORANGE BLEACHER REPLACEMENT SERVICES

ITB # 17-02

Completed Exhibit 1 Bid Proposal form MUST be included with Bid Submission

Instruction to save Attachment from website: Perform "File Save As" and save spreadsheet to your computer.

Fill in pricing in highlighted green cells, preferably electronically.

Bidders are required to complete all fields shaded in green. All other fields will be automatically calculated.

NAME OF BUSINESS:					
CONTACT PERSON:					
EMAIL ADDRESS:					
AUTHORIZED SIGNATURE:					
ITEM #	DESCRIPTION	QTY	UNIT	UNIT COST INSTALLED	TOTAL COST
1	GYMNASIUM No.1 (PER SPECIFICATIONS LISTED IN SCOPE)	1	Ea.	\$ -	\$ -
2	GYMNASIUM No.2 (PER SPECIFICATIONS LISTED IN SCOPE)	1	Ea.	\$ -	\$ -
				TOTAL BASE BID	\$ -

BID BOND

BID BOND

Bond No.:

KNOW ALL MEN BY THESE PRESENTS that _____, as Contractor, duly authorized to conduct business in the State of Florida, whose principal place of business is located at _____, Tel.: _____, (hereinafter called "PRINCIPAL"), and _____, as SURETY, duly authorized to conduct business in the State of Florida, whose principal place of business is located at _____, Tel.: _____ (hereinafter called "SURETY"), are held and firmly bound unto the City of Port Orange, Florida, as CITY, a Florida municipal corporation, whose address is City of Port Orange, 1000 City Center Circle, Port Orange, Florida 32129, Tel.: (386) 506-5501, (hereinafter called "OBLIGEE" or "CITY"), in the penal sum of _____ dollars and (_____) /100 (\$_____), lawful money of the United States, for the payment of which sum shall and truly be made, whereof PRINCIPAL and SURETY bind themselves, their heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

THE CONDITION OF THIS OBLIGATION IS SUCH that, whereas the Principal has submitted the accompanying bid, dated _____, 20____, for:

Project Name / Bid No.:

Project Address:

Legal Description: See Attached

Description of Work:

NOW, THEREFORE,

A. If the principal shall not withdraw said bid within one hundred twenty (120) days after date of opening of the same, and shall within ten (10) days after the prescribed forms are presented to it for signature, enter into a written contract with the City in accordance with the bid as accepted, and give bonds with good and sufficient surety or sureties, as may be required, for the faithful performance and proper fulfillment of such contract, then the above obligations shall be void and of no effect, otherwise to remain in full force and virtue.

B. In the event of the withdrawal of said bid within the period specified, or the failure to enter into such contract and give such bonds within the time specified, if the principal shall pay the City the difference between the amount specified in said bid and the amount for which the City may procure the required work and supplies, if the latter amount be in excess of the former, then the above obligations shall be void and of no effect, otherwise to remain in full force and virtue.

IN WITNESS WHEREOF, the above parties have executed this instrument under their several seals, this _____ day of _____, A.D. 20____, the name and corporate seal of each corporate party being hereto affixed and these presents duly signed by its undersigned representative, pursuant to authority of its governing body.

Note: If the firm is a sole ownership or partnership including limited liability company, two (2) witnesses are required to attest the signature. If the firm is a corporation, then the corporate secretary shall attest and affix the corporate seal (Attach power of attorney to original bid bond and financial statement of Surety Company).

PRINCIPAL:

Signature

Corporate Officer & Title

ATTEST:

Signature

Corporate Secretary (Affix Corporate Seal)

WITNESSES:

SURETY:

Attorney-in-Fact (signature)

Name & Title

Name of Local Resident Agent

City, State, Zip

Telephone:
A.M. Best No.: _____ NAIC No. : _____

ATTEST:

Signature

Corporate Secretary (Affix Corporate Seal)

STATE OF _____

COUNTY OF _____

Before me this day personally appeared _____ (affiant), who, being duly sworn, deposes and says that he/she is the Attorney-in-Fact for the _____ (corporate surety) and that this person has been authorized by _____ (corporate surety) to execute the foregoing bond on behalf of the Contractor named therein in favor of the City of Port Orange, Florida.

Signature of Affiant

Sworn to / Affirmed and subscribed before me this _____ day of _____, 20____, by _____, who is personally known to me or who produced _____ as identification.

NOTARY PUBLIC – STATE OF

Type or print name: _____

Commission No.: _____

Commission Expires: _____

(Seal)

.....
END OF BID BOND

This document must be completed and returned with your Submittal

PERFORMANCE & PAYMENT BOND

RETURN RECORDED DOCUMENT TO:

City Clerk
1000 City Center Circle
Port Orange, Florida 32129-4144

FRONT PAGE FOR BOND REQUIRED BY SECTION 255.05, F.S.

PAYMENT AND PERFORMANCE BOND

(Public Works)

Notice and Time Limitations Must Be in Accordance
With Section 255.05(2), (8) and (10), Florida Statutes

BOND NO. _____

PRINCIPAL:

Developer or Contractor:

Principal Business Address:

Contact Person:

Phone Number:

SURETY:

Address:

Contact Person:

Phone Number:

OWNER:

City of Port Orange, Florida, a chartered municipal corporation
1000 City Center Circle
Port Orange, Florida 32129-4144

Contact Person:

Phone Number:

City Manager
(386) 506-5501

Amount \$ _____

City Case/Project No. _____

Description of Work: _____

Project Location: _____

Port Orange, Volusia County, Florida

Legal Description: _____

Front Page

All other pages are subsequent to this page regardless of any numbers that may be printed thereon.

[MTR/sal 2015-02-10]

RETURN RECORDED DOCUMENT TO:
City Clerk
1000 City Center Circle
Port Orange, Florida 32129-4144

Name of Project

City Project No. _____

Bond No. _____

Space Reserved for Recording Data

**COMBINATION PAYMENT AND PERFORMANCE BOND
FOR
PUBLIC CONSTRUCTION**

*per Section 255.05, Florida Statutes
Guaranty for Construction of Public Improvements*

BY THIS BOND, We, _____ as Principal, and _____ a corporation, as Surety, are bound to CITY OF PORT ORANGE, FLORIDA, a Florida municipal corporation, herein called "Owner" or sometimes referred to as "City," in the sum of _____ DOLLARS (\$ _____), for payment of which we and ourselves, our heirs, personal representatives, successors, and assigns, jointly and severally.

THE CONDITION OF THIS BOND is that if Principal:

1. Performs the terms of that certain _____ having an effective date of _____ entered into by and between the Principal and the City, for _____, hereinafter referred to as the "Contract," being made a part of this bond by reference, at the times and in the manner prescribed in the Contract; and
 2. Promptly makes payments to all claimants as defined in Section 255.05(1), Florida Statutes, supplying Principal with labor, materials, or supplies used directly or indirectly by Principal in the prosecution of the work provided for in the Contract (the "Work"); and
 3. Pays Owner all losses, damages, delay damages (including contractually authorized liquidated damages), expenses, costs, and attorney's fees, including appellate proceedings, that Owner sustains because of a breach or material breach by Principal under the Contract documents; and
- _____ Performs the guarantee of all work and materials furnished under the Contract for the time specified in the contract, then this bond is void; otherwise it remains in full force.

Notice of Nonpayment and Time Limitations

Any action instituted by a claimant under this bond for payment must be in accordance with the notice and time limitation provisions in Sections 255.02(2), (8) and (10), Florida Statutes.

Any changes in or under the contract documents and compliance or noncompliance with any formalities connected with the contract or the changes does not affect Surety's obligation under this bond.

(Capital Projects)
[MTR/sal 2016-02-26]

Page 1 of 2
Public Construction Bond

IN WITNESS WHEREOF, this performance and payment bond is executed in duplicate originals, each of which shall be deemed an original, this _____, day of _____, 20__.

Attest:

(Name of Principal)

(As to Corporate Principal) Secretary

By: _____
Name/Title: _____

(Witness to Principal)

(Corporate Seal)

(Surety)

(Witness to Surety)

By: _____
Name: _____

(Attorney-in-Fact)

(Corporate Seal)

NOTE: Date of BOND must not be prior to date of Contract. If Developer/Principal is Partnership, all partners should execute BOND. All BONDs signed by an agent must be accompanied by a certified copy of the authority to act.

IMPORTANT: Surety companies issuing BONDS must appear on the Treasury Department's most current list (Circular 570 as amended) and be authorized to transact business in the State of Florida.



CITY OF PORT ORANGE STANDARD CONTRACT FOR SERVICES

This Standard Contract for Services ("Contract") is entered into this ____ day of _____, 20____, by and between the **CITY OF PORT ORANGE**, a Florida municipal corporation, whose principal address is 1000 City Center Circle, Port Orange, Florida 32129 (the "City"), and _____, a _____ corporation whose principal address is _____ ("Contractor"). (The City and Contractor are collectively referred to herein as the "Parties.")

1. Provision of Services

(a) The Contractor hereby agrees to provide the following equipment, materials, labor and other such related services to the City of Port Orange:

(i) _____

(b) The time, manner and place for performance of such services shall be:

Term: The initial term of this Contract shall commence on the date this Contract is signed on behalf of the City and shall continue for a period of _____ thereafter (the "Initial Term"). In addition to the Initial Term, this Contract may be renewed for up to _____ additional _____ term(s) upon written consent of the parties and appropriation by City Council.

Manner and Place: As outlined in _____, in accordance with Standard Construction Details as required on all city owned facilities and properties (i.e. rights-of-way) and in a manner as required by all current federal, state, county, fire, building and land development codes, laws, ordinances and regulations, and with applicable permits and licenses per the City Code of Ordinances. Contractor shall not deliver goods or services without a written purchase order, signed by an authorized agent of the City of Port Orange. If the contract is for goods include the following: Contractor shall cause goods to be delivered to the City in the most expedient, cost effective manner. All items shall be shipped to the City of Port Orange designated facility identified in each purchase order, FOB Inside Delivery. Contractor shall bear the risk of loss for goods delivered under this Contract from the time of shipping to the City until delivered at the destination specified by the City for delivery.

Time and Essence: _____ from the date set out in paragraph 3 below or upon receipt of Notice to Proceed.

2. City Obligations: In return for the services identified above, the City agrees to compensate Contractor at the prices set forth in Exhibit "____" attached hereto, subject to a limit up to but not to exceed \$_____. The City's obligation to pay Contractor under this Contract is limited to the budgeted amount for the fiscal year approved by the Port Orange City Council for the then current fiscal year. All payments shall be governed by the Local Government Prompt Payment Act as set forth in Sections 218.70 through 218.79, Florida Statutes, as amended.

3. Contract Documents: The following forms, attached as Exhibit "____," are an integral part of this Contract and must be completed, signed, witnessed and notarized as indicated and returned with the signed Contract:

- (a) Front Page for Bond (F.S. § 255.05)
- (b) Combination Payment and Performance Bond (F.S. § 255.05)

4. Contract Administration. The _____ shall perform contract administration of this Contract. For notice provisions, see the paragraph below entitled "Notice."

5. Termination for Convenience of the City

(a) The parties agree that the City may terminate this Contract, or any work or delivery required hereunder, from time to time either in whole or part, whenever the City Manager of Port Orange shall determine that such termination is in the best interest of the City.

(b) Termination, in whole or in part, shall be effected by delivery of a Notice of Termination signed by the City Manager or his designee, mailed or delivered to the Contractor, and specifically setting forth the effective date of termination.

(c) Upon receipt of such Notice, the Contractor shall:

- (i) cease any further deliveries or work due under this Contract, on the date, and to the extent, which may be specified in the Notice;
- (ii) place no further orders with any subcontractors except as may be necessary to perform that portion of this Contract not subject to the Notice;
- (iii) terminate all subcontracts except those made with respect to contract performance not subject to the Notice;
- (iv) settle all outstanding liabilities and claims which may arise out of such termination, with the ratification of the Finance Director of Port Orange; and
- (v) use best efforts to mitigate any damages which may be sustained by the Contractor as a consequence of termination under this clause.

(d) After complying with the provisions of subparagraph (c), above, the Contractor shall submit a termination claim, in no event later than six (6) months after the effective date of termination, unless one or more extensions of three (3) months each are granted by the Finance Director.

(e) The Finance Director, with the approval of the City Manager, shall pay from the using department's budget, reasonable costs of termination, including a reasonable amount for profit on supplies or services delivered or work completed. In no event shall this amount be greater than the original contract price, reduced by any payments made prior to Notice of Termination, and further reduced by the price of the supplies not delivered or the services not provided. This Contract shall be amended accordingly, and the Contractor shall be paid the agreed amount.

(f) In the event that the parties cannot agree on the whole amount to be paid to the Contractor by reason of termination under this clause, the Finance Director shall pay the Contractor the amounts determined as follows, without duplicating any amounts which may have already been paid under the preceding paragraph of this clause:

- (i) With respect to all Contract performance prior to the effective date of Notice of Termination, the total of:
 - (1) the cost of work performed or supplies delivered;
 - (2) the cost of settling and paying any reasonable claims as provided in paragraph (c) (iv), above;
 - (3) a sum as profit on (a) determined by the Finance Director to be fair and reasonable.

- (ii) The total sum to be paid under (i) above shall not exceed the contract price, as further reduced by the contract price of work or supplies not terminated.

(g) In the event that the Contractor is not satisfied with any payments which the Finance Director shall determine to be due under this clause, the Contractor may appeal any claim to the City Council in accordance with Paragraph 22 of this contract concerning disputes.

6. Termination for Convenience for Subcontractors. In accordance with the termination for the convenience of the City provision of this contract, the Contractor shall include similar provisions in any subcontract, and shall specifically include a requirement that subcontractors make all reasonable efforts to mitigate damages which may be suffered. Failure to include such provisions shall bar the Contractor from any recovery from the City whatsoever of loss or damage sustained by a subcontractor as a consequence of termination for convenience.

7. Termination for Default. Either party may terminate this Contract, without further obligation, for the default of the other party or its agents or employees with respect to any agreement or provision contained herein. In the event of default by the contractor, the City reserves the right to procure the item(s) bid from other sources and holds the bidder responsible for excess costs incurred as a result. City Council may elect to refrain from doing business with the bidder as stipulated in City Code 2-276 Suspension and Disbarment.

8. Examination of Records

(a) The Contractor agrees that the City, or any duly authorized representative, shall, until the expiration of five (5) years after final payment hereunder, have access to and the right to examine and copy any pertinent books, documents, papers and records of the Contractor involving transactions related to this Contract.

(b) The Contractor further agrees to include in any subcontract for more than \$10,000 entered into as a result of this Contract, a provision to the effect that the subcontractor agrees that the City or any duly authorized representative shall, until the expiration of five (5) years after final payment under the subcontract, have access to and the right to examine and copy any pertinent books, documents, papers and records of such contractor involved in transactions related to such subcontract or this Contract. The term subcontract as used herein shall exclude purchase orders for public utility services at rates established for uniform applicability to the general public.

(c) The period of access provided in subparagraphs (a) and (b) above for records, books, documents and papers which may relate to any arbitration, litigation, or the settlement of claims arising out of the performance of this contract or any subcontract shall continue until any appeals, arbitration, litigation or claims shall have been finally disposed of.

9. Public Records Compliance. Contractor shall comply with public records laws as set forth in Chapter 119, Florida Statutes, and shall specifically:

(a) Keep and maintain public records that ordinarily and necessarily would be required by the City in order to perform the service.

(b) Provide the public with access to public records on the same terms and conditions that the City would provide the records and at a cost that does not exceed the cost provided in Section 119, Florida Statutes, or as otherwise provided by law.

(c) Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law.

(d) Meet all requirements for retaining public records and transfer to the City, at no cost, all public records in possession of the Contractor upon termination of the Contract and destroy any duplicate public records that are

exempt or confidential and exempt from public records disclosure requirements. All records stored electronically must be provided to the City in a format that is compatible with the information technology systems of the City.

If Contractor does not comply with a public records request, the City shall enforce the contract provisions in accordance with the contract.

10. Termination for Non-Appropriation of Funds

(a) If funds are not appropriated for any succeeding fiscal years subsequent to the one in which this contract is entered into, for the purpose of this Contract, then the City may terminate this Contract upon thirty (30) days prior written notice to the Contractor. Should termination be accomplished in accordance with this Section, the City shall be liable only for payments due through the date of termination.

(b) The City agrees that should it terminate in accordance with this Section, it shall not obtain services which are substantially equal to or similar to those for which this contract was entered into. This provision shall survive any termination of the Contract.

11. Insurance. Contractor shall maintain insurance during the life of this Contract. Contractor shall provide to the City a certificate of insurance identifying the City of Port Orange as an additional insured. For workers' compensation coverage, the bidder's insurance certificate shall include the insurer's waiver of subrogation in lieu of naming the city as an additional insured for workers' compensation.

Policies other than Workers' Compensation shall be issued by insurers licensed and/or duly authorized under Florida Law to do business in the State of Florida and all insuring companies are required to have a minimum rating of "A" in the "Best Key Rating Guide" published by A.M. Best & Company, Inc. Policies for Workers' Compensation may be issued by companies authorized as a group self-insurer by F.S. 440.12. Contractor shall not commence work under this Agreement until the City has received a certificate or certificates of insurance and endorsement evidencing the required insurance. Contractor shall provide the City written notice of cancellation, nonrenewal or any other changes in coverage no later than ten (10) days prior to the effective date of the change.

The City reserves the right to increase insurance coverage as determined for higher risk contracts and shall reimburse the Contractor for the reasonable additional costs of increased coverage.

Insurance	Standards	Comments
Workers' Compensation <u>Limits:</u> <u>Additional Coverage:</u>	Coverage A - Statutory Coverage B - \$100,000 All States (Broad Form) Voluntary Compensation	If the contract requires work on or about navigable waters, require Longshoreman's and Harbor Workers' Coverage. If vessels involved, require Jones Act coverage with limits of \$500,000.
Comprehensive General Liability (including Completed Operations and Contractual Liability) <u>Limits:</u>	Combined Single Limit Bodily Injury and Property damage \$500,000 occurrence \$1,000,000 Aggregate	When the Contract work on or under Railroad rights of way or properties, the Contractor shall take out and maintain during the life of the Contract, Railroad protective liability and property damage insurance in amounts as requested by the Railroad.

Comprehensive Business, Automobile Liability to include all automobiles.	<u>Limits:</u>	Auto Liability Body Injury: \$100,000 each person \$300,000 each occurrence. Property Damage Liability \$100,000 each occurrence.	Or \$500,000 Combined Single Limit for Bodily Injury and Property Damage
<u>Additional Coverage:</u>		Non-Owned, Hired Car	
Property Insurance Builders Risk.	<u>Limits:</u>	Buildings - Completed value of contract.	If the Contract requires handling or installation of Owner's equipment, coverage should be furnished on "All Risk" form, including transit and Owner shall be named.
<u>Additional Coverage:</u>		"All Risk" coverage on latest ISO form or its equivalent. Permission granted to occupy. Owner named as insured AIA.	
Professional Liability (Errors & Omissions)	<u>Limits:</u>	Coverage- \$1,000,000 minimum	

12. A Contract for the purchase of supplies shall be governed by the City of Port Orange Code of Ordinances, as amended, and such supplies shall be deemed "goods," as defined therein.

13. Assignability of Contract. Neither this contract, nor any part thereof, may be assigned by the Contractor to any other party without the express written approval of the City Council.

14. Modifications or Changes to this Contract

(a) Change Orders: The Department Head, with the concurrence of the City's signatory as required by the City's Purchasing Policy, shall without notice to any sureties, have the authority to order changes in this Contract which affect the cost or time of performance. Such changes shall be ordered in writing specifically designated to be a change order. Such orders shall be limited to reasonable changes in the services to be performed or the time of the performance. The City will not be held liable for any changes which have not been properly authorized and approved in accordance with this Contract.

(b) If any change under this clause causes an increase or decrease in Contractor's cost of, or time required for the performance of the work hereunder, Contractor shall receive an equitable adjustment in accordance with subparagraph (d), which shall include all compensation to the Contractor, or the City, of any kind in connection with such change, including all costs and damages related to or incidental to such change.

(c) Contractor need not perform any work described in any change order unless it has received a certification from the City that there are funds budgeted and appropriated sufficient to cover the cost of such changes.

(d) No claim for changes ordered hereunder shall be considered if made after final payment in accordance with this Contract.

15. Sovereign Immunity. The City expressly retains all rights, benefits and immunities of sovereign immunity in accordance with Section 768.28, Florida Statutes. Notwithstanding anything set forth in any section of this Contract to the contrary, nothing in this Contract shall be deemed as a waiver of immunity or limits of liability of the City beyond any statutory limited waiver of immunity or limits of liability which may have been adopted by the Florida Legislature or may be adopted by the Florida Legislature and the cap on the amount and liability of the City for damages

regardless of the number or nature of claims in tort or equity shall not exceed the dollar amount set by the legislature for tort. Nothing in this Contract shall inure to the benefit of any third party for the purpose of allowing any claim against the City which would otherwise be barred under the Doctrine of Sovereign Immunity or operation of law.

16. Warranties. Contractor warrants that (1) the supplies to be provided to the City pursuant to this Contract are fit and sufficient for the purpose intended; (2) the supplies are merchantable, of good quality, and free from defects, whether patent or latent, in material or workmanship, and (3) the supplies sold to the City pursuant to this Contract conform to the standards required by this Contract.

Contractor further warrants that Contractor has title to the supplies provided, and that the supplies are free and clear of all liens encumbrances, and security interests. All warranties made in this Contract together with service warranties and guarantees, shall run to the City and its successors and assigns.

17. Additional Warranties. Contractor further expressly warrants that materials and workmanship are warranted from defect for a one-year period. This is a minimum acceptable warranty.

18. Additional Bond Security. If any surety bond furnished in connection with this Contract becomes unacceptable to the City, Contractor shall promptly furnish such additional security as may be required from time to time to protect the interests of the City and a person supplying labor and materials in the prosecution of work contemplated by this Contract. Contractor expressly acknowledges that if the work to be performed hereunder is a public work, a Payment and Performance Bond, in accordance with Florida Statute, Section 255.05, in a form acceptable to the City, shall be provided and recorded with the Clerk of Volusia County at Contractor's expense.

19. Inspection

(a) All supplies (which term throughout this clause includes without limitation raw materials, components, intermediate assemblies, and their products) shall be subject to inspection and test by the City, to the extent practicable at all times and places including the place of manufacturer, and in any event prior to acceptance.

(b) In the event any supplies or lots of supplies are defective in material or workmanship, or otherwise not in conformity with the requirements of this Contract, the City shall have the right either to reject them (with or without instructions as to their disposition) or to require their correction. Supplies or lots of supplies which have been rejected or required to be corrected shall be removed or, if permitted or required by the Finance Director, corrected in place by and at the expense of Contractor promptly after notice, and shall not thereafter be tendered for acceptance unless the former rejection or requirement of correction is disclosed. If Contractor fails promptly to remove such supplies or lots of supplies which are required to be removed or promptly to replace or correct such supplies or lots of supplies, the City may either (i) by contract or otherwise replace or correct such supplies and charge Contractor the cost for such replacement or correction; or (ii) may terminate this Contract for default as provided in the clause of this Contract entitled "Termination for Default." Unless Contractor corrects or replaces such supplies within the delivery schedule, the Finance Director may require the delivery of such supplies at a reduction in price, which is equitable under the circumstances. Acceptance or rejection of the supplies shall be made as promptly as practicable after delivery, except as otherwise provided in this Contract. Failure to inspect and accept or reject supplies shall neither relieve Contractor from responsibility for such supplies as are not in accordance with the Contract requirements nor impose liability on the City therefor.

(c) The inspection and test by the City of any supplies or lots thereof does not relieve Contractor from any responsibility regarding defects or other failures to meet the Contract requirements, which may be discovered prior to acceptance. Except as otherwise provided in this Contract, acceptance shall be conclusive except as regards latent defects, fraud, or such gross mistakes as amount to fraud.

20. Liability for Loss or Damage. Contractor shall be liable for any loss of, or damage to, City property caused by the negligence, recklessness, or intended wrongful misconduct of Contractor, his/its agents, servants and employees and shall indemnify and save the City harmless against all actions, proceedings, claims, demands, costs, damages and expenses, including attorney's fees, by reason of any suit or action brought for any actual or alleged injury to or death of any person or damage to property other than City property, resulting from the performance of the Contract by Contractor, his/its agents, servants and employees. Contractor shall submit a full written report to the Finance Director within twenty-four (24) hours following the occurrence of such damage, loss or injury.

21. Non-discrimination. During the performance of this Contract, Contractor agrees as follows:

(a) Contractor will not discriminate against any employee or applicant for employment because of race, religion, color, sex, disability, marital status, age or national origin, except where such is a bona-fide occupational qualification reasonably necessary to the normal operation of Contractor. Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this non-discrimination clause. Contractor agrees and fully supports and complies with the Americans with Disabilities Act of 1990.

(b) Contractor shall state in all solicitations or advertisements for employees placed by or on behalf of Contractor that Contractor is an equal opportunity employer.

(c) Notices, advertisements and solicitations placed in accordance with federal law, rule or regulation shall be deemed sufficient compliance with this provision. Contractor shall include the provisions of the foregoing subparagraphs (a), (b), and (c) in every subcontract or purchase order of over \$10,000 so that the provisions will be binding upon each subcontractor or vendor.

22. Disputes. The Finance Director, who shall reduce his decision to writing and mail or otherwise furnish a copy thereof to Contractor, shall decide disputes with respect to this Contract in the first instance. The decision shall be final and binding unless, within thirty (30) days from the date of such decision, Contractor mails or otherwise furnishes to the Finance Director a written appeal addressed to the City Manager. The decision by the City Manager shall be final and binding unless, within ten (10) days from the date of receipt of the decision of the City Manager, appeal is made to the City Council. The decision of the City Council shall be final and binding unless set aside by a court of competent jurisdiction as fraudulent, capricious, arbitrary, or so grossly erroneous as necessary to imply bad faith, or not to be supported by any evidence. Pending a final determination of a properly appealed decision of the Finance Director, Contractor shall proceed diligently with the performance of this Contract in accordance with that decision.

23. Force Majeure. Neither party shall be liable for any delay in performance or failure to perform any obligation hereunder, and to the extent that such failure or delay is caused by an event of Force Majeure. Force Majeure shall mean any act, event or condition that is beyond the party's reasonable control, that materially and adversely affects the party's ability to perform its obligations hereunder, and that is not the result of the party's willful neglect, error, omission or failure to exercise reasonable due diligence.

24. Controlling Law. THIS AGREEMENT CONTAINS IMPORTANT MATTERS AFFECTING LEGAL RIGHTS AND IS ACCEPTED AND ENTERED INTO IN FLORIDA AND ANY QUESTION REGARDING ITS VALIDITY, CONSTRUCTION, ENFORCEMENT, OR PERFORMANCE SHALL BE GOVERNED BY FLORIDA LAW. ANY LEGAL PROCEEDING ARISING FROM OR IN ANY WAY REGARDING THE AGREEMENT SHALL HAVE ITS VENUE LOCATED EXCLUSIVELY IN THE CIRCUIT COURT OF VOLUSIA COUNTY, FLORIDA, AND THE PARTIES HEREBY EXPRESSLY CONSENT AND SUBMIT THEMSELVES TO THE PERSONAL JURISDICTION AND VENUE OF THE COURT.

25. Additional Provisions. As may have been outlined in _____ and written quotes and purchase orders and any attachments or exhibits to this Contract whether delivered herewith or subsequently approved as a part hereof, such as drawings or technical specifications prepared in the performance of this work.

26. Integration. This Contract and the documents incorporated herein by reference shall constitute the whole agreement between the parties. There are no promises, terms, conditions, or obligations other than those contained herein, and this Contract shall supersede all previous communications, representations, or agreements, written or verbal, between the parties hereto.

27. Notice. For purposes of this agreement, notices shall be sent as follows:

City: City of Port Orange
Attention: City Manager
1000 City Center Circle
Port Orange, Florida 32129
(386) 506-5501

Copy to: City of Port Orange
Attention: _____
1000 City Center Circle
Port Orange, Florida 32129
(386) 506-_____

Contractor: _____
Attention: _____

Any notice or other communication given under the Contract will be in writing and delivered by hand, sent by facsimile (provided acknowledgment of receipt thereof is delivered to the sender), sent by certified, registered mail, or sent by any nationally recognized overnight courier service to the addresses provided herein. The parties may, from time to time and at any time, change their respective addresses and each will have the right to specify as its address any other address by at least 10 days written notice to the other party.

28. Contract Construction

This Agreement may be executed in one or more counterparts, each of which shall be deemed to be an original but all of which together shall constitute one and the same instrument. The delivery by facsimile or e-mail of an executed copy of this Agreement shall be deemed valid as if an original signature was delivered. No contract shall be formed between Contractor and the City until the City signs this Agreement.

29. Authority to Sign. Each person signing this Agreement warrants that he or she is duly authorized to do so and to bind the respective party to the Agreement.

[Remainder of this page intentionally left blank]

Witnesses: _____

Printed Name: _____

Printed Name: _____

By: _____

Printed Name: _____

Title: _____

If this Contract is signed by an individual not identified as the President of the corporation in the records of the Florida Department of State, Division of Corporations, please provide written authorization for that individual to enter into contracts on behalf of the corporation.

Date: _____

STATE OF _____
COUNTY OF _____

The foregoing instrument was acknowledged before me this _____ day of _____, 20____, by _____ as _____ of _____ corporation, and who:

(Notary: Please select one)

- ☐ is personally known to me; or
☐ has produced _____ as identification.

Notary Public, State of _____

Printed, typed or stamped name, commission and expiration:

Witnesses:

CITY OF PORT ORANGE

Printed Name: _____

By: _____
Allen Green, Mayor

Printed Name: _____

Date: _____

STATE OF FLORIDA
COUNTY OF VOLUSIA

The foregoing instrument was acknowledged before me this _____ day of _____, 20__, by Allen Green, as Mayor of the City of Port Orange, a Florida municipal corporation, on behalf of the city, and who is personally known to me.

Notary Public, State of Florida
Printed, typed or stamped name, commission and expiration:

Witnesses:

ATTEST:

Printed Name: _____

By: _____
Robin L. Fenwick, CMC, City Clerk

Printed Name: _____

Date: _____

STATE OF FLORIDA
COUNTY OF VOLUSIA

The foregoing instrument was acknowledged before me this _____ day of _____, 20__, by Robin L. Fenwick, as City Clerk of the City of Port Orange, a Florida municipal corporation, on behalf of the city, and who is personally known to me.

Notary Public, State of Florida
Printed, typed or stamped name, commission and expiration:

ICA ____



End of Solicitation Documents



CITY OF PORT ORANGE

PURCHASING DIVISION
1000 CITY CENTER CIRCLE
PORT ORANGE, FLORIDA 32129
TELEPHONE 386-506-5718
FAX 386-506-5711
purchdiv@port-orange.org

ADDENDUM NO. # 1

November 23, 2016

ITB #17-02 BLEACHER REPLACEMENT SERVICES

To All Bidders:

The following changes, clarifications and additions are hereby made part of the bidding and specifications for the above referenced project dated October 31, 2016 and prepared by the City of Port Orange Purchasing Division as fully and completely as if the same were fully set forth therein. It is the sole responsibility of bidder to confirm that all addenda have been received prior to submitting bid and acknowledge such in the bid documents.

A. QUESTIONS AND ANSWERS:

1. Is this bid for telescope bleachers in the gym?

Answer: Yes, it is.

In all other respects, except as specifically stated herein, the subject ITB remains unchanged.

END OF ADDENDUM NO. # 1

CITY OF PORT ORANGE, FLORIDA

INVITATION TO BID

BLEACHER REPLACEMENT SERVICES

ITB #17-02



City of Port Orange Purchasing Division
Diana M. Fye, CPPB, FCPA, Purchasing Manager

Prepared by: David Battaglia, Purchasing Agent
Release Date: October 11, 2016

Bid Due Date and Time: November 15, 2016 at 2:30 p.m.

City of Port Orange, Florida
1000 City Center Circle
Port Orange, FL 32129
(386) 506-5718
purchdiv@port-orange.org
www.port-orange.org



Legal Notice to Proposers

ITB #17-02 BLEACHER REPLACEMENT SERVICES

Notice is hereby given that the City of Port Orange is soliciting bids for BLEACHER REPLACEMENT SERVICES. Bids will be accepted in the City Clerk's Office, Port Orange City Hall, 1000 City Center Circle, Port Orange, Florida 32129 until **2:30 P.M. on November 15, 2016** which may be amended by addendum issued by the City. All untimely Bids will not be considered and will be returned to the Bidder unopened. All Bids will be evaluated to ensure they contain all required forms in order to deem the Bidder responsive or non-responsive. Bids will be opened and read aloud at 2:30 P.M. in Council Chambers.

There will be a Non-Mandatory Pre-Bid Conference and site visit for the project at 10:00 A.M. (local time) on **October 25, 2016** at City Hall, Council Chambers (1st floor), 1000 City Center Circle, Port Orange, Florida 32129. All attendees to the Pre-Bid Conference must sign in. The representative of each Bidder shall be an authorized employee of the Bidder and shall sign in accordingly. Bidders are urged to obtain Bid documents and familiarize themselves with the documents prior to the Pre-Bid meeting.

A Bid Guarantee in the form of a Bid Bond executed by the Bidder and an acceptable surety or a certified check or bank draft payable to the City of Port Orange, Florida in an amount equal to five percent (5%) of the proposed bid shall be submitted with each submission

DESCRIPTION: The City of Port Orange is seeking proposals from firms qualified and experienced in replacing the six sets of bleachers in the two gyms. The current bleachers are over 15 years old, un-repairable and do not meet ADA requirements.

All Bids are solicited and shall be made pursuant to the Code of Ordinances, City of Port Orange, Chapter 2, Article VI, Division 2, Section 2-256, and all Bids will be evaluated in accordance with the provisions thereof. Code of Ordinances, City of Port Orange is on file in the Office of the City Clerk, City Hall, 1000 City Center Circle, Port Orange, Florida 32129, and at www.municode.com. Local vendors may be given a local preference pursuant to the Code of Ordinances, City of Port Orange, Chapter 2, Article VI, Division 2, Section 2-275.

Copies of the Bid documents, requirements, scope of service and all other pertinent information necessary to submit a complete package may be obtained electronically from Onvia (DemandStar) via their website at www.demandstar.com. All questions shall be directed **in writing** to the Purchasing Manager, Diana M. Fye, CPPB, FCPA, purchdiv@port-orange.org and reference "Questions on "ITB #17-02 BLEACHER REPLACEMENT SERVICES" in the subject line. Last day for questions will be **November 1, 2016 at 5:00 PM.**

All Bidders are required to complete and submit a Public Entity Crime Statement, the Anti-Collusion Statement, and Drug Free Tie Proposal Preference Statement, as well as other documents as required by the solicitation.

NO bid shall be withdrawn for a period of ninety (90) days subsequent to the bid opening without the consent of the City of Port Orange, Florida. Upon award, the successful bidder will also be required to furnish and pay for a satisfactory contract one hundred percent (100%) Payment and Performance Bond

to be recorded by the City, with the Clerk of the Circuit Court, Volusia County, Florida and to enter into a contract for services with the City of Port Orange.

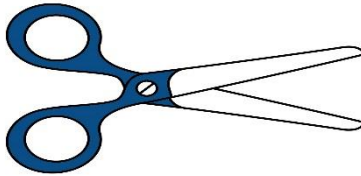
No Bids received after the time and date specified for the opening will be considered. The City of Port Orange, Florida reserves the right to reject any and all Bids, to waive any and all non-substantial irregularity in Bids received, whenever such waiver or rejection is in the best interest of the City.

Bids shall be **submitted in the City Clerk's office** with one (1) original and one (1) identical digital (CD or flash drive) version in pdf format, addressed to Diana M. Fye, CPPB, FCPA, Purchasing Manager, Finance Department, City Hall, 1000 City Center Circle, Port Orange, Florida 32129 in a **SEALED ENVELOPE/PACKAGE** plainly marked on the outside: **“ITB #17-02 BLEACHER REPLACEMENT SERVICES”**.

Diana M. Fye, CPPB, FCPA, Purchasing Manager
Legal Ad - One Time – **October 11, 2016**

[Remainder of this page left intentionally blank]

Cut along the outer border and affix this label to the outside of your sealed bid envelope/package to identify it as a "Sealed Bid". Be sure to include the name of the company submitting the bid where requested.



SEALED BID • DO NOT OPEN	
SEALED BID NO.	ITB #17-02 _____
BID TITLE:	BLEACHER REPLACEMENT SERVICES _____
DUE DATE/TIME:	November 15, 2016 at 2:30 P.M. _____
SUBMITTED BY:	_____ (Name of Company)
DELIVER TO:	City of Port Orange City Clerk's Office Attn: Diana M. Fye, CPPB, FCPA Purchasing Manager Finance Department 1000 City Center Circle Port Orange, Florida 32129
DATE/TIME RECEIVED:	_____ (To be stamped by Clerk's Office)

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SECTION 1 – PURPOSE AND OVERVIEW

The purpose for this Invitation to Bid (ITB) is to solicit competitive sealed bids from Firms or Companies (Vendors) for the provision of The City of Port Orange is seeking proposals from firms qualified and experienced in replacement of six sets of bleachers in the two gyms as outlined within this document.

It is the intent and purpose of the City of Port Orange (City) that this Invitation to Bid promotes competitive selection. It shall be the Bidder's responsibility to advise the Purchasing Division if any language, requirements, etc., or any combination thereof, inadvertently restricts or limits the requirements stated in this ITB to a single source.

[Remainder of this page left intentionally blank]

SECTION 2 – INSTRUCTIONS TO BIDDERS

Firms or companies (Vendor) desiring to provide services, as described herein shall submit sealed bids including one original copy and one (1) digital (CD or flash drive) version in PDF format, in conformance with the detailed submittal instructions.

TIMELINE (Local Time):

The City reserves the right to alter dates as needed.

Date of Distribution:.....October 11, 2016
 Non-Mandatory Pre-Bid Conference October 25, 2016 at 10:00 A.M.
 Deadline for Questions: November 1, 2016 by 5:00 P.M.
 Final Addendum Posting: November 8, 2016 by 5:00 P.M.
Bids Due:November 15, 2016 by 2:30 P.M.
 City Council Meeting for Approval of Recommendation of Award To Be Determined

Bids must be delivered in a sealed envelope/package and delivered to the City of Port Orange City Clerk's Office, Attn: Diana M. Fye, CPPB, FCPA, Purchasing Manager, Finance Department, 1000 City Center Circle, Port Orange, Florida 32129 no later than date and time listed in the Timeline above. All times referenced are local time.

Bids shall be sealed and Vendors shall clearly indicate on the outside of their bid the following:

- a) Invitation to Bid (ITB) Number and Title
- b) Date of Opening
- c) Name of Vendor
- d) Address of Vendor

Due to the timing of mail service, the City Cautions Vendors to assure actual delivery of Bids to the City prior to the deadline set for receiving bids. Carrier and hand deliveries of bids will be accepted in the City Clerk's Office, Port Orange City Hall, 1000 City Center Circle, Port Orange, Florida 32129 until the date and time referenced in the Timeline above or as amended by addendum issued by the City. Bids received after the established deadline shall not be considered.

Vendors are cautioned that they are responsible for delivery to the specific location cited above. Therefore, if your bid, proposal, statement or quotation is delivered by an express mail carrier or by any other means, it is your responsibility to ensure delivery to the above address. This office will not be responsible for deliveries made to any place other than the specified address.

Offers by telephone, email or telegram shall not be accepted. Also, Vendors are instructed NOT to fax their bid package. **Faxed bids shall be rejected as non-responsive regardless of where or when the fax is received.**

All Bids will be opened publicly and the names of all Vendors shall be read aloud. All conferences, and meetings (including opening of proposals) regarding this RFP are recorded electronically (audio only).

The City of Port Orange reserves the right to reject any or all Bids or parts of Bids, if it is in the best interest of the City.

NON-MANDATORY PRE-BID CONFERENCE/SITE VISIT:

There will be a Non-Mandatory Pre-Bid Conference for the project on the date and time referenced in the Timeline above at City Hall, Council Chambers (1st Floor), 1000 City Center Circle, Port Orange, Florida 32129. All prospective Vendors are strongly encouraged to attend because the Pre-Bid Conference will offer potential Vendors the opportunity to ask questions and discuss the project directly with staff. All attendees to the Pre-Bid Conference must sign in. The representative of each Vendor shall be an authorized employee of the Vendor and shall sign in accordingly.

All prospective Vendors are strongly encouraged to attend because this will be the ONLY opportunity to tour the site. City staff will not give individual tours after the Pre-Bid Conference. No questions will be answered during the Site Visit. Any questions that Vendors have during or after the Site Visit must be submitted in writing following the instructions below in "Questions Regarding this ITB"

QUESTIONS REGARDING THIS ITB:

All questions shall reference "Questions on ITB # 17-02 and BLEACHER REPLACEMENT SERVICES" in the subject line. All questions concerning this ITB shall be submitted in writing no later than the date and time referenced in the Timeline above to:

Diana M. Fye, CPPB, FCPA
Purchasing Manager
1000 City Center Circle
Port Orange, FL 32129
dfye@port-orange.org or
purchdiv@port-orange.org

ADDENDA REGARDING THE INVITATION TO BID:

The City will issue responses to inquiries and any other corrections or amendments it deems necessary in written addenda issued prior to the Bid Due Date. Vendors should not rely on any representations, statements or explanations other than those made in this ITB or in any addendum to this ITB. Where there appears to be a conflict between the ITB and any addenda issued, the last addendum issued will prevail. It is the Vendor's responsibility to be sure all correct number of addenda was received. The Vendor should verify with the designated contact persons prior to submitting a Bid that all addenda have been received. Vendors should acknowledge the correct number of addenda received as part of their Bids. It is the responsibility of the Vendor to ensure all addenda have been received prior to submitting a bid.

Written responses, in the form of an addendum, will be provided via the Demand Star website at: www.demandstar.com.

The failure of Vendors to submit acknowledgement of any addenda that affects the ITB price(s) is considered a major irregularity and will be cause for rejection of the Bid.

The City of Port Orange reserves the right to consider the omission of an acknowledgement of addendum as cause for rejection of the ITB submittal.

This provision exists solely for the convenience and administrative efficiency of the City of Port Orange. No Vendor or other third party gains any rights by virtue of this provision or the application thereof, nor shall any Vendor or third party have any standing to sue or cause of action arising there from.

CLARIFICATIONS:

It is the Vendor's responsibility to become familiar with and fully informed regarding the terms, conditions and specifications of this ITB. Lack of understanding and/or misinterpretation of any portions of this ITB shall not be cause for withdrawal of your Bid after opening or for subsequent protest of award. Vendors must contact the Purchasing Representative, at the email provided, should clarification be required.

Modification or alteration of the documents contained in the solicitation or contract shall only be valid if mutually agreed to in writing by the parties.

MINIMUM QUALIFICATIONS:

Vendors shall be licensed to do business in the State of Florida. Submit Sunbiz report showing your company registered as "Active".

Vendors must be properly registered and licensed to provide the goods or services identified in the scope of work, by all applicable state and local agencies.

Vendors must provide a minimum of three (3) verifiable references from similar scopes of work as identified in this ITB on the provided "Professional References" form. Failure to provide references that verify required experience will cause the Vendor to be deemed non-responsive. The City of Port Orange is not to be used as a reference.

NO LOBBYING:

All Vendors are hereby placed on notice that the City of Port Orange Council, City Employees/Staff, nor Members of the Evaluation Committee (with the exception of the City of Port Orange Purchasing Division personnel designated to receive requests for interpretations or corrections) are not to be lobbied, directly or indirectly either individually or collectively, regarding this ITB. During the entire procurement process, all Vendors and their subcontractors, sub-consultants, or agents are hereby placed on notice that they are not to contact any persons listed above for such purposes as holding meetings of introduction, dinners, etc., if they intend to submit or have submitted Bids for this project. Any Vendor contacting individuals mentioned herein in violation of this warning may automatically be disqualified from further consideration for this ITB.

PRICING SHEETS:

Pricing sheets/Bid Forms are to be completed as directed and without modification and returned as part of the ITB submittal prior to the ITB deadline for submission. Failure to fill out the price sheets/bid forms as directed and without modification may negatively affect the evaluation of your bid.

EXCEPTIONS TO SPECIFICATIONS:

If taking exception to any portion of the ITB specifications, the Vendor must indicate those exceptions as stated on the Vendor's Acknowledgement Form.

BID SUBMISSION AND WITHDRAWAL:

Unless otherwise specified, Vendor shall use the forms supplied by the Purchasing Division. Bids, once opened, become the property of the City, cannot be withdrawn, and will not be returned to the Vendors. Upon opening, Bids become subject to public disclosure in accordance with Chapter 119, Florida Statutes.

CORRECTION OF BIDS:

Correction of inadvertently erroneous Bids shall be permitted up to the time of ITB opening. Vendors shall not be allowed to modify their Bids after the opening time and date.

WITHDRAWAL OF BIDS:

NO Bid shall be withdrawn for a period of ninety (90) days subsequent to the Bid opening without the consent of the City of Port Orange, Florida. Negligence on the part of the Vendor in preparing the Bid confers no right of withdrawal or modification after the Bid has been opened, at the appointed time and place by the City of Port Orange. Any such withdrawn Bid shall not be resubmitted.

OPENING OF BIDS:

Bids will be received until the date and time stated in this ITB and will be publicly opened and read at the place, time and date stated. No responsibility will attach the Purchasing Department for the premature opening of a Bid not properly addressed and identified.

LITIGATION HISTORY:

The City will consider a Vendor's litigation history information in its review and determination of responsibility. All Vendors are required to disclose to the City all "material" cases filed, pending, or resolved during the last five (5) years prior to the solicitation response due date, whether such cases were brought by or against the Vendor, any parent or subsidiary of the Vendor, or any predecessor organization. If the Vendor is a joint venture, the information provided should encompass the joint venture (if it is not newly-formed for purposes of responding to the solicitation) and each of the entities forming the joint venture. Although the review of a Vendor's litigation history is an issue of responsibility, the failure to provide litigation history as required in the Evaluation Criteria may result in a recommendation of non-responsive by the Purchasing Manager.

DEBARMENT HISTORY:

The City will consider a Vendor's debarment history information in its review and determination of responsibility. All Vendors are required to disclose to the City all cases of debarment filed, pending, or resolved by the City or other public entity during the last five (5) years prior to the solicitation response due date, whether such actions were brought by or against the Vendor, any parent or subsidiary of the Vendor, or any predecessor organization. If the Vendor is a joint venture, the information provided should encompass the joint venture (if it is not newly-formed for purposes of responding to the solicitation) and each of the entities forming the joint venture. Although the review of a Vendor's debarment history is an issue of responsibility, the failure to provide debarment history as required in the Proposal Submittal and Requirements Section may result in a recommendation of non-responsive by the Purchasing Manager.

REJECTION OF BIDS:

The City reserves the right to reject any and/or all Bids when such rejection is in the best interest of the City.

BIDS MAY BE REJECTED AND/OR VENDOR(S) DISQUALIFIED FOR THE FOLLOWING REASONS:

- (a) Failure to update the information on file including address, product, service or business descriptions.
- (b) Failure to perform according to contract provisions.
- (c) Conviction in a court of law of any criminal offense in connection with the conduct of business.
- (d) Evidence of a violation of any federal or state anti—trust law based on the submission of bids or proposals, or the awarding of contracts.
- (e) Evidence that the vendor has attempted to give a Board employee a gratuity of any kind for the purpose of influencing a recommendation or decision in connection with any part of the Board’s purchasing activity.
- (f) Other reasons deemed appropriate by the City.

OWNERSHIP OF DOCUMENTS:

All documents resulting from this project will become the sole property of the City of Port Orange. The Vendor must meet all requirements for retaining public records and transfer, at no cost, to the City all public records in possession of the Vendor upon termination of this Agreement and destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. All records stored electronically must be provided to the City in a format that is compatible with the information technology systems of the City.

AMERICANS WITH DISABILITIES ACT (ADA):

If you need special services provided for under the Americans with Disabilities Act, contact the ADA Coordinator in our Human Resources office at 386-506-5560 at least 48 hours before the scheduled event.

[Remainder of this page left intentionally blank]

SECTION 3 – SCOPE OF WORK

INTRODUCTION

The City of Port Orange is seeking proposals from firms that are qualified and experienced to provide and install new bleachers at the Parks & Recreation Gymnasium located at 4655 City Center Circle, Port Orange, Florida 32129. The current bleachers are over 15 years old, un-repairable and do not meet ADA requirements.

SPECIFICATIONS

GYMNASIUM #1

Deliver and install one bank of telescopic bleachers by Sheridan Seating with the following dimensions and criteria as follows:

- A. 5 Rows X 34'6" long.
- B. 115 gross plastic molded seats.
- C. Rails.
- D. Aisles.
- E. Column cut outs.
- F. Manual operation and Electric operation on bleachers.
- G. Must Meet ADA requirements.

GYMNASIUM #2

Deliver and install one bank of telescopic bleachers by Sheridan Seating with the following dimensions and criteria as follows:

- A. 1 Bank - 5 rows X 66' long 1 bank - 5 rows x 70' long.
- B. 450 gross plastic molded seats.
- C. Rails.
- D. Aisles.
- E. Column cutouts.
- F. Manual operation and Electric operation on bleachers.
- G. Must Meet ADA requirements.

Specifications may reference name brands and model numbers. It is not the intent of the City of Port Orange to restrict these bids in such cases, but to establish a desired quality level of merchandise or to meet a pre-established standard due to like existing items. Vendors may offer items of equal stature and the burden of proof of such stature rests with the Vendor, unless otherwise specified by the City. The City of Port Orange shall act as sole judge in determining equality and acceptability of products offered. These products must convey same workmanship and warranty.

SECTION 4 – STANDARD PURCHASE DEFINITIONS

The City will use the following definitions in instructions to bidders, terms and conditions, special provisions, technical specifications and any other solicitation documents.

1. **Addendum** is a formal written document, released prior to the public opening that modifies any aspect of a Solicitation. Plural: Addenda
2. **Alternate Bid** means multiple Bids with substantive variations from the same Bidder in response to a Solicitation.
3. **Amendment** is a formal written agreement, signed by both parties, that modifies an existing contractual agreement.
4. **Appropriate, Appropriated, or Appropriation** means the adoption by the City Council of the City of a budget for a fiscal year that includes payments to be made under the Contract during the respective fiscal year.
5. **Best Value** means the highest overall value to the City based on factors that include, but are not limited to, price, quality, design, and workmanship.
6. **Bid** is a complete, properly signed response to an Invitation to Bid, which if accepted, would bind the Bidder to perform the resultant Contract.
7. **Bid Guaranty (Bid Bond)** guarantees that the Bidder (a) will not withdraw the Bid within the period specified for acceptance, and (b) will execute a Contract and furnish required bonds and any necessary insurance within the time specified in the Solicitation, unless a longer time is allowed by the City. The guarantee will be returned to the Bidder upon execution of a Contract
8. **Bidder or Proposer** is a person, firm, or entity that that submits a Response to a Solicitation. Any Bidder/Proposer may be represented by an agent after submitting evidence demonstrating the agent's authority. The agent cannot certify as to his own agency status. (See also "Vendor")
9. **City** means the City of Port Orange.
10. **Competitive Negotiation** means a method for acquiring goods, services, and construction for public use in which discussions or negotiations may be conducted with responsible offerors who submit Responses through a Request for Proposals, Request for Statements of Qualifications, or Invitation to Negotiate.
11. **Competitive (Formal) Solicitation** is the process of requesting and receiving two or more sealed bids, proposals, statements of qualifications or replies submitted by responsive vendors in accordance with the terms of a competitive process, regardless of the method of procurement.
12. **Competitive Range** means the responsive submissions that meet the evaluation criteria and are considered to be reasonably susceptible of award.
13. **Construction** means the process of building, repairing, improving, and alterations, conversion or extension of building, parks, utilities, streets or other improvements or alterations to real property.
14. **Contract** is a written agreement or purchase order issued for the purchase of goods or services.

15. **Contractor** means the person, firm or entity selling goods or services to the City under a Contract.
16. **Deliverables** means the goods, products, materials, and/or services to be provided to the City by a Bidder.
17. **Due Date** means the date and time specified for receipt of Responses to a Solicitation.
18. **End User** is a person, program, agency, or other eligible user who uses a contract to purchase a commodity or contractual service.
19. **Evaluation Committee/Team** is a temporary group of City personnel who are responsible for evaluation of proposals, statements of qualifications or replies as part of a Request for Proposals (RFP), Request for Submission of Qualifications (RFSQ), or Invitation to Negotiate (ITN), or competitive grant process.
20. **Evaluator** is a member of the evaluation committee/team.
21. **Goods** are supplies, materials, or equipment.
22. **Intent to Award** is a document, published on Onvia/DemandStar, that informs the public and respondents of the City's decision to award a contract pursuant to a previously issued competitive solicitation.
23. **Invitation to Bid (ITB) or Bid** means a formal request to prospective vendors requesting pricing for a specified Good or Service which has been advertised for Bid in a newspaper.
24. **Invitation to Negotiate (ITN)** means a formal request to prospective vendors requesting proposed specifications and pricing of a product and/or service which has been advertised for replies in a newspaper.
25. **Issues** means points, matters, or concerns to be addressed during negotiations.
26. **Lead Negotiator** is the negotiator responsible for leading and facilitating the formal negotiation discussions and selecting other required negotiation team members. Is often the "driver of change" and seeks alternatives/options.
27. **Lowest Responsible Bid means the responsive Bid** meeting all requirements of the specifications, terms, and conditions of the Invitation to Bid resulting in the lowest cost to the City in a total cost concept or based solely on price, taking into consideration the financial and practical ability of the Bidder to perform the Contract, past performance of the Bidder, and compliance with all City ordinances concerning the purchasing process.
28. **Lowest Responsible Bidder** means the Bidder submitting Lowest Responsible Bid.
29. **Negotiation Team** is a temporary group of City personnel who are responsible for negotiations as part of an Invitation to Negotiate (ITN).
30. **Negotiator** is a member of the negotiation team.
31. **Non-Professional Services** are services performed that are not of a professional nature such as lawn care, security, janitorial, etc.
32. **Offer** means a complete signed Response submitted to the City in response to a Solicitation including, but not limited to, a Bid submitted in

- response to an Invitation to Bid, a Proposal submitted in response to a Request for Proposal, a Quote submitted in response to a Request for Quotation, a Statement of Qualifications and interest submitted in response to a Request for Statements of Qualifications, or a Reply submitted in response to an Invitation to Negotiate.
33. **Onvia/DemandStar** is the official online repository for all City competitive solicitations.
 34. **Outlier** is a bid, offer, or proposal which is determined by the Purchasing Director or Manager to be significantly dissimilar to or inconsistent with, competing bids or offers.
 35. **Pre-Bid/Proposal/Statement/Reply Conference** means a meeting conducted by the Purchasing Office, held in order to allow Vendors to ask questions about the proposed Contract and particularly the Contract specifications with the City department requesting the goods/services.
 36. **Price Analysis** is an evaluation of the total cost of a contract in order to determine if the price is reasonable.
 37. **Procurement (Process)** is a term used in the governmental sector for the combined functions of acquiring (purchasing) needed goods and/or services, receiving and inspection, inventory management, contract administration, and disposal/surplus.
 38. **Professional Services** means those services within the scope of the practice of architecture, professional engineering, landscape architecture, or registered surveying and mapping, as defined by the laws of the state, or those performed by any architect, professional engineer, landscape architect, or registered surveyor and mapper in connection with his or her professional employment or practice.
 39. **Protest** is a formalized process by which respondents have an opportunity to challenge a procurement practice or contract award.
 40. **Proposal** is a complete, properly signed Response to a Request for Proposal, based on performance that is offered rather than on that of price alone, which if accepted, would bind the Vendor to perform the resultant Contract.
 41. **Purchase Order** is an order placed by the Purchasing Division for the purchase of Goods or Services written on the City's standard Purchase Order form and which, when accepted by the Bidder, becomes a contract. The Purchase Order is the Bidder's authority to deliver and invoice the City for Goods or Services specified, and the City's commitment to accept the Goods or Services for an agreed upon price.
 42. **Request for Proposal (RFP)** means a formal request to prospective vendors requesting qualifications of the vendor and pricing for a specified Good or Service which has been advertised for Proposal in a newspaper.
 43. **Request for Statement of Qualifications (RFSQ)** means a formal request to prospective vendors requesting statements of qualifications pursuant to Florida Statute 287.055 "Consultant's Competitive Negotiation Act" which has been advertised for Statement in a newspaper.
 44. **Respondent** means an entity that has (or will, i.e. "prospective respondents") submitted a response to a competitive solicitation conducted to create a

contractual relationship for the provision of commodities or services.

- 45. **Response/Submission** means all materials submitted to the City by a respondent as part of a solicitation. A response may be called a bid, proposal, statement of qualifications, or a reply, depending on the type of competitive solicitation being issued.
- 46. **Responsible (Vendor)** is a vendor who has the capability in all respects to fully perform the contract requirements and the integrity and reliability that will assure good faith performance.
- 47. **Responsive (Vendor)** is a vendor that has submitted a bid, proposal, statement of qualifications, or reply that conforms in all material respects to the solicitation.
- 48. **Scope** means the extent of the area or subject matter that something deals with or to which it is relevant.
- 49. **Scope of Work** means a description of the work activities, deliverables, and/or timeline that a vendor must execute in terms of delivering specific commodities or in performance of contractual services.
- 50. **Services** include all work or labor performed for the City on an independent contractor basis other than construction.
- 51. **Solicitation** means a formal request, as applicable, for prospective vendors to submit responses to an Invitation to Bid,

Request for Proposal, Request for Qualifications, Invitation to Negotiate, or a Request for Quotation.

- 52. **Solicitation Document** means a document, or collection of documents, either paper or electronic, that contains all information required to conduct a competitive procurement project according to § 287.057, Florida Statutes.
- 53. **Stakeholder** means an individual, who is not likely to become a vendor, who has an interest in the commodities/contractual services needed.
- 54. **Subcontractor** means a person, firm or entity providing goods or services to a Vendor to be used in the performance of the Vendor's obligations under the Contract.
- 55. **Subject Matter Expert** means a person who has working or expert knowledge about a particular topic or field.
- 56. **Unbalanced Bid** means a Bid that is based on prices which are significantly less than cost for some bid items and significantly more than cost for others.
- 57. **Vendor** is a person, firm, or entity that that provides commodities or services and submits a Response to a Solicitation. Any Vendor may be represented by an agent after submitting evidence demonstrating the agent's authority. The agent cannot certify as to his own agency status. (Also called "Bidder" or "Proposer".)

SECTION 5 – GENERAL TERMS AND CONDITIONS

These instructions are standard for all contracts for commodities or services issued through the City of Port Orange Purchasing Division. General Requirements apply to all advertised Solicitations; however, **these may be superseded, in whole or in part, by the SPECIAL REQUIREMENTS/INSTRUCTIONS OR OTHER DATA CONTAINED HEREIN.**

READ THIS ENTIRE DOCUMENT CAREFULLY. FOLLOW ALL INSTRUCTIONS. YOU ARE RESPONSIBLE FOR FULFILLING ALL REQUIREMENTS AND SPECIFICATIONS. BE SURE YOU UNDERSTAND THEM.

1. ACCEPTANCE BY CITY

The City shall have a reasonable time (but not less than 30 days) after receipt to inspect the goods and services tendered by vendor. The City at its option may reject all or any portion of such goods or services which do not, in City's sole discretion, comply in every respect with all terms and conditions of the contract. The City may elect to reject the entire goods and services tendered even if only a portion thereof is nonconforming. If the City elects to accept nonconforming goods and services, the City, in addition to its other remedies, shall be entitled to deduct a reasonable amount from the price thereof to compensate the City for the nonconformity. Any acceptance by the City, even if non-conditional, shall not be deemed a waiver or settlement of any defect in such goods and services. The material delivered as a result of this solicitation shall remain the property of the seller until a physical inspection and actual usage of the item(s) is made and thereafter deemed acceptable to the satisfaction of the City, in compliance with the terms and specifications contained herein. In the event that the item(s) supplied to the City is/are found to be defective, or does/do not conform to specifications, the City reserves the right to cancel the order upon written notice to the seller and return the item(s) to the seller at the seller's expense.

2. ADDENDUM

When specifications are revised, the City of Port Orange Purchasing Division will issue an addendum addressing the nature of the change. Vendors should acknowledge all addenda by circling the quantity of addenda received on the "Vendor Acknowledgment Form" and include it in the returned Response package. Failure to acknowledge the correct number of addenda issued may result in rejection of the Response. It is the responsibility of the Vendor to ensure all addenda have been received prior to submitting a bid. All Addenda shall be posted by the CITY on www.demandstar.com.

The City shall issue responses to inquiries and any other corrections or amendments it deems necessary in written addenda issued prior to the Solicitation Response Due Date. Vendors should not rely on any representations, statements or explanations other than those made in this Solicitation or in any addendum to the Solicitation. Where there appears to be a conflict between the Solicitation and any addenda issued, the last addendum issued shall prevail.

3. ADDITIONAL GOODS

Products, Materials and Goods not specifically identified in this bid request may be added to any resultant contract upon mutual consent of the contracting parties. The City reserves the right to add or delete products or materials of similar nature, within the family of products of "ITB Item(s)" and their commodity codes, to those items requested in this bid.

4. **ANTI-COLLUSION STATEMENT**

By submitting this Response to a Formal Solicitation, the Vendor affirms that this Response is without previous understanding, agreement, or connection with any person, business, or corporation submitting a Response for the same materials, supplies, or equipment, and that this Response is in all respects fair, and without collusion or fraud. Additionally, Vendor agrees to abide by all conditions of this Solicitation and certifies that they are authorized to sign this Response for the Vendor. In submitting a Response to the City of Port Orange, the Vendor offers and agrees that if the Response is accepted, the Vendor shall convey, sell, assign or transfer to the City of Port Orange all rights, title and interest in and to all causes of action it may now or hereafter acquire under the Anti-trust laws of the United States and the State of Florida for price fixing relating to the particular commodities or services purchased or acquired by the City of Port Orange. At the City's discretion, such assignment shall be made and become effective at the time the City tenders final payment to the Vendor.

5. **APPLICABLE LAWS**

In connection with the furnishing of supplies or performance of work under the Contract, the Vendor agrees to comply with the Fair Labor Standards Act, Equal Opportunity Employment Act, and all other applicable federal and state laws, regulations and executive orders to the extent that the same may be applicable.

6. **ASSIGNMENT**

The successful Vendor shall not sell, assign, transfer or convey this contract in whole or in part, without the prior written consent of the City of Port Orange. Any such assignment or transfer shall not release Vendor from all contractual obligations.

7. **AUTHORITY TO CONDUCT BUSINESS IN FLORIDA:**

A Florida corporation or partnership is required to provide evidence with its response that the Vendor is authorized to transact business in Florida and is in good standing with the Florida Department of State. If not with its response, such evidence must be submitted to the City no later than five (5) business days from request of the Purchasing Manager.

A foreign (out-of-state) corporation or partnership is required to provide evidence with its response that the Vendor is authorized to transact business in Florida and is in good standing with the Florida Department of State. If not with its response, such evidence must be submitted to the City no later than five (5) business days from request of the Purchasing Manager.

A joint venture is required to provide evidence with its response that the joint venture, or at least one of the joint venture partners, is authorized to transact business in Florida and is in good standing with the Florida Department of State. If not with its response, such evidence must be submitted to the City no later than five (5) business days from request of the Purchasing Manager. However, the joint venture is required to provide evidence prior to contract execution that the joint venture is authorized to transact business in Florida and provide the City with a copy of the joint venture Agreement.

A joint venture is also required to provide with its response a Statement of Authority indicating that the individual submitting the joint venture's proposal has the legal authority to bind the joint venture. If not with its response, such evidence must be submitted to the City no later than five (5) business days from request of the Purchasing Manager.

8. **AWARDS**

Results from the evaluation committee will be considered by the City of Port Orange City Council at the earliest possible regular meeting subsequent to the evaluation process. This RFP is issued in accordance with and shall be governed by the provisions of the City's Purchasing Policy.

The City of Port Orange City Council reserves the right to make award(s) by individual sections, groups, all or none, or a combination thereof, with one or more Vendors; to reject any and all proposals, or to waive any informality or technicality in proposals received as deemed to be in the best interest of the City.

The City does not award publicly funded contracts to those who knowingly employ unauthorized alien workers in violation of section 274A(e) of the Immigration and Naturalization Act, 8 United States Code s1324a(e). Such employment deprives legal workers of job opportunities. Violation of section 274A(e) shall be grounds for unilateral cancellation of the contract, Contract, proposal or quote for purchase of services and goods by the City of Port Orange.

9. **AWARD AND EXECUTION OF CONTRACT:**

When a bid received has been determined to be satisfactory, a Contract will be awarded to the lowest responsible Bidder within the time designated in the Contract Documents.

The Bidder(s) to whom the award is made shall execute the Contract(s) and return it, together with the properly executed bonds and insurance certificates to the office of the Owner, within the time specified

10. **BID RETURNS**

Vendors shall return all completed Responses to the City of Port Orange at the address set forth in Section 2 of this document on the date and at the time specified. Late submissions will not be accepted and shall be returned to Vendors unopened.

11. **BID PROTEST**

Any person who is adversely affected by the City's decision or intended decision shall file with the City Purchasing Manager a notice of protest in writing within 72 hours after the posting of the notice of decision or intended decision. With respect to a protest of the terms, conditions, and specifications contained in a solicitation, including any provisions governing the methods for ranking Bids, Proposals, Statements, or Replies, awarding contracts, reserving rights of further negotiation, or modifying or amending any contract, the notice of protest shall be filed in writing within 72 hours after the posting of the Solicitation. Saturdays, Sundays, and state holidays shall be excluded in the computation of the 72-hour time period established herein. The formal written protest shall be filed with the Purchasing Manager in writing within ten (10) days after the date the notice of protest is filed. The formal written protest shall state with particularity the facts and law upon which the protest is based. Failure to file a notice of protest or failure to file a formal

written protest shall constitute a waiver of proceedings. Upon receipt of the formal written protest that has been timely filed, the City shall stop the solicitation or contract award process until the subject of the protest is resolved by final City action. However, the City may continue the solicitation or award process, provided the City Manager sets forth in writing particular facts and circumstances which require the continuance of the solicitation or contract award process without delay in order to avoid an immediate and serious danger to the public health, safety, or welfare. The City shall provide an opportunity to resolve the protest by mutual agreement between the parties. The policy this City has established is as follows:

- a. As soon as possible after receipt, the Purchasing Manager shall provide written bid protest to City Manager, City Attorney, Department Head involved, and Supervisor directly involved in the acquisition.
- b. Purchasing Manager shall schedule within seven (7) business days, excluding weekends and holidays, a meeting with the above mentioned individuals or designee and protestor. The intent of the meeting is to provide a review and/or solution prior to going before Council. After reviewing all relevant information, the City Manager shall render a decision.
- c. If the protestor disagrees, he may appeal to the City Council at a formal council meeting. After reviewing the evidence, the City Council will issue their decision. The City Council's decision is final; however, the protestor can appeal the decision to the Circuit Court in Volusia County, Florida within thirty (30) days of the City Council's final decision. Decisions at all levels shall be in writing to the protestor.

12. **BID/PROPOSAL TABULATION**

Vendors who wish to receive a copy of the bid/proposal tabulation may obtain it via www.demandstar.com or by contacting the City of Port Orange, Purchasing Manager at purchdiv@port-orange.org.

13. **BONDS**

If this Solicitation requires submission of bid guarantee and performance bonds, there will be a separate page explaining those requirements. Responses submitted without the required bid bond or certified check shall be deemed non-responsive. When the Purchasing Manager deems it necessary, bid bonds/deposits shall be prescribed and are advertised in the public notices inviting bids. Normally, if a bid bond/deposit is requested, it is in the amount of five percent (5%) of the bid amount. Payment and Performance Bonds requested for construction projects shall be in an amount equal to one hundred percent (100%) of the total contract amount. Upon award, the successful Vendor may also be required to furnish and pay for a satisfactory contract one hundred percent (100%) Payment and Performance Bond which will be recorded by the City, at the Vendor's sole cost and expense, with the Clerk of the Circuit Court, Volusia County, Florida, and to enter into a written contract with the City of Port Orange. After recording, the City will furnish to the contractor the recording information for the bond to evidence that the contractor has met the requirements of Florida law. The City will bill the cost of recording to the contractor. Payment and Performance Bonds shall also be recorded at the Vendor's expense in the Office of the Clerk of the Circuit Court, Volusia County, Florida. All bonds no matter which kind, are advertised in the Solicitation which appears in the newspaper. Unsuccessful Vendors are entitled to the return of their surety where the Purchasing Manager has required such. A successful Vendor shall forfeit

any surety required by the Purchasing Manager upon failure on the part of the Vendor to enter into a contract within the time specified after the award of bid.

14. **CHANGE ORDERS**

No oral statement of any person shall modify or otherwise change, or affect the terms, conditions or specifications stated in the resulting contract. All change order requests shall be made in writing by the Contractor for review by the Contract Administrator for the City of Port Orange. No work shall be performed as set forth in the change order until the Contractor receives an executed Purchase Order for the requested change.

15. **CHANGE ORDER REQUEST NOTIFICATION**

The Successful Contractor is responsible for giving the City of Port Orange, prior to the Contract expiration date, at least forty-five (45) calendar day's advance notice for any anticipated changes in price greater than \$25,000.00, time and/or scope of the awarded Contract. The Contractor shall not continue to provide services past the Contract expiration date unless approved by a written Change Order Notice from the City.

16. **CLEAN UP**

Upon completion of the delivery of materials, the Contractor shall restore any/all public and private property which was damaged during delivery. Restoration is meant to include removal of any spillage or restoring damage to the edge of pavement, sidewalks, driveways, landscaped areas, etc. Contractor shall make repairs consistent with or better than what existed prior to delivery. This shall be understood to include the use of sod or seed and mulch to replace (if necessary) existing grass that has been damaged.

If sod is used it shall match the sod present on the effected property. Contractor shall make all repairs and restorations at his expense.

17. **CONDUCT OF VENDORS**

All Vendors or individuals acting on behalf of a Vendor are hereby prohibited from lobbying or otherwise attempting to persuade or influence any member of the Evaluation Committee, City Council members, or City staff at any time during the course of the solicitation process. The solicitation process shall end upon issuance of the written City Manager and staff recommendation for selection of a Vendor. All Vendors or individuals acting on behalf of a Vendor are further prohibited from contacting or otherwise attempting to communicate with any member of the staff, Evaluation Committee or City Council members regarding the pending solicitation or its outcome until after the issuance of the written recommendation of the most qualified Vendor. Until such recommendation is issued in writing, any questions regarding the pending solicitation shall be submitted to the Purchasing Manager. Failure to comply with this procedure shall result in rejection/disqualification of said submittal without exception. Contact with staff, City Council members and the Evaluation Committee during a public meeting shall not be considered a violation of this requirement.

18. **CONE OF SILENCE**

The Cone of Silence is designed to protect the integrity of the procurement process by shielding it from undue influences prior to the execution of the award.

The Cone of Silence is defined as the period beginning with the issuance of the solicitation document and continues through the execution of the award document. During this time vendors, service providers and the like are prohibited from all communications regarding the solicitation with City staff, City consultants, City legal counsel, City Agents, or elected officials. Any vendor who initiates any discussions or attempts to influence a member or members of the aforementioned shall be disqualified from continued participation in the procurement process with regard to that particular solicitation.

Exceptions to the Cone of Silence:

- Written communication directed to the Procurement Officer;
- All communications occurring at Pre-Proposal Conferences;
- Oral presentations before publicly notice committee meetings;
- Procurement of goods and services for Emergency situations; and
- Contractors already on contract with the City to perform services for the City are allowed discussions necessary for the completion of an existing contract.

19. **CONFLICT OF INTEREST**

For purposes of determining any possible conflict of interest, all Vendors must disclose if any City of Port Orange employee is also an owner, corporate officer, or employee of Vendor's business. No official or employee of the City who exercises any functions or responsibilities in the review or approval of the undertaking or carrying out of the Scope of Work covered by the Contract shall voluntarily acquire any personal interest, directly or indirectly, in the contract or proposed Contract.

20. **CONFLICT OF INSTRUCTIONS**

If a conflict exists between the General Terms and Conditions and instructions contained herein, and the Special Terms and Conditions and instructions contained herein, the Special Terms and Conditions shall govern.

21. **CONTRACT**

Any acquisition above the \$25,000 level shall be done through one of the formal competitive methods except upon City Council waiver and/or shall have City Council approval. Only the Purchasing Manager and/or City Manager, have the authority to obligate the City by entering into a written contract to purchase goods and/or services up to \$25,000.00. The City of Port Orange, Florida reserves the right to reject any and all Responses or to waive any and all non-substantial irregularity in Responses received, whenever such waiver or rejection is in the best interest of the City.

22. **CONTRACT OBLIGATION**

The City of Port Orange City Council shall approve the contract if greater than \$25,000.00 annually. The Mayor or other person authorized by the Mayor must sign the contract before it becomes binding on the City of Port Orange or the Vendor. Department heads are NOT authorized to sign contracts for the City of Port Orange. Binding agreements shall remain in effect until all products and/or services covered by this purchase have been satisfactorily delivered and accepted.

23. **CONTRACT RENEWALS**

Renewals may be made ONLY by written agreement between the City of Port Orange and the Vendor. Any price escalations are limited to those stated by the Vendor on the original Response.

24. **COOPERATIVE PURCHASING**

The City Manager may elect to purchase through or join with other governmental units in cooperative purchasing ventures when the best interest of the City would be served thereby, provided the same is in accordance with all applicable laws. In the event the City Manager should elect to purchase through or join with other governmental agencies in cooperative purchasing ventures, all purchases in excess of twenty-five thousand dollars (\$25,000.00) shall require council approval before the purchasing contracts are entered into. (Code 1981, § 8-33, Ord. 1997-22, § 5. 5-6-1997; Ord. No. 2004-15, § 4, 7-20-2004)

25. **COPYRIGHT AND PATENT RIGHTS**

Vendor warrants that there has been no violation of copyrights or patent rights in manufacturing, producing and/or selling the item(s) ordered or shipped as a result of this Response, and successful Vendor agrees to hold the City harmless from any and all liability, loss or expense by any such violation.

26. **COST INCURRED BY VENDOR**

All expenses, including costs for required bonds, involved with the preparation and submission of Responses to the City, or any work performed in connection therewith shall be borne by the Vendor. No payment shall be made for any response received, nor for any other effort required of or made by the Vendor prior to commencement of work as defined by the contract approved by the City Council.

27. **DAMAGE**

Any damage to driveways, irrigation systems, sidewalks, pavement, or landscaping will be evaluated by the County's representative and the Contractor. If the Contractor is found to be at fault, all repairs, restitution, or reimbursements to the County must be completed within one week of discovery.

28. **DEBARMENT HISTORY**

The City will consider a Vendor's debarment history information in its review and determination of responsibility. All Vendors are required to disclose to the City all cases of debarment filed, pending, or resolved by the City or other public entity during the last five (5) years prior to the solicitation response due date, whether such actions were brought by or against the Vendor, any parent or subsidiary of the Vendor, or any predecessor organization. If the Vendor is a joint venture, the information provided should encompass the joint venture (if it is not newly-formed for purposes of responding to the solicitation) and each of the entities forming the joint venture. Although the review of a Vendor's debarment history is an issue of responsibility, the failure to provide debarment history as required in the Proposal Submittal and Requirements Section may result in a recommendation of non-responsive by the Purchasing Manager.

29. **DEFAULT PROVISIONS**

In the event of default by the Vendor, the City reserves the right to procure the item(s) bid from other sources and hold the Vendor responsible for excess costs incurred as a result. If a contractor defaults on a City contract the City Council may elect to refrain from doing business with the Vendor for a period of 36 months from the date of default.

30. **DELIVERY OF GOODS/SERVICES**

All materials are to be delivered F.O.B.; City of Port Orange designated facility.

Delivery dates pertaining to this invitation must be clearly stated in the bid form where required and include weekends and holidays. Failure to comply with this requirement may be a cause for disqualification of bid. Unless otherwise specified, delivery at the earliest date is required. The Vendor shall clearly state in the Response the time required for delivery upon receipt of contract or purchase order. Proposed delivery time must be specific and such phrases "as required," "as soon as possible" or "prompt" may result in disqualification of the bid. Delivery time will be a factor for any orders placed as a result of this Response. The City reserves the right to cancel such order(s) or any part thereof, without obligation, if delivery is not made within the time(s) specified herein and hold the vendor in default.

Upon approval of a contract, the vendor is obligated to deliver the goods to the destination specified in the Solicitation or the Purchase Order and bears the risk of loss until delivery. If this Solicitation or Purchase Order does not contain delivery instructions, Vendor shall request instructions in writing from the Purchasing Manager. If the delivery instructions contained in the Solicitation allocate delivery costs and risks in a manner contrary to this section, the provisions of this Competitive Solicitation shall prevail.

When delivery is not met as provided for in the contract, the Purchasing Division reserves the right to make the purchase on the open market, with any cost in excess of the contract price paid by the Vendor, in addition to any other damages, direct or consequential, incurred by the City as a result thereof. In addition, failure of the Vendor to meet the contract delivery dates will be cause for removal of the Vendor from the City's list of eligible Bidders/Proposers as determined by the Purchasing Division.

31. **DETERMINATION OF LOWEST AND BEST RESPONSIBLE BIDDER /PROPOSER**

In determining the lowest and best responsible Bidder/Proposer, in addition to price, there will be considered the following:

- a. The ability, capacity and skill of the Bidder/Proposer to perform the contract.
- b. Whether the Bidder/Proposer can perform the contract within the time specified, without delay or interference.
- c. The character, integrity, reputation, judgment, experience, and efficiency of the Bidder/Proposer.
- d. The quality of performance of previous contracts.
- e. The previous and existing compliance by the Bidder/Proposer with laws and ordinances relating to the contract.

- f. The sufficiency of the financial resources and ability of the Bidder/Proposer to perform the contract or provide the service.
- g. The quality, availability and adaptability of the supplies or contractual services to the particular use required.
- h. The ability of the Bidder/Proposer to provide further maintenance and service for the use of the subject of the contract.
- i. The number and scope of conditions attached to the bid.
- j. Such other factors as appear to the city council to be pertinent to the bid or the contract under all of the circumstances involved.

32. **DISCLOSURE OF CONFLICTS**

The award is subject to the provisions of Chapter 112.313, Florida Statutes. All Vendors must disclose with their Response the name of any officer, director, or agent who is also an employee of the City. Further, all Vendors must disclose the name of any employee who owns, directly or indirectly, an interest in the Vendor's firm or any of its branches. The Vendor shall not compensate, in any manner, directly or indirectly, any officer, agent, or employee of the City for any act or service that he/she may do, or perform for, or on behalf of any officer, agent or employee of the Vendor. No officer, agent, or employee of the City shall have any interest, directly or indirectly, in any contract or purchase made, or authorized to be made by anyone for, or on behalf of the City. The Vendor shall have no interest and shall not acquire any interest that shall conflict in any manner or degree with the performance of the services required under the Solicitation.

33. **DISQUALIFICATION OF BIDDER/PROPOSER**

The Purchasing Manager shall maintain a current listing of qualified Bidders. The Purchasing Manager may, from time to time, remove any vendor's name from the list of qualified Bidders. Normally the removal of a vendor from the vendor list is done after non response from that vendor for three (3) consecutive Solicitations. Such action may also arise out of breach of contract, default, or irregular business practice, based on the Finance Director and City Attorney's recommendation. Any or all Responses may be rejected if the City believes that collusion exists among the Bidders/Proposers. Responses in which the prices are obviously unbalanced may be rejected. If multiple Responses are submitted by a Bidder/Proposer and after the Responses are opened one of the Responses is withdrawn, the result will be that all of the Responses submitted by that Bidder/Proposer will be withdrawn; however, nothing herein prohibits a vendor from submitting multiple Responses for different products or services.

34. **EVALUATION**

Evaluation shall be used as a determinant as to which Response items or services are the most efficient and/or most economical for the City. It shall be based on all factors which have a bearing on price and performance of the items in the user environment. All Responses are subject to tabulation by the City of Port Orange Purchasing Division and recommendation to the governing body. Compliance with all Solicitation requirements, delivery and needs of the using department are considerations in evaluating Responses. Pricing is NOT the only criteria for making a

recommendation. The City of Port Orange Purchasing Division reserves the right to contact any Bidder/Proposer, at any time, to clarify, verify or request information with regard to any Response.

35. **EVALUATING RFPs/RFSQs/ITNs**

The evaluation process is formally conducted by a committee appointed by the Purchasing Manager or requesting department as required by general law. The Purchasing Manager leads and oversees the entire process. The evaluation is based upon specific criteria outlined in the Solicitation. The user department shall assign a weight to each of the evaluation criteria by its relative importance, with the total weights equaling 100. Each committee member establishes a summary of total scores for all the vendors. The summary of total scores is used to rank the vendors. Based upon the scores/ranking of the committee members, consensually a short list is obtained. In this Solicitation process this short list will consist of no less than three vendors (unless less than three were received). This committee falls under the Florida Sunshine Law and therefore cannot speak with one another concerning the Solicitation unless in a public committee meeting. These meetings also shall be announced publicly in a designated area and meetings are recorded. In the case of the Solicitation, one member of the Evaluation Committee may consist of one (1) member from the City Council; and at least one (1) member from the user department, except as otherwise required by general law. The Evaluation Committee, through the Purchasing Division, schedules oral presentations from the firms that were short-listed. At the oral presentation, the short listed firms present an over view of their company and their approach to the scope of work outlined. Upon conclusion of the oral presentations, with the same criteria and procedures used to evaluate the written Responses, the committee members then evaluate those three firms again to determine a second ranking. Then, by consensus a final ranking is determined. That final ranking is then presented to the City Council by the using department head requesting approval to negotiate with the individual/firm ranked as number one. A contract is completed pursuant to the negotiations with this individual and/or firm. If a successful contract cannot be obtained with the number one ranked firm, the negotiations then move to the team ranked as number two, never to return to the number one again.

36. **EXCEPTIONS TO SPECIFICATIONS**

For purposes of evaluation, the Vendor must indicate any exception to the specifications, terms, and/or conditions, no matter how minor. This includes any agreement or contract forms supplied by the Vendor that are required to be signed by the City. If exceptions are not stated by the Vendor, in his bid, it will be understood that the item(s)/services fully comply with the specifications, terms and/or conditions stated by the City. Exceptions are to be listed by the Vendor on an attachment included with the bid. The City will not determine exceptions based on a review of any attached sales or manufacturer's literature.

37. **E-VERIFY**

Vendors shall utilize the U.S. Department of Homeland Security's E-Verify system to verify the employment eligibility of all new employees hired by the Vendor during the term of contract and shall expressly require any subcontractor performing services pursuant to the contract to likewise utilize the U.S. Department of Homeland Security's E-Verify system to verify the employment eligibility of all new employees hired by the subcontractor during the term of contract.

38. **FACILITIES**

The City reserves the right to inspect the Vendor's facilities at any time.

39. **FAILURE TO RESPOND**

If the vendor elects not to bid, please return the enclosed "Bidder Acknowledgement Form" by the bid due date, and state the reason(s) for not bidding. Failure to respond, either by submitting a bid, or by submitting a "Statement of No Bid", three (3) times, shall result in the vendor's name being removed from the City's mailing list.

40. **FINANCIAL STABILITY**

Vendors shall be prepared to supply a financial statement upon request, preferably a certified audit of the last available fiscal year. A third party prepared financial statement and the latest Dunn & Bradstreet report will be accepted in lieu thereof.

41. **FORCE MAJEURE**

Neither party shall be liable for any delay in performance or failure to perform any obligation hereunder if, and to the extent that, such failure or delay is caused by an event of Force Majeure. Force majeure shall mean any act, event or condition that is beyond the party's reasonable control, that materially and adversely affects the party's ability to perform its obligations hereunder, and that is not the result of the party's willful neglect, error, omission or failure to exercise reasonable due diligence.

42. **GOVERNING FORMS**

In the event of any conflict between the terms and provisions of these requirements and the specifications, the specifications shall govern. In the event of any conflict of interpretation of any part of this overall document, the City's interpretation shall govern.

43. **GOVERNING LAW**

Vendors shall comply with all applicable federal, state and local laws and regulations. All Responses are solicited and shall be made pursuant to the Code of Ordinances, City of Port Orange, Chapter 2, Article VI, Division 2, Section 2-263, and all Responses will be evaluated in accordance with the provisions thereof. Code of Ordinances, City of Port Orange is on file in the Office of the City Clerk, City Hall, 1000 City Center Circle, Port Orange, Florida and at www.municode.com.

The City of Port Orange is also governed by the Consultants' Competitive Negotiation Act, Section 287.055, Florida Statutes, as the method of selecting architects, engineers and land surveyors. The City has utilized the procedures in the Act for Professional counselors, environmentalists, planners, general contractors, computer systems, designers, telecommunications consultants, maintenance technicians, financial services and other professional services.

Every acquisition equal to or greater than \$10,000.00 must have a signed, notarized "Public Entity Crimes Form" to comply with Section 287.133(3)(a), Florida Statutes. Also required is the "Drug Free Preference Form" to comply with Section 287.087, Florida Statutes. Each form is included in the Solicitation.

44. **GRANT FUNDING**

Any contract entered into by the City that is to be paid from grant funds shall be limited to payment from the grant funding and the vendor/provider understands that the City has not set aside any City funds for the payment of obligations under a grant contract. If grant funding should become unavailable at any time for the continuation of services paid for by the grant, and further funding cannot be obtained for the contract, then *the sole recourse of the provider shall be to terminate any further services under the contract and the contract shall be null and void.*

45. **HIPAA COMPLIANCE**

The Vendor agrees to comply with the Standards for Privacy of Individually Identifiable Health Information of the Health Insurance Portability and Accountability Act of 1996, PL 104-191, 45 CFR Parts 160-164, as amended, referred to as "HIPAA," to the extent that the Vendor uses, discloses or has access to protected health information as defined by HIPAA.

46. **IDENTICAL TIE BIDS**

In accordance with Section 287.087, Florida Statutes, preference shall be given to businesses with Drug-Free Workplace Programs. Whenever two or more Responses that are equal with respect to price, quality, and service are received for the procurement of commodities or contractual service, a Response received from a business that certifies that it has implemented a Drug-Free Workplace Program shall be given preference in the award process.

47. **INDEMNIFICATION/HOLD HARMLESS**

Contractor covenants and agrees that it will indemnify and hold harmless the City and all of the City's officers, agents, and employees from any claim, loss, damage, costs, charge or expense arising out of any act, action, neglect or omission by contractor during the performance of the contract, whether direct, or indirect, and whether to any person or property to which the City of said parties may be subject, except that neither the contractor nor any of its sub-contractors will be liable under this section for damages arising out of injury or damage to persons or property directly caused or resulting from the sole negligence of City or any of its officers, agents, or employees.

48. **INDEPENDENT CONTRACTOR**

It is expressly understood and agreed by both parties hereto that the City is contracting with the successful vendor as an independent contractor. The parties hereto understand and agree that the City shall not be liable for any claims which may be asserted by any third party occurring in connection with the services to be performed by the successful vendor under this contract and that the successful vendor has no authority to bind the City.

The Vendor represents itself to be an independent contractor offering such services to the general public and shall not represent himself or his employees to be an employee of the City. Therefore, the Vendor shall assume all legal and financial responsibility for taxes, FICA, employee fringe benefits, worker's compensation, employee insurance, minimum wage requirements, overtime, etc., and agrees to indemnify, save, and hold the City, its officers, agents, and employees, harmless from and against, any and all loss; cost (including attorney's fees); and damage of any kind related to such matters. The Vendor shall further understand that the City cannot save and hold harmless and or indemnify the Vendor and/or the Vendor's employees against any liability

incurred or arising as a result of any activity of the Bidder/Proposer or any activity of the Vendor's employees performed in connection with the Contract.

49. **INSPECTIONS AND TESTING**

City of Port Orange reserves the right to inspect any item(s) or service location for compliance with specifications and requirements and needs of the using department. If a Vendor cannot furnish a sample of a Response item, where applicable, for review, or fails to satisfactorily show an ability to perform, the City can reject the Response as inadequate and non-responsive.

50. **INSURANCE**

Please submit a copy of your insurance certificate with your Response. Upon execution of a contract, the Vendor shall maintain insurance during the life of this agreement, and the City of Port Orange shall be listed as additional insured on that insurance document. A waiver of subrogation must be added in all areas and shall suffice in lieu of additional insured on workers' compensation, in an amount and a form set forth herein, to insure against risks, which are identified herein. Insurance providers must be rated "A" or better accordingly to the A.M. Best Company.

51. **INSURANCE CANCELLATION**

No change or cancellation in insurance shall be made without thirty (30) days' written notice by the Vendor to the City. Insurance coverage required in these specifications shall be in force throughout the contract term. Should any awardee fail to maintain or to provide acceptable evidence of current insurance within five (5) days after receipt of written notice at any time during the contract term, the City shall have the right to consider the Contract breached which shall justify the termination thereof.

52. **INSURANCE REQUIREMENTS**

Please submit a copy of your insurance certificate with your proposal. Upon execution of a contract, the Vendor shall maintain insurance during the life of the Contract. The Vendor shall provide to the City a certificate of insurance identifying the City of Port Orange as an additional insured. For workers' compensation coverage, the Vendor's insurance certificate shall include the insurer's waiver of subrogation in lieu of naming the city as an additional insured for workers' compensation.

Policies other than Workers' Compensation shall be issued by insurers licensed and/or duly authorized under Florida Law to do business in the State of Florida and all insuring companies are required to have a minimum rating of "A" in the "Best Key Rating Guide" published by A.M. Best & Company, Inc. Policies for Workers' Compensation may be issued by companies authorized as a group self-insurer by F.S. 440.572. The Vendor shall not commence work under the contract until the City has received a certificate or certificates of insurance and endorsement evidencing the required insurance. The Vendor shall provide the City written notice of cancellation, nonrenewal or any other changes in coverage no later than ten (10) days prior to the effective date of the change.

The City reserves the right to increase insurance coverage as determined for higher risk contracts and shall reimburse the Contractor for the reasonable additional costs of increased coverage.

Insurance	Limits: Standards	Comments
Workers' Compensation <u>Additional Coverage:</u>	Coverage A - Statutory Coverage B - \$100,000 All States (Broad Form) Voluntary Compensation	If the contract requires work on or about navigable waters, require Longshoreman's and Harbor Workers' Coverage. If vessels involved, require Jones Act coverage with limits of \$500,000.
Comprehensive General Liability (including Completed Operations and Contractual Liability)	Combined Single Limit Bodily Injury and Property damage \$500,000 occurrence \$1,000,000. Aggregate	When the Contract work on or under Railroad rights of way or properties, the Contractor shall take out and maintain during the life of the Contract, Railroad protective liability and property damage insurance in amounts as requested by the Railroad.
Comprehensive Business, Automobile Liability to include all automobiles. <u>Additional Coverage:</u>	Auto Liability Body Injury: \$100,000 each person, \$300,000 each occurrence. Property Damage Liability \$100,000 each occurrence. Non-Owned, Hired Car	Or \$500,000 Combined Single Limit for Bodily Injury and Property Damage
Property Insurance Builders Risk. <u>Additional Coverage:</u>	Buildings - Completed value of contract. "All Risk" coverage on latest ISO form or its equivalent. Permission granted to occupy. Owner named as insured AIMA	If the Contract requires handling or installation of Owner's equipment, coverage should be furnished on "All Risk" form, including transit and Owner shall be named.
Professional Liability (Errors & Omissions)	Coverage- \$1,000,000 minimum	

53. **INVOICES AND PAYMENTS**

All invoices shall be sent to: City of Port Orange, Accounts Payable, P.O. Box 291759, Port Orange, Florida, 32129. In accordance with Florida Statutes, Chapter 218, payment will be made within 45 days after receipt of merchandise and a proper invoice. The City will attempt to pay within fewer days if Vendor offers a payment discount. The City cannot make advance payments, make deposits in advance of receipt of goods, or pay C.O.D. Vendors should state any payment discount in the space provided on the bid form for construction services.

54. **IRREVOCABILITY OF RESPONSES**

Each Vendor agrees that Responses shall remain open until the effective date not to exceed 90 days after selection, shall not be subject to revocation or withdrawal, and shall be subject to the City Council's acceptance of a contract with the Vendor.

55. **LATE SUBMISSIONS, LATE MODIFICATIONS AND LATE WITHDRAWALS**

Responses received after the Response Due Date and time are late and shall not be considered. Modifications received after the Response Due Date are also late and shall not be considered. Letters of withdrawal received after the Response Due Date are late and shall not be considered. Letters of withdraw received after contract award shall be deemed a breach of contract, subject to penalties as set forth in the contract and Solicitation.

56. **LEGAL REQUIREMENTS**

Applicable provision of all federal, state, county and local laws, and all ordinances, rules, and regulations shall govern development, submittal and evaluation of all Responses received in response hereto and shall govern any and all claims and disputes which may arise between person(s) submitting a response to a Solicitation hereto and the City by and through its officers, employees and authorized representatives, or any other person, natural or otherwise; and lack of knowledge by any Vendor shall not constitute a cognizable defense against the legal effect thereof.

Upon execution of a contract, the successful Vendor shall hold harmless, indemnify and defend the City of Port Orange, its members, officials, officers and employees against any claim, action, loss, damage, injury, liability, cost and expense of whatsoever kind or nature (including, but not by way of limitation, attorneys' fees and court costs) arising out of or incidental to the performance of the Contract, whether or not due to or caused by negligence of the City of Port Orange, its members, officials, officers or employees. This Contract requirement shall be reflected in the insurance coverage certificate.

57. **LICENSES, PERMITS AND TAXES**

The Vendor shall comply with all rules, regulations, laws and permitting requirements of the City, Volusia County, the State of Florida, and the United States Government now in force or hereafter to be adopted. The Vendor shall abide by all ordinances and laws pertaining to his operations and shall secure, at his expense, all licenses and permits necessary for construction and operation.

58. **LITERATURE (if applicable):**

If no particular brand, model or make is specified, Vendors shall submit with the RFP two (2) copies of descriptive literature and technical data, fully detailing all features, designs, construction, appointments, finishes and the like not covered in the specifications, necessary to fully describe the equipment, material, and/or services he proposes to furnish.

59. **LITIGATION HISTORY:**

The City will consider a Vendor's litigation history information in its review and determination of responsibility. All Vendors are required to disclose to the City all "material" cases filed, pending, or resolved during the last five (5) years prior to the solicitation response due date, whether such cases were brought by or against the Vendor, any parent or subsidiary of the Vendor, or any predecessor organization. If the Vendor is a joint venture, the information provided should encompass the joint venture (if it is not newly-formed for purposes of responding to the solicitation) and each of the entities forming the joint venture. Although the review of a Vendor's litigation history is an issue of responsibility, the failure to provide litigation history as required in the Evaluation Criteria may result in a recommendation of non-responsive by the Purchasing Manager.

60. **LOCAL PREFERENCE**

In accordance with City of Port Orange City Code 2-275, except where federal or state law, or any other funding source, mandates to the contrary, the City shall give preference to local businesses in the following manner:

(a) Competitive Bids

- (1) Port Orange Business: In any competitive bidding process where a bid submitted by a Port Orange business is within eight percent (8%) of the lowest and best responsible bid submitted by a non-Port-Orange business, then the Port Orange business shall have the opportunity to submit, within five (5) working days of the bid opening, a best and final bid equal to or lower than the amount of the original low bid. The bid shall then be awarded to the lowest and best responsible bidder.
- (2) Volusia County business: In any competitive bidding process where a Volusia County business is within five percent (5%) of the lowest and best responsible bid submitted by a business other than a Port Orange business or Volusia County business, then the Volusia County business shall have the opportunity to submit, within five (5) working days of the bid opening, a best and final bid equal to or lower than the amount of the original low bid. The bid shall then be awarded to the lowest and best responsible bidder.
- (3) Florida Business: In any competitive bidding process where a State of Florida business is within three percent (3%) of the lowest and best responsible bid submitted by a non-local business, then the Florida business shall have the opportunity to submit, within five (5) working days of the bid opening, a best and final bid equal to or lower than the amount of the original low bid. The bid shall then be awarded to the lowest and best responsible bidder.
- (4) Tied Bid Preference: In case of a tie bid between a local business and a non-local business, the local business shall prevail. In case of a tie between two or more local businesses, the

following order of preference shall control: first priority to Port Orange business, second priority to Volusia County business, and third priority to Florida business.

- (b) Request for Proposals, Qualifications or other Qualitative Submittals. In any ranking conducted pursuant to a request for proposals, qualifications, or other qualitative submittals where the bidders are rated by a point system, local businesses shall be granted the following preference:
- (1) Port Orange business shall be granted up to eight percent (8%) of the available points.
 - (2) Volusia County business shall be granted up to five percent (5%) of the available points.
 - (3) Florida business shall be granted up to three percent (3%) of the available points.
 - (4) Tied bid preference. In case of a tie between a local business and a non-local business, the local business shall prevail. In case of a tie between two or more local businesses, the following order of preference shall control: first priority to Port Orange business, second priority to Volusia County business, and third priority to Florida business.
- (c) Definitions. The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Port Orange Business means a business having its headquarters and principal place of business within the City of Port Orange at least twelve (12) months prior to the bid or proposal opening date, as evidenced by a valid business tax receipt or such other documentation, to the City's satisfaction, demonstrating the physical business presence of the firm within the limits of the City of Port Orange.

Volusia County Business means a business having its headquarters and principal place of business within the County of Volusia, and not within the City of Port Orange, at least twelve (12) months prior to the bid or proposal opening date, as evidenced by a valid business tax receipt or such other documentation, to the City's satisfaction, demonstrating the physical business presence of the firm within the limits of Volusia County.

Florida Business means a business having its headquarters and principal place of business within the State of Florida, and not within Volusia County, at least twelve (12) months prior to the bid or proposal opening date, as evidenced by a valid business tax receipt or such other documentation, to the city's satisfaction, demonstrating the physical business presence of the firm within the limits of the State of Florida.

61. **MAINTENANCE**

Maintenance required for equipment Solicitation is preferred to be available in the City of Port Orange by a manufacturer-authorized maintenance facility. Costs for this service shall be shown on the Pricing/Delivery Information form. If the City of Port Orange opts to include maintenance, it shall be so stated in the purchase order and said cost will be included. Service will commence only upon expiration of applicable warranties and shall be priced accordingly.

62. **NAME BRANDS**

Specifications may reference name brands and model numbers. It is not the intent of the City of Port Orange to restrict these bids in such cases, but to establish a desired quality level of merchandise or to meet a pre-established standard due to like existing items. Vendors may offer items of equal stature and the burden of proof of such stature rests with the Vendor, unless otherwise specified by the City. The City of Port Orange shall act as sole judge in determining equality and acceptability of products offered.

63. **NON-DISCRIMINATION**

There shall be no discrimination as to race, color, religion, gender, age, marital status, national origin, ancestry, and physical or mental disability in the operations conducted under this contract. Included as applicable activities by the contractor under this section are the solicitation for or purchase of goods or services, or the subcontracting of work in performance of this contract.

64. **NON-EXCLUSIVITY OF CONTRACT**

The selected Vendor understands and agrees that any resulting contractual relationship is non-exclusive and the City of Port Orange reserves the right to seek similar or identical services elsewhere if deemed in the best interest of the City of Port Orange.

65. **NON-PERFORMANCE:**

Failure to meet the expected quality of workmanship, schedule, or other criteria agreed upon, shall be considered a default.

In case of default, the City may procure the required services from other sources and hold the Consultant responsible for any excess costs occasioned thereby and may immediately cancel the contract.

66. **NOTICE TO CONTRACTOR**

The employment of unauthorized aliens by any contractor is considered a violation of Section 274A (e) of the Immigration and Nationality Act. If the contractor knowingly employs unauthorized aliens, such violation shall be cause for unilateral cancellation of the contract.

67. **OPTIONAL CONTRACT USAGE**

As provided in Section 287.042(16), Florida Statutes, State of Florida agencies may purchase from a contract resulting from this solicitation, provided the Department of Management Services, Division of Purchasing, has certified its use to be cost effective and in the best interest of the State. Contractor(s) may sell such commodities or services certified by the Division to State of Florida agencies at the contractor's option.

68. **OTHER AGENCIES**

- (a) All Vendors awarded contracts from this Bid may, upon mutual agreement, permit any municipality or other governmental agency to participate in the contract under the same prices, terms, and conditions, if agreed to by both parties.
- (b) It is understood that at no time will any city, municipality, or other agency be obligated for placing an order for any other city, municipality, or agency; nor will any city, municipality, or agency be obligated for any bills incurred by any other city, municipality, or agency. Further, it is understood that each agency will issue its own purchase order to the awarded Vendor(s).

69. **PATENTS/COPYRIGHTS**

The successful vendor agrees to indemnify and hold the City harmless from any claim involving patent infringement or copyrights on goods supplied.

70. **PRE-BID CONFERENCE OR PRE-PROPOSAL CONFERENCE**

The Purchasing Manager shall determine if the pre-bid or pre-proposal conference is mandatory and provide the date, time and location in the Solicitation legal advertisement and Solicitation specifications. The conference shall normally be held in the Council Chambers, located on the first floor of City Hall, 1000 City Center Circle, Port Orange, Florida. A site visit may be included and shall immediately follow. Attendance to the pre-bid and pre-proposal conference is normally mandatory. Only Vendors attending a mandatory pre-bid conference will be eligible to submit a Response. The representative of each Vendor shall be an authorized employee of the Vendor and shall sign in accordingly.

71. **PREPARATION OF RESPONSES**

In preparing Responses, the Proposal Form, the Bid Form (when a Bid Bond is permitted as proposal security), Certificate as to Corporate Principal, Public Entity Crimes Statement, Anti-Collusion Statement, and Drug Free Preference Statement must be properly executed in ink.

Upon the prescribed Schedule of Unit Prices, all bid prices shall be typewritten or written in ink, in both words and numerals, in the blank spaces for each item, with the amounts extended if a unit price bid, and all amounts totaled. In the event of any discrepancy between the written amounts and the numerals, the written amounts shall govern and will be considered as the price bid. The sum of the Total Bid as calculated from the individual items, Schedule of Unit Prices, shall equal the Total Price. Except as provided below, bids containing substitutions or combinations of alternates will not be considered unless such substitutions or combinations are specifically authorized by the Proposal. The Vendor shall sign his/her name and give his/her business address in the spaces provided therefore. If the Proposal is made as a partnership, it shall be signed by all partners; if made by a corporation, it shall be signed in the name of the corporation by one of the officers thereof and shall have affixed the seal of the corporation.

72. **POSTPONEMENT / CANCELLATION / WAIVER OF IRREGULARITIES**

The City may, at its sole and absolute discretion, reject any and all, or parts of, Responses; re-advertise the Solicitation for new Responses; postpone or cancel, at any time, the Solicitation process; or waive any irregularities in the Solicitation or in the Responses received as a result of the Solicitation, or to accept that Response which best serves the interest of the City.

73. **PRICING**

The Vendor certifies that prices, terms and conditions in the Response will be firm for acceptance for a period of ninety (90) days from the date of Response opening unless otherwise stated by the City. Responses may not be withdrawn before the expiration of ninety (90) days. Prices shall be firm, with no escalator clauses unless specified by the City. Responses may be withdrawn after ninety (90) days only upon written notification to the City. Prices for all goods and/or services shall be firm for the duration of this contract and shall be stated on the Pricing/Delivery Information form.

Prices shall be all inclusive: no price changes, additions, or subsequent qualifications will be honored during the course of the contract. All prices must be written in ink or typewritten. Pricing on all transportation, freight, drayage and other charges are to be prepaid by the contractor and included in the bid prices. If there are any additional charges of any kind, other than those mentioned above, specified or unspecified, the Vendor shall indicate the items required and attendant costs or forfeit the right to payment for such items. Where unit pricing and extended pricing differ, unit pricing prevails. In the event of any discrepancy between the written amounts and the numerals, the written amounts shall govern and will be considered as the price bid.

When submitting Bids/Proposals based on a Lump Sum basis, Vendors shall be required to submit a Schedule of Unit Pricing for each line item listed on the Bid Proposal in order to be considered for award.

74. **PRODUCTS/ESTIMATES:**

Items included on the Bid Form represent the needs of various departments within the City. This is in no way to be construed as the entire or complete list of products to be purchased from the resulting contract.

There is no anticipated dollar volume for this contract and cannot be guaranteed. Items shall be ordered on an as needed, when needed basis. Exact quantities or estimated quantities cannot be predetermined.

75. **PROPRIETY INFORMATION**

Upon receipt by the City, responses to Solicitations, become public records subject to the provisions Florida's state policy on public records, Section 119, Florida Statutes. If you believe that any portion of your response is exempt, you should clearly identify the specific documents for which confidentiality is claimed, and provide specific legal authority of the asserted exemption. Any financial statement that an agency requires a prospective Vendor to submit in order to prequalify for bidding or for responding to a proposal for a road or any other public works project is exempt from Section 119.07, Florida Statutes, and Article I, 24(a), Florida Constitution.

76. **PROTECTION**

Precaution shall be exercised at all times for the protection of persons, (including employees) and property. All existing structures, utilities, services, roads, trees, shrubbery, etc. shall be protected

against damage or interrupted service at all times by the Vendor during the term of contract, and the Vendor shall be held responsible for any damage to the property occurring by reason of his operation on the property.

77. **PUBLIC ENTITY CRIMES**

In accordance Section 287.133 (2)(a), Florida Statutes: A person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a bid on a contract to provide any goods or services to a public entity, may not submit a bid on a contract with a public entity for the construction or repair of a public building or public work, may not submit bids on leases of real property to a public entity, may not be awarded or perform work as a contractor, supplier, subcontractor or consultant under a contract with any public entity, and may not transact business with any public entity in excess of the threshold amount provided Section 287.017, Florida Statutes, for CATEGORY TWO for a period of 36 Months from the date of being placed on the convicted vendor list.

78. **PUBLIC RECORDS COMPLIANCE**

Contractor shall comply with public records laws as set forth in Section 119, Florida Statutes, and shall specifically:

- a. Keep and maintain public records that ordinarily and necessarily would be required by the City in order to perform the service.
- b. Provide the public with access to public records on the same terms and conditions that the City would provide the records and at a cost that does not exceed the cost provided in Section 119, Florida Statutes, or as otherwise provided by law.
- c. Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law.
- d. Meet all requirements for retaining public records and transfer to the City, at no cost, all public records in possession of the Contractor upon termination of the Contract and destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. All records stored electronically must be provided to the City in a format that is compatible with the information technology systems of the City.

The failure of Contractor to comply with a public records request shall constitute a material breach of the contract.

79. **PUBLIC RECORDS/PUBLIC MEETINGS EXEMPTION STATEMENT**

Section 119.071(1)(c), Florida Statutes: **Any financial statement that an agency requires a prospective Vendor to submit in order to prequalify for bidding or for responding to a proposal for a road or any other public works project is exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. On June 2, 2011, Governor Scott signed HB 7223 into law.** This new legislation amends Florida's Public Records and Sunshine Laws, by expanding "exemptions" applicable to bids, proposals and replies to sealed competitive solicitations, and closes evaluation meetings from the public in certain instances. First, Section 119.071, Florida Statutes was amended to provide that sealed bids, proposals, or replies received by a Florida public agency

shall remain exempt from disclosure until an intended decision is announced or until 30 days from the opening, whichever is earlier. This means that Vendors will not be able to procure a copy of their competitor's bids until an intended decision is reached or 30 days has elapsed since the time of the bid opening. The prior version of the law provided for a 10-day exemption. Next, Section 286.0113, Florida Statutes was amended to provide that meetings of persons appointed to evaluate bids or proposals and negotiate contracts shall be closed in certain circumstances. Specifically, portions of such meetings may now be closed to the public during oral presentations made by a vendor, or where a vendor answers questions. In other words, neither Vendors, nor the public will be permitted to sit in on meetings, unless this exemption is waived by the City Council, wherein their competitors are making presentations or discussing their bid or proposal with the committee members. The portions of these meetings must still be recorded and are subject to disclosure at the time of an intended award decision or within 30 days of the bid or proposal opening, whichever is earlier. Portions of the meetings that do not involve presentations, questions and answers, or negotiation strategy or negotiation sessions are still open to the public and competing Vendors, but the new law limits public attendance to portions of such meetings.

80. **PURCHASE ORDER AND DELIVERY**

The successful Vendor shall not deliver products or provide services without a City of Port Orange Purchase Order, signed by an authorized agent of the City of Port Orange. The fastest, most reasonable delivery time shall be indicated by the Vendor. Any special information concerning delivery should also be included, on a separate sheet, if necessary. All items shall be shipped F.O.B. INSIDE DELIVERY unless otherwise stated in the specifications. This shall be understood to include bringing merchandise to the appropriate room or place designated by the using department. Every tender or delivery of goods must fully comply with all provisions of these requirements and the specifications including time, delivery and quality. Nonconformance shall constitute a breach which shall be rectified prior to expiration of the time for performance. Failure to rectify within the performance period shall be considered cause to reject future deliveries and cancellation of the contract by City of Port Orange without prejudice to other remedies provided by law. Where delivery times are critical, the City of Port Orange reserves the right to award accordingly.

81. **QUALITY**

All materials used for the manufacture or construction of any supplies, materials or equipment covered by this bid shall be new. The items bid must be new, the latest model, of the best quality and highest grade workmanship unless otherwise specified in this bid by the City.

82. **QUESTIONS, INTERPRETATIONS**

Questions regarding interpretation of Responses, Solicitation results or Solicitation awards shall be directed in writing to the Purchasing Division and referenced by the Solicitation number no later than the last day for questions as specified in the Solicitation documents. The City of Port Orange shall not be responsible for oral interpretations given by any City personnel or representative or others. The issuance of a written addendum is the only official method whereby interpretation, clarification or additional information can be given.

83. **RECORDS/AUDIT**

The Vendor shall maintain records sufficient to document their completion of the scope of services as a public record and as a requirement of the Contract. At all reasonable times, these

records, unless exempt or confidential, shall be subject to review, inspection, copy and audit by persons duly authorized by the City. These records shall be kept for a minimum of three (3) years after completion of the Contract and in accordance with the requirements of public records retention as prescribed by general law. Records which relate to any litigation, appeals or settlements of claims arising from performance under this requirement shall be made available until a final disposition has been made of such litigation, appeals, or claims.

84. **RECYCLED MATERIALS**

City of Port Orange encourages the use of products made of recycled materials.

85. **REJECTING OF RESPONSES, REBIDDING**

The City reserves the right to accept or reject any or all Responses or parts of Responses, to waive irregularities and technicalities, and to request re-bids. The City also reserves the right to award the contract on such items the City deems will best serve the interests of the City. The City further reserves the right to award the contract on a "split order" basis, or such combination as shall best serve the interests of the City unless otherwise specified. The City Council shall have the authority to reject any and all Responses. If the lowest and best Response exceeds the budgeted amount and the City Council does not make additional funds available, the purchasing agent with the help of the department head shall have the authority to re-advertise the article or articles for bidding after making sufficient changes in the plans or specifications to bring the cost within the limit of the money available. (Code 1981, § 8-28.)

86. **REQUEST FOR ADDITIONAL INFORMATION**

Prior to the final Solicitation selection, Vendors may be required to submit additional information which the City may deem necessary to further evaluate the Vendor's qualifications to perform under the terms of the Solicitation and subsequent Contract.

87. **REVIEW OF RESPONSES/SUBMISSIONS**

Each Response will be reviewed to determine if the Response is responsive to the submission requirements outlined in the Solicitation. A responsive Response is one which follows the requirements of the Solicitation, includes all required documentation, is submitted in the format outlined in the Solicitation, is of timely submission, and has the appropriate signatures as required on each document. Failure to comply with these requirements may deem your Response non-responsive.

88. **RIGHT OF NEGOTIATION RFP/RFSQ/ITN**

The City reserves the right to negotiate with the selected Vendor the exact terms and conditions of the Contract.

89. **RIGHT OF WITHDRAWAL**

A bid, proposal, statement, or reply may not be withdrawn before the expiration of ninety (90) days from the Response due date.

90. **RIGHTS TO SOLICITATION SUBMITTED MATERIAL**

All Responses, inquiries, or correspondence relating to or in reference to a Solicitation, and all reports, charts, and other documentation submitted by Vendors shall become the property of the City when received.

91. **RULES, REGULATIONS AND LICENSING REQUIREMENT**

The Vendor shall comply with all laws, ordinances and regulations applicable to the services contemplated herein, including those applicable to conflict of interest and collusion. Vendors are presumed to be familiar with all federal, state and local laws, ordinances, codes and regulations that may in any way affect the services offered.

92. **SAMPLES**

Samples, when requested, must be furnished at, or before, Response opening, (unless otherwise specified), and will be delivered at no charge to the City. If not used and/or destroyed in testing, said sample(s) will, at the Vendor's request, be returned within thirty (30) days after bid award at the Vendor's expense. If requested by the City, samples and/or inspection of like items are to be made available in the central Florida area.

93. **SEPARATION AND DISTRIBUTION**

The Solicitation has been designed for transmittal as a complete document to interested parties. It is recommended that it not be separated; however, it may be reproduced in its entirety as additional distribution might dictate.

The City will utilize Demand Star for distribution of Formal Solicitations at: www.demandstar.com.

94. **SEVERABILITY**

If any section, subsection, paragraph, sentence, clause, phrase or word of these requirements or the specifications shall be held invalid, such holding shall not affect the remaining portions of these requirements and the specifications and it is hereby declared that such remaining portions would have been included in these requirements and the specifications as though the invalid portion had been omitted.

95. **SIGNATURE REQUIRED**

All Responses must show the company name and be signed by a company officer or employee who has the authority to bind the company or firm by their signature. UNSIGNED RESPONSES WILL BE REJECTED. All manual signatures must be original - no rubber stamp, photocopy, etc.

96. **SIGNED RESPONSE CONSIDERED AN OFFER**

The signed Response is considered an offer on the part of the Vendor, which offer shall be considered accepted upon approval by the City of Port Orange City Council (if required). The City of Port Orange will issue a purchase order or a letter of authorization to the successful Vendor, as authorization for delivery of the items awarded subject to requirements of detailed specifications and those contained herein. In the event of default on the part of the Vendor after such acceptance, the City may take such action as it deems appropriate including legal action for damages or specific performance.

97. **SILENCE OF SPECIFICATIONS**

The apparent silence of specifications as to any detail, or the apparent omission from it of a detailed description concerning any point, shall be regarded as meaning that only the best commercial practice is to prevail and that only material and workmanship of the finest quality are to be used. All interpretations of specifications shall be made on the basis of this statement. The items furnished under this contract shall be new, unused of the latest product in production to commercial trade and shall be of the highest quality as to materials used and workmanship. Manufacturer furnishing these items shall be experienced in design and construction of such items and shall be an established supplier of the item bid.

98. **SOLICITATION FORM COMPLETION, SUBMISSION AND RECEIPT OF RESPONSES**

Unless otherwise specified, Vendors shall use the Solicitation forms supplied by the Purchasing Division. Responses shall be typewritten or handwritten in ink and shall bear the original signature of the Vendor's authorized representative. Responses containing erasures or corrections must be initialed by the Vendor in ink. Responses shall be submitted by mail or hand delivery only. No Response will be accepted by facsimile transmission, e-mail or other electronic delivery. Responses submitted by mail shall be addressed to: Diana M. Fye, CPPB, FCPA, Purchasing Manager, Purchasing Office, a division of the Finance Department, Port Orange City Hall, 1000 City Center, Port Orange, Florida 32129. Responses submitted by hand delivery shall be delivered to: City Clerk, Port Orange City Hall, 1000 City Center Circle, Port Orange, Florida 32129. Responses will be accepted until 2:30 p.m. on the date indicated in the Solicitation documents or as addenda issued by the City. One (1) sealed envelope or package shall be submitted. The sealed envelope/package must contain the required forms and price proposals, where applicable, and will be evaluated and deemed responsive or non-responsive. All Responses deemed non-responsive will be returned to the Vendor and will not be opened.

Bids (Envelope/Package) shall contain one (1) original and one (1) digital (Cd or flash drive) version unless otherwise indicated in the legal advertisement and shall be mailed or delivered as set forth in the preceding paragraph in one (1) SEALED ENVELOPE/PACKAGE. The envelope/package shall be clearly marked on the outside to include the bid project name, bid number and name of the Vendor.

99. **STATE LICENSING REQUIREMENTS**

All entities defined under Chapters 607, 608, 617 or 620, Florida Statutes, seeking to do business with the City shall be on file and in good standing with the State of Florida's Department of State. Prior to making an offer, the Vendor shall have met the license, certification, and any other requirements of the state, county, city and/or other agency of authority with jurisdiction in such matters and should provide copies of documentation that evidence such qualifications with the response to the Solicitation; and, that the Vendor shall provide follow-up evidence that the Vendor maintains such credentials throughout the period of the agreement. A copy of a current certificate of authority from the Secretary of State authorizing the Bidder/Responder to do business in the State of Florida, or other evidence of legal authority to do business in the state, county, city and/or any other agency of authority should be provided with your response to the Solicitation. Information concerning certification with the Secretary of State may be obtained at <http://ccfcorp.dos.state.fl.us/index.html>. Contract documents shall be executed by the entity's duly authorized officer as evidence by entity records.

100. **SUBCONTRACTING**

The Vendor will not sub-contract, or enter into any subcontracting agreements pertaining to this contract, without obtaining approval from the City of Port Orange.

101. **SUPPLEMENTAL MATERIALS**

Vendors are responsible for including all pertinent product data in the returned bid package. Literature, brochures, data sheets, specification information, completed forms requested as part of the bid package and any other facts which may affect the evaluation and subsequent contract award should be included. Materials such as legal documents and contractual agreements that the Vendor wishes to include as a condition of the bid must also be in the returned bid package. Failure to include all necessary and proper supplemental materials may be cause to reject the entire bid.

102. **TAXES**

The City of Port Orange is exempt from all federal excise, state and local taxes unless otherwise stated in this document. A Tax Exemption Certificate will be furnished upon written request to the City of Port Orange Purchasing Division.

103. **TERM CONTRACTS**

Acceptance by the City of Port Orange of Vendor's offer shall be limited to the terms herein unless expressly agreed in writing by the City. If the contract is intended to cover a specific time period, the term will be given in the bid specifications.

104. **TERMINATION**

The City of Port Orange reserves the right to terminate the contract for default if the Vendor breaches any of the terms therein, including warranties of the Vendor or if the Vendor becomes insolvent or commits acts of bankruptcy. Such right of termination is in addition to and not in lieu of any other remedies which the City of Port Orange may have in law or equity. Default may be construed as, but not limited to, failure to deliver the proper goods and/or services within the proper amount of time, and/or to properly perform any and all services required to the City's satisfaction and/or to meet all other obligations and requirements. The City may cancel the Contract at any time for breach of contractual obligations by providing the Vendor with a written notice of such cancellation. Should the City exercise its right to cancel the contract for such reasons, the cancellation shall become effective on the date as specified in the notice of cancellation sent to the Vendor.

105. **TERMINATION - NOTICE**

Either party may cancel the contract at any time after award, unless otherwise specified. The City shall be required to give the vendor notice thirty days prior to the date of cancellation of the contract. The vendor shall be required to give the City written notice (60) sixty days prior to the date of cancellation of the contract. The City of Port Orange may terminate the contract without cause upon thirty (30) days written notice.

106. **TITLE TRANSFER**

Title and Risk of Loss of goods shall not pass to City of Port Orange until City of Port Orange actually receives and takes possession of the goods at the point or points of delivery. Receiving times may vary with the using department. Generally, deliveries may be made between 8:30 a.m. and 3:00 p.m., Monday through Friday. The Vendor is advised to consult the using department for instructions. The place of delivery shall be specified in the bid specification and/or on the Purchase Order as a "Deliver To:" address.

107. **UNBALANCED BID**

A mathematically unbalanced bid is where a bidder places a high price on some items and a low price on other items in a unit price contract. A bid is materially unbalanced when there is reasonable doubt that acceptance of a mathematically unbalanced bid will result in the lowest overall cost to the City. Unbalanced Bids will be rejected if the prices are deemed materially unbalanced.

108. **USE OF SOLICITATION FORMS**

The Vendor shall complete the appropriate Solicitation Form(s) included in the Solicitation. All blanks on the Solicitation Forms shall be completed. If a question or confirmation is not applicable, it should be answered with an "N/A."

Supplemental information may be attached to the Solicitation Forms. Failure to fully complete the appropriate Solicitation Forms may result in disqualification of the Response.

If additional space for a response is required, attach an additional page to the page on which the question is stated. Clearly identify the number of the question to which the response is attached. Further, if additional Solicitation Form pages are needed, photocopy or replicate as appropriate, and attach such additional pages to the page on which the question or chart is stated.

The signature of the Authorized Person or Entity must be that of an officer, partner or a sole proprietor of the entity making the Response. The original Response, and each copy submitted, shall contain an original signature on the Vendor's Acknowledgement Form contained in each Solicitation.

109. **VARIANCES**

For purposes of Response evaluation, Vendors must indicate any variances, no matter how slight, contained in the Response. No variations or exceptions by a Vendor will be considered or deemed a part of the Response submitted unless such variances or exceptions are listed in the Response and referenced in the space provided on the Response pages. If variances are not stated, or referenced as required, it will be assumed that the product or service complies with the City's terms, conditions and specifications. By receiving a Response, the City does not necessarily accept any variances contained in the Response. All variances submitted are subject to review and approval by the City. If any Response contains material variances that, in the City's sole opinion, make that Response conditional in nature, the City reserves the right to reject the Response or part of the Response that is declared, by the City, as conditional.

110. **VENDOR'S PRODUCT OR SERVICES**

The Vendor's product (if applicable) delivered to the City shall be free of all liens, claims or encumbrances, and the vendor warrants that it has a clear title to the product being delivered.

- a. If the Vendor is contracted to provide services, such services shall be fully satisfactory to the City as determined by the City.
- b. The Vendor shall provide the City with any data, reports or other information as required and requested by the City to enable it to utilize the product or service furnished by the Vendor.
- c. In furnishing the service or product to the City, the Vendor shall comply with all federal, state, county laws, and city rules, regulations and codes and their successors or amendments. Violation of such laws, rules, regulations and codes may be grounds for delaying or reducing the amount due, or in rescinding the contract, Contract, proposal or quote.

111. **WAIVER OF IRREGULARITIES**

The City of Port Orange reserves the right to waive and/or reject any non-substantial irregularity in Responses received whenever such waiver or rejection is in the best interest of the City and/or it does not meet the minimum requirements set forth. All reasonably responsive Responses will be considered. However, the City reserves the right to waive formalities or informalities in Responses, to reject, with or without cause, any or all Responses or portions of Responses, or to interview or not interview individual Vendors, and to accept any Responses or portions of Responses deemed to be in the best interest of the City. The city council shall grant the City Manager to waive any and all non-substantial irregularities in any and all formal Solicitations. (Code 1981, § 8-29; Ord. No. 2015-17, § 1, 5-19-2015)

112. **WARRANTIES**

Vendors shall furnish all data pertinent to warranties or guarantees which may apply to items in the Response. Vendors may not limit or exclude any implied warranties. The Vendor warrants that product sold to the City shall conform to the standards established by the U.S. Department of Labor under the Occupational Safety and Health Act of 1970. In the event product does not conform to OSHA Standards, where applicable, City of Port Orange may return the product for correction or replacement at the Vendor's expense. If the Vendor fails to make the appropriate correction within a reasonable time, City of Port Orange may correct at the Vendor's expense.

[Remainder of this page left intentionally blank]

SECTION 6 – SPECIAL CONDITIONS

PERIOD OF OFFER VALIDITY:

Bids offered in this ITB must remain firm for a period of ninety (90) days from the ITB opening date.

CONTRACT TERM / COMPLETION TIME:

The term of the contract shall be upon notice to proceed. Substantial completion will be 60 days with 30 days more for final completion.

ELIGIBILITY OF VENDOR:

To be eligible to respond to this ITB, the Vendors must have a minimum of five (5) years' prior successful experience working with the services described in this ITB. Please provide eligibility experience with your submittal.

[Remainder of this page left intentionally blank]

SECTION 7 – REQUIRED FORMS

FORM 7.1 – BID SUBMITTAL CHECKLIST

- _____ Form 7.2 – Vendor’s Acknowledgement
- _____ Form 7.3 – Addendum and Change Order Procedure Acknowledgement
- _____ Form 7.4 – Drug Free/Tie Preference Statement
- _____ Form 7.5 – Public Entity Crimes Statement
- _____ Form 7.6 – Affidavit of Anti-Collusion
- _____ Form 7.7 – Authorized Signatures/Negotiators
- _____ Form 7.8– Statement of Vendor’s Qualifications
- _____ Form 7.9 – Professional References for Previous Experience
- _____ Form 7.10 – Listing of Subcontractors
- _____ Form 7.11 – Vendor Application
- _____ W-9 Form
- _____ Form 7.12 – Local Business Affidavit of Eligibility
- _____ Attachment 1 – Bid Proposal
- _____ Bid Bond
- _____ Copy of Certificate of Insurance
- _____ Submission of one (1) original marked “ORIGINAL” and one (1) digital (CD or flash drive) version in PDF format.

BY: _____
Name of Business

Authorized Signature

Date

This document must be completed and returned with your Submittal

FORM 7.2 – VENDOR’S ACKNOWLEDGEMENT FORM

I have carefully examined the Invitation to Bid (ITB), Instructions to Vendors, General and/or Special Conditions, Specifications, and any other documents accompanying or made a part of this invitation.

I hereby propose to furnish the goods or services specified in the Invitation to Bid at the prices or rates as finally negotiated. I agree that my bid will remain firm for a period of up to ninety (90) days in order to allow the City of Port Orange adequate time to evaluate the proposed bid. Furthermore, I agree to abide by all conditions of the Invitation to Bid.

I certify that all information contained in this Bid is truthful to the best of my knowledge and belief. I further certify that I am a duly authorized to submit this Bid on behalf of the Vendor / Contractor as its act and deed and that the Vendor / Contractor is ready, willing and able to perform if awarded the contract.

I further certify that this Bid is made without prior understanding, Contract, connection, discussion, or collusion with any person, firm or corporation submitting a Bid for the same product or service; no officer, employee or agent of the City of Port Orange City Council or of any other Vendor interested in said ITB; and that the undersigned executed this Vendor’s Acknowledgement with full knowledge and understanding of the matters therein contained and was duly authorized to do so.

I further certify that having read and examined the specifications and documents for the designated services and understanding the general conditions for contract under which services will be performed, does hereby propose to furnish all labor, equipment, and material to provide the services set forth in the ITB.

I hereby declare that the following listing states any clarifications, any and all variations from and exceptions to the requirements of the specifications and documents. The undersigned further declares that the “work” will be performed in strict accordance with such requirements, and understands that any exceptions to the requirements of the specifications and documents may render the Bid non-responsive.

NO EXCEPTIONS ALLOWED AFTER THE BID IS SUBMITTED:

Please check one: ☐ I take NO exceptions. ☐ Exceptions (list below; add additional pages if necessary):

NAME OF BUSINESS

MAILING ADDRESS

AUTHORIZED SIGNATURE

CITY, STATE & ZIP CODE

NAME, TITLE, TYPED

TELEPHONE NUMBER / FAX NUMBER

FEDERAL IDENTIFICATION #

E-MAIL ADDRESS

STATE OF _____ COUNTY OF _____

The foregoing instrument was acknowledged before me this day of _____, 20____ by _____, who is personally known to me or who has produced ad identification and who did take an oath.

My Commission Expires:

Notary Public

This document must be completed and returned with your Submittal

FORM 7.3 – ADDENDUM and CHANGE ORDER PROCEDURE ACKNOWLEDGEMENT

ADDENDUM ACKNOWLEDGEMENT

I have carefully examined the Invitation to Bid (ITB), Instructions to Vendors, General and/or Special Conditions, Specifications, and any other documents accompanying or made a part of this invitation to Bid.

I acknowledge receipt and incorporation of the following addenda, and the cost, if any, of such revisions has been included in the price of the bid proposal.

Addendum # _____ Date: _____ Addendum # _____ Date: _____

Addendum # _____ Date: _____ Addendum # _____ Date: _____

CHANGE ORDER PROCEDURE ACKNOWLEDGEMENT

If awarded the Contract for this Solicitation, I acknowledge that no oral statement of any person shall modify or otherwise change, or affect the terms, conditions or specifications stated in the resulting contract. All change orders requests shall be made in writing by the Contractor for review by the Contract Administrator for the City of Port Orange. No work shall be performed as set forth in the change order until the Contractor receives an executed Purchase Order for the requested change.

I acknowledge the following statement regarding Change Orders to the awarded Contract:

“The Successful Contractor is responsible for giving the City of Port Orange, prior to the Contract expiration date, at least forty-five (45) calendar days’ advance notice for any anticipated changes in price greater than \$25,000.00, time and/or scope of the awarded Contract. The Contractor shall not continue to provide services past the Contract expiration date unless approved by a written Change Order Notice from the City.”

Name of Business

By: _____

Printed Name: _____

Title: _____

STATE OF _____

COUNTY OF _____

Sworn to (or affirmed) and subscribed before me this ____ day of _____, 20____, by _____, as _____ of _____

(NAME)

(TITLE)

and who:

(NAME OF ORGANIZATION)

[Notary: Please select one]

☐ is personally known to me; or

☐ has produced _____ as identification.

Notary Public, State of _____

Printed, typed or stamped name, commission and expiration:

This document must be completed and returned with your Submittal

FORM 7.4 – DRUG FREE PREFERENCE STATEMENT

IDENTICAL TIE BIDS - Preference shall be given to businesses with drug-free workplace programs. Whenever two or more bids, proposals, statements, or replies that are equal with respect to price, quality, and service are received by the city for the procurement of commodities or contractual services, a bid received from a business that certifies that it has implemented a drug-free workplace program shall be given preference in the award process. Established procedures for processing tie bids will be followed if none of the tied vendors have a drug-free workplace program.

In order to have a drug-free workplace program, a business shall:

1. Publish a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the workplace and specifying the actions that will be taken against employees for violations of such prohibition.
2. Inform employees about the dangers of drug abuse in the workplace, the business's policy of maintaining a drug-free workplace, any available drug counseling, rehabilitation and employee assistance programs, and the penalties that may be imposed upon employees for drug abuse violations.
3. Give each employee engaged in providing the commodities or contractual services that are under bid a copy of the statement specified in subsection (1).
4. In the statement specified in subsection (1), notify the employees that, as a condition of working on the commodities or contractual services that are under bid, the employee will abide by the terms of the statement and will notify the employer of any conviction of, or plea of guilty or nolo contendere to, any violation of chapter 893 or of any controlled substance law of the United States or any state, for a violation occurring in the workplace no later than five (5) days after such conviction.
5. Impose a sanction on, or require the satisfactory participation in a drug abuse assistance or rehabilitation program if such is available in the employee's community, by any employee who is so convicted.
6. Make a good faith effort to continue to maintain a drug-free workplace through implementation of Section 287.087, Florida Statutes.

As an authorized representative of the firm, I certify that this firm complies fully with the above requirements.

Name of Business

By: _____

Printed Name: _____

Title: _____

STATE OF _____

COUNTY OF _____

Sworn to (or affirmed) and subscribed before me this ____ day of _____, 20____, by
_____, as _____ of
(NAME) (TITLE)

_____, and who:
(NAME OF ORGANIZATION)

[Notary: Please select one]

☐ is personally known to me; or

☐ has produced _____ as identification.

Notary Public, State of _____

Printed, typed or stamped name, commission and expiration:

This document must be completed and returned with your Submittal

FORM 7.5 – SWORN STATEMENT UNDER SECTION 287.133(3)(A), FLORIDA STATUTES, ON PUBLIC ENTITY CRIMES

(To be signed in the presence of notary public or other officer authorized to administer oaths.)

Before me, the undersigned Authority, personally appeared affiant _____, who, being by me first duly sworn, made the following statement:

1. The business address of _____ (name of Offeror or business) is _____.
2. My relationship to _____ (name of Offeror or business) is _____ (relationship such as sole proprietor, partner, president, vice president).
3. I understand that a public entity crime as defined in Section 287.133 of the Florida Statutes includes a violation of any state or federal law by a person with respect to and directly related to the transaction of business with any public entity in Florida or with an agency or political subdivision of any other state or with the United States, including, but not limited to, any proposal or contract for goods or services to be provided to any public entity or such an agency or political subdivision and involving antitrust, fraud, theft, bribery, collusion, racketeering, conspiracy or material misrepresentation.
4. I understand that "convicted" or "conviction" is defined by the Florida Statutes to mean a finding of guilt or a conviction of a public entity crime, with or without an adjudication of guilt, in any federal or state trial court of record relating to charges brought by indictment or information after July 1, 1989, as a result of a jury verdict, non-jury trial, or entry of a plea of guilt or nolo contendere.
5. I understand that "affiliate" is defined by the Florida Statutes to mean (1) a predecessor or successor of a person or a corporation convicted of a public entity crime, or (2) an entity under the control of any natural person who is active in the management of the entity and who has been convicted of a public entity crime, or (3) those officers, directors, executives, partners, shareholders, employees, members, and agents who are active in the management of an affiliate, or (4) a person or corporation who knowingly entered into a joint venture with a person who has been convicted of a public entity crime in Florida during the preceding 36 months.
6. Neither the Offeror or contractor, nor any officer, director, executive, partner, shareholder, employee, member or agent who is active in the management of the Offeror or contractor, nor any affiliate of the Offeror or contractor has been convicted of a public entity crime subsequent to July 1, 1989. (Draw a line through paragraph 6 if paragraph 7 below applies.)
7. There has been a conviction of a public entity crime by the Offeror or contractor, or an officer, director, executive, partner, shareholder, employee, member or agent of the Offeror or contractor who is active in the management of the Offeror or contractor or an affiliate of the Offeror or contractor. A determination has been made pursuant to Section 287.133(3) by order of the Division of Administrative Hearings that it is not in the public interest for the name of the convicted person or affiliate to appear on the convicted vendor list. The name of the convicted person or affiliate is _____. A copy of the order of the Division of Administrative Hearings is attached to this statement. **(Draw a line through paragraph 7 if paragraph 6 above applies.)**

Name of Business

By: _____

Printed Name: _____

Title: _____

STATE OF _____

COUNTY OF _____

Sworn to (or affirmed) and subscribed before me this ____ day of _____, 20____, by _____, as _____ of _____ and who:

[Notary: Please select one]

☐ is personally known to me; or

☐ has produced _____ as identification.

Notary Public, State of _____

Printed, typed or stamped name, commission and expiration:

This document must be completed and returned with your Submittal

FORM 7.6 – ANTI-COLLUSION FORM

ANTI-COLLUSION STATEMENT BID FORM:

By signing this form, the Proposer agrees that this Bid is made without any other understanding, agreement, or connection with any person, corporation, or firm submitting a bid for the same purpose and that the bid is in all respects fair and without collusion or fraud.

SIGN in ink in the space provided below. Unsigned Bids will be considered incomplete, and will be disqualified, and rejected.

IT IS AGREED BY THE UNDERSIGNED VENDOR THAT THE SIGNING AND DELIVERY OF THE BID REPRESENTS THE VENDORS ACCEPTANCE OF THE TERMS AND CONDITIONS OF THE FOREGOING SPECIFICATIONS, CONTRACT AND PROVISIONS, AND IF AWARDED, THIS CONTRACT WILL REPRESENT THE AGREEMENT BETWEEN THE VENDORS AND THE CITY OF PORT ORANGE.

NAME OF FIRM: _____

SIGNED BY: _____
(MUST BE SIGNED BY A COMPANY OFFICER OR AUTHORIZED AGENT)

PRINTED SIGNATURE: _____

TITLE: _____

ADDRESS: _____

CITY: __ STATE: _____ ZIP CODE: _____

TELEPHONE: _____ FAX: _____

COMPLETION TIME: _____

F.E.I.N. NUMBER: _____

NO Bid may be withdrawn for a period of ninety (90) days subsequent to the submittal of the Bids, without the consent of the City of Port Orange.

NO BID (REASON): _____

This document must be completed and returned with your Submittal

FORM 7.7 – AUTHORIZED SIGNATURES/NEGOTIATORS

The Vendor represents that the following persons are authorized to sign and/or negotiate contracts and related documents to which the Vendor will be duly bound:

<u>Name</u>	<u>Title</u>	<u>Phone #</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

(Authorized Signature)

This document must be completed and returned with your Submittal

FORM 7.8 – STATEMENT OF VENDOR’S QUALIFICATIONS

The undersigned warrants that he or she is duly authorized to complete this document, and hereby affirms that the information contained in Form 7.8 is complete, true, and correct to the best of their knowledge and belief. If necessary, questions may be answered on separate paper and attached, with any additional information that may be pertinent.

- A. Name of Vendor.
- B. Permanent main office address.
- C. Date organized.
- D. If a corporation, where incorporated.
- E. How many years have you been engaged in the contracting business under your present firm or trade name?
- F. Contracts on hand: (Schedule these, showing amount of each contract and the appropriate anticipated dates of completion.)
- G. General character of work performed by your company.
- H.⁽¹⁾ Have you ever failed to complete any work awarded to you? If so, where and why?
- H.⁽²⁾ Provide list of any lawsuits or judgments filed by or against your company in the last three years, indicating the nature and outcome.
- I. Have you ever defaulted on a contract? If so, where and why?
- J. List the more important projects recently completed by your company, stating the approximate cost for each and the month and year completed.
- K. List your major equipment currently owned or leased.
- L. Experience in work similar to this type of project.
- M. Background and experience of the principal members of your organization, including the officers.
- N. Credit currently available: \$_____
- O. Give bank reference: _____
- P. Will you, upon request, fill out a detailed financial statement and furnish any other information that may be required by the Owner?

(Form 7.8 Statement of Vendor's Qualifications – Page 2)

Q. The undersigned hereby authorizes and requests any person, firm, or corporation to furnish any information requested by the Owner in verification of the recitals comprising this Statement of Vendor's Qualifications.

Name of Business

By: _____

Printed Name: _____

Title: _____

STATE OF _____

COUNTY OF _____

Sworn to (or affirmed) and subscribed before me this ____ day of _____, 20____, by _____, as _____ of _____ and who:

[Notary: Please select one]

☐ is personally known to me; or

☐ has produced _____ as identification.

Notary Public, State of _____

Printed, typed or stamped name, commission
and expiration:

This document must be completed and returned with your Submittal

FORM 7.9 – PROFESSIONAL REFERENCES FOR PREVIOUS EXPERIENCE

The Vendor proposes that he/she is qualified to perform the referenced work and has successfully done so on recent projects similar in nature and size. The City reserves the right to check references and confirm information provided herein.

Please provide three (3) current and correct references from clients for similar services.

(Do not include the City of Port Orange)

1. Company Name: _____
Contact Person: _____
City, State: _____
Telephone Number: _____
Email Address: _____
Description of goods or
Services provided: _____
Contract Amount: _____
Start/End Date of Contract: _____
2. Company Name: _____
Contact Person: _____
City, State: _____
Telephone Number: _____
Email Address: _____
Description of goods or
Services provided: _____
Contract Amount: _____
Start/End Date of Contract: _____
3. Company Name: _____
Contact Person: _____
City, State: _____
Telephone Number: _____
Email Address: _____
Description of goods or
Services provided: _____
Contract Amount: _____
Start/End Date of Contract: _____

This document must be completed and returned with your Submittal.

FORM 7.10 – LISTING OF SUBCONTRACTORS

The Vendor proposes that the following subcontractors are qualified to perform the referenced work and have successfully done so on recent projects similar in nature and size. All subcontractors whose work product accounts for 5% or more of the total contract value shall be listed. Upon approval of subcontractors listed, the successful Vendor shall not substitute subcontractors without approval from the Engineer. Vendor shall attach additional sheets as necessary.

Subcontractor No. 1

Name: _____

Description of Work: _____

Percent of Contract Price: _____

Previous Experience Together: Yes/No _____

Subcontractor No. 2

Name: _____

Description of Work: _____

Percent of Contract Price: _____

Previous Experience Together: Yes/No _____

Subcontractor No. 3

Name: _____

Description of Work: _____

Percent of Contract Price: _____

Previous Experience Together: Yes/No _____

Subcontractor No. 4

Name: _____

Description of Work: _____

Percent of Contract Price: _____

Previous Experience Together: Yes/No _____

Subcontractor No. 5

Name: _____

Description of Work: _____

Percent of Contract Price: _____

Previous Experience Together: Yes/No _____

This document must be completed and returned with your Submittal



City of Port Orange Vendor Application

City of Port Orange

Date: _____

Attn: Purchasing Division
(386) 506-5704
purchdiv@port-orange.org
1000 City Center Circle
Port Orange, FL 32129

FIRM NAME: _____

ADDRESS: _____

CITY: _____ STATE: _____ ZIP CODE: _____

If remittance payment address is different than application or W9 please fill out below:

ADDRESS: _____

TEL. # (including area code): _____ FAX # _____

SIGNATURE PERSON FILING APPLICATION: _____

PRINTED NAME: _____

TITLE: _____

FEDERAL I.D. (F.E.I.N.) # _____

E-MAIL ADDRESS: _____

(Authorized Company Representative)

COMPANY STATUS:

INCOPRORATED: ☐ Y ☐ N State Incorporated: _____ Year: _____

TYPE OF ORGANIZATION: ☐ Indiv. ☐ Partnership ☐ Corp. ☐ Non-Profit ☐ LLC

ATTORNEY TRUST ACCOUNT NAME: _____

INSURANCE: Proof of adequate coverage for professional general liability, errors and omissions and workers' compensation may be required for certain types of procurements.

☐ Check this box to waive insurance requirements **only** if you are providing goods for F.O.B destination with no installation services.

*** NOTE TO VENDORS***

The City of Port Orange, Florida does not maintain a prospective vendor's list, classified by commodities for the purpose of inviting sealed bids and quotation.

The City utilizes DemandStar www.demandstar.com to release Bids/RFP's and quotes. While the City advertises the Invitation to Bid in the local newspaper (Daytona News Journal) only in rare cases does the City mail out announcement notices to vendors. Vendors interested in becoming a member of DemandStar may visit their web site at: www.demandstar.com or by calling them at 1-800-711-1712.

Vendors will automatically receive notice of request for Bids/RFP's or quotes after they sign up on DemandStar. It is important that vendors sign, complete and return this application. Also include the W-9 and insurance information requirements in order for the City to assign a vendor number on our computer system.

It is also the vendor's responsibility to keep the Purchasing Division informed as to any change of address or insurance that may occur.

If your company is interested in bidding on commodities/services in addition to those specified, on any specific article related to the main category, insert the type of those materials on the blank space provided for each category group. Attorney services are secured by direct telephone quotes or written price inquiries.

Drug Free Workplace: A statement as to whether or not your firm has implemented a drug-free workplace program, as described in Section 287.087 of the Florida Statutes should be noted. Failure to respond in affirmative to this request will not disqualify you from consideration. Preference will be given to firms which have implemented a drug-free workplace program in the case where the City has received two or more bids what are equal with respect to price, quality, and service.

Equal Employment Opportunity (EEO). All vendors will be required to make an affirmative statement as to their support of all applicable equal opportunity affirmative action requirements. A copy of the City's Equal Employment Opportunity statement (EEO) will be available to the vendor upon request.

I certify that the information supplied herein is correct and that neither the applicant nor any person (or concern) in any connection with the applicant as a principal or officer, so far as is known, is now disqualified from the public contracting and purchasing process by any agency of the federal government, the State of Florida or the City of Port Orange.

Signature of Person Completing Form: _____

Printed/Types Name: _____ Title: _____

Commodity/Services _____

This document must be completed and returned with your Submittal

W-9 Form

Form (Rev. January 2011) Department of the Treasury Internal Revenue Service	W-9 Request for Taxpayer Identification Number and Certification	Give Form to the requester. Do not send to the IRS.
Print or type See Specific Instructions on page 2.	Name (as shown on your income tax return)	
	Business name/disregarded entity name, if different from above	
	Check appropriate box for federal tax classification (required): ☐ Individual/sole proprietor ☐ C Corporation ☐ S Corporation ☐ Partnership ☐ Trust/estate	
	☐ Limited liability company. Enter the tax classification (C=C corporation, S=S corporation, Partnership)* _____	
	☐ Other (see instructions)* _____	
	☐ Exempt payee	
Address (number, street, and apt. or suite no.)		Requester's name and address (optional)
City, state, and ZIP code		
List account number(s) here (optional)		
Part I Taxpayer Identification Number (TIN)		
Enter your TIN in the appropriate box. The TIN provided must match the name given on the "Name" line to avoid backup withholding. For individuals, this is your social security number (SSN). However, for a resident alien, sole proprietor, or disregarded entity, see the Part I instructions on page 3. For other entities, it is your employer identification number (EIN). If you do not have a number, see <i>How to get a TIN</i> on page 3. Note. If the account is in more than one name, see the chart on page 4 for guidelines on whose number to enter. Social security number Employer identification number		
Part II Certification		
Under penalties of perjury, I certify that: - The number shown on this form is my correct taxpayer identification number (or I am waiting for a number to be issued to me), and - I am not subject to backup withholding because: (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding, and - I am a U.S. citizen or other U.S. person (defined below). Certification instructions. You must cross out item 2 above if you have been notified by the IRS that you are currently subject to backup withholding because you have failed to report all interest and dividends on your tax return. For real estate transactions, item 2 does not apply. For mortgage interest paid, acquisition or abandonment of secured property, cancellation of debt, contributions to an individual retirement arrangement (IRA), and generally, payments other than interest and dividends, you are not required to sign the certification, but you must provide your correct TIN. See the instructions on page 4.		
Sign Here	Signature of U.S. person ^a _____ Date ^a _____	

This document must be completed and returned with your Submittal

General Instructions

Section references are to the Internal Revenue Code unless otherwise noted.

Purpose of Form

A person who is required to file an information return with the IRS must obtain your correct taxpayer identification number (TIN) to report, for example, income paid to you, real estate transactions, mortgage interest you paid, acquisition or abandonment of secured property, cancellation of debt, or contributions you made to an IRA.

Use Form W-9 only if you are a U.S. person (including a resident alien), to provide your correct TIN to the person requesting it (the requester) and, when applicable, to:

1. Certify that the TIN you are giving is correct (or you are waiting for a number to be issued),
2. Certify that you are not subject to backup withholding, or
3. Claim exemption from backup withholding if you are a U.S. exempt payee. If applicable, you are also certifying that as a U.S. person, your allocable share of any partnership income from a U.S. trade or business is not subject to the withholding tax on foreign partners' share of effectively connected income.

Note. If a requester gives you a form other than Form W-9 to request your TIN, you must use the requester's form if it is substantially similar to this Form W-9.

Definition of a U.S. person. For federal tax purposes, you are considered a U.S. person if you are:

- An individual who is a U.S. citizen or U.S. resident alien,
- A partnership, corporation, company, or association created or organized in the United States or under the laws of the United States,
- An estate (other than a foreign estate), or
- A domestic trust (as defined in Regulations section 301.7701-7).

Special rules for partnerships. Partnerships that conduct a trade or business in the United States are generally required to pay a withholding tax on any foreign partners' share of income from such business. Further, in certain cases where a Form W-9 has not been received, a partnership is required to presume that a partner is a foreign person, and pay the withholding tax.

Therefore, if you are a U.S. person that is a partner in a partnership conducting a trade or business in the United States, provide Form W-9 to the partnership to establish your U.S. status and avoid withholding on your share of partnership income.

FORM 7.12 – LOCAL BUSINESS AFFIDAVIT OF ELIGIBILITY

City of Port Orange

*This declaration is executed under penalty of perjury of the laws to the United States and State of Florida***THIS AFFIDAVIT IS SUBMITTED IN REFERENCE TO THE FOLLOWING SOLICITATION:**

RFSQ/RFP/ITN/BID/CONTRACT/PROJECT # (as applicable): _____

BUSINESS NAME: _____

CONTACT PERSON/TITLE: _____

MAILING ADDRESS: _____

CITY-STATE-ZIP: _____

Length of Time at Address Provided: _____

Physical Presence of Business: ☐ Headquarters, ☐ Manufacturing Facility, or ☐ Locally Owned FranchiseAnd within Legal Boundaries: ☐ The City of Port Orange ☐ Volusia County ☐ The State of Florida

FEIN (Federal Employer Identification Number): _____

BUSINESS STRUCTURE: ☐ Corporation ☐ LLC ☐ Partnership ☐ Sole Proprietorship
☐ Other (Specify): _____

PHONE NUMBER: _____ FAX: _____

EMAIL: _____

****Please attach a valid business tax receipt, or other such documentation******ATTESTATION – I understand that:**

- In accordance with City Of Port Orange City Code 2-275, local businesses shall have five (5) business days from bid/proposal opening to submit a best and final bid for evaluation. To qualify: A Port Orange business initial bid must be within (8%) of the lowest and best responsible bid from a non-Port Orange business; A Volusia County business initial bid must be within (5%) of the lowest and best responsible bid from a non-Volusia County business; A State of Florida business initial bid must be within (3%) of the lowest and best responsible bid from a non-State of Florida business.
- A local business must have its headquarters, manufacturing facility, or locally owned franchise located within the legal boundaries of the City of Port Orange, Volusia County, or the State of Florida, as indicated herein, for at least twelve (12) months prior to the bid or proposal opening date and a valid business license, issued by the corresponding government agency. Post office boxes are not verifiable and shall not be used for the purpose of establishing said physical address. Bidders shall attach to this affidavit of eligibility with a bid or proposal, a copy of a valid business tax receipt or such other documentation, to the city's satisfaction, demonstrating the physical business presence of the firm within corresponding local limits.
- The preference does not apply to goods or services exempted by statute or prohibited by Federal law, State law, or other funding source restrictions.
- The preference established in this policy does not prohibit the right of the City, or other authorized purchasing authority, to compare quality or fitness for use of supplies, materials, equipment and services proposed for purchase and compare qualifications, character, responsibility and fitness of all persons, firms or corporations submitting bids or proposals.
- The information contained herein may be subject to verification.
- A vendor who misrepresents the local preference status of its firm in a proposal or bid submitted to the City of Port Orange will lose the privilege to claim local preference status, and shall lose eligibility to claim local preference for a period of one (1) year. The City Manager may also recommend that the firm be referred for debarment.

BEFORE ME; the undersigned authority, in and for the State of Florida and the City of Port Orange personally appeared _____ who, after being sworn according to law, stated that he or she was authorized to represent _____ and to execute this affidavit on behalf of the said Business Entity and attests, under penalty of perjury, to the above.

(Form 7.12 – Local Business Affidavit of Eligibility – Page 2)

SWORN AND SUBSCRIBED BEFORE ME

SIGNATURE OF NOTARY PUBLIC

THIS _____ DAY OF _____, 20____

My Commission Expires: _____

NOTARY SEAL

SIGNATURE OF AFFIANT

DATE

PRINTED NAME OF AFFIANT / TITLE

COMPANY

This document must be completed and returned with your Submittal

ATTACHMENT 1 – BID PROPOSAL

Attachment 1 – Bid Proposal is available as a fillable Excel file on DemandStar.com for the Vendor to download, complete electronically, and submit with the Vendor's Bid package.



ATTACHMENT 1 BID PROPOSAL SCHEDULE OF UNIT PRICING BID FORM

CITY OF PORT ORANGE BLEACHER REPLACEMENT SERVICES

ITB # 17-02

Completed Exhibit 1 Bid Proposal form MUST be included with Bid Submission

Instruction to save Attachment from website: Perform "File Save As" and save spreadsheet to your computer.

Fill in pricing in highlighted green cells, preferably electronically.

Bidders are required to complete all fields shaded in green. All other fields will be automatically calculated.

NAME OF BUSINESS:					
CONTACT PERSON:					
EMAIL ADDRESS:					
AUTHORIZED SIGNATURE:					

ITEM #	DESCRIPTION	QTY	UNIT	UNIT COST INSTALLED	TOTAL COST
1	GYMNASIUM No.1 (PER SPECIFICATIONS LISTED IN SCOPE)	1	Ea.	\$ -	\$ -
2	GYMNASIUM No.2 (PER SPECIFICATIONS LISTED IN SCOPE)	1	Ea.	\$ -	\$ -
TOTAL BASE BID					\$ -

BID BOND**BID BOND**

Bond No.:

KNOW ALL MEN BY THESE PRESENTS that _____, as Contractor, duly authorized to conduct business in the State of Florida, whose principal place of business is located at _____, Tel.: _____, (hereinafter called "PRINCIPAL"), and _____, as SURETY, duly authorized to conduct business in the State of Florida, whose principal place of business is located at _____, Tel.: _____ (hereinafter called "SURETY"), are held and firmly bound unto the City of Port Orange, Florida, as CITY, a Florida municipal corporation, whose address is City of Port Orange, 1000 City Center Circle, Port Orange, Florida 32129, Tel.: (386) 506-5501, (hereinafter called "OBLIGEE" or "CITY"), in the penal sum of _____ dollars and (____)/100 (\$ _____), lawful money of the United States, for the payment of which sum shall and truly be made, whereof PRINCIPAL and SURETY bind themselves, their heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

THE CONDITION OF THIS OBLIGATION IS SUCH that, whereas the Principal has submitted the accompanying bid, dated _____, 20____, for:

Project Name / Bid No.:

Project Address:

Legal Description: See Attached

Description of Work:

NOW, THEREFORE,

A. If the principal shall not withdraw said bid within one hundred twenty (120) days after date of opening of the same, and shall within ten (10) days after the prescribed forms are presented to it for signature, enter into a written contract with the City in accordance with the bid as accepted, and give bonds with good and sufficient surety or sureties, as may be required, for the faithful performance and proper fulfillment of such contract, then the above obligations shall be void and of no effect, otherwise to remain in full force and virtue.

B. In the event of the withdrawal of said bid within the period specified, or the failure to enter into such contract and give such bonds within the time specified, if the principal shall pay the City the difference between the amount specified in said bid and the amount for which the City may procure the required work and supplies, if the latter amount be in excess of the former, then the above obligations shall be void and of no effect, otherwise to remain in full force and virtue.

IN WITNESS WHEREOF, the above parties have executed this instrument under their several seals, this _____ day of _____, A.D. 20____, the name and corporate seal of each corporate party being hereto affixed and these presents duly signed by its undersigned representative, pursuant to authority of its governing body.

Note: If the firm is a sole ownership or partnership including limited liability company, two (2) witnesses are required to attest the signature. If the firm is a corporation, then the corporate secretary shall attest and affix the corporate seal (Attach power of attorney to original bid bond and financial statement of Surety Company).

PRINCIPAL:

Signature

Corporate Officer & Title

ATTEST:

Signature

Corporate Secretary (Affix Corporate Seal)

WITNESSES:

SURETY:

Attorney-in-Fact (signature)

Name & Title

Name of Local Resident Agent

City, State, Zip

Telephone:

A.M. Best No.: _____ NAIC No. : _____

ATTEST:

Signature

Corporate Secretary (Affix Corporate Seal)

STATE OF _____

COUNTY OF _____

Before me this day personally appeared _____ (affiant), who, being duly sworn, deposes and says that he/she is the Attorney-in-Fact for the _____ (corporate surety) and that this person has been authorized by _____ (corporate surety) to execute the foregoing bond on behalf of the Contractor named therein in favor of the City of Port Orange, Florida.

Signature of Affiant

Sworn to / Affirmed and subscribed before me this _____ day of _____, 20____, by _____, who is personally known to me or who produced _____ as identification.

NOTARY PUBLIC – STATE OF

Type or print name: _____

Commission No.: _____

Commission Expires: _____

(Seal)

.....
END OF BID BOND

This document must be completed and returned with your Submittal

PERFORMANCE & PAYMENT BOND

RETURN RECORDED DOCUMENT TO:

City Clerk
1000 City Center Circle
Port Orange, Florida 32129-4144

FRONT PAGE FOR BOND REQUIRED BY SECTION 255.05, F.S.

PAYMENT AND PERFORMANCE BOND

(Public Works)

Notice and Time Limitations Must Be In Accordance
With Section 255.05(2), (8) and (10), Florida Statutes

BOND NO. _____

PRINCIPAL:

Developer or Contractor:

Principal Business Address:

Contact Person:

Phone Number:

SURETY:

Address:

Contact Person:

Phone Number:

OWNER:

City of Port Orange, Florida, a chartered municipal corporation

1000 City Center Circle

Port Orange, Florida 32129-4144

Contact Person:

Phone Number:

City Manager

(386) 506-5501

Amount: \$ _____

City Case/Project No. _____

Description of Work: _____

Project Location:

Port Orange, Volusia County, Florida

Legal Description: _____

Front Page

All other pages are subsequent to this page regardless of any numbers that may be printed thereon.

[MTR/sal 2015-02-10]

RETURN RECORDED DOCUMENT TO:

City Clerk
1000 City Center Circle
Port Orange, Florida 32129-4144

Name of Project

City Project No. _____

Bond No. _____

Space Reserved for Recording Data

**COMBINATION PAYMENT AND PERFORMANCE BOND
FOR
PUBLIC CONSTRUCTION**

per Section 255.05, Florida Statutes
Guaranty for Construction of Public Improvements

BY THIS BOND, We, _____ as Principal, and _____, a corporation, as Surety, are bound to **CITY OF PORT ORANGE, FLORIDA**, a Florida municipal corporation, herein called "Owner" or sometimes referred to as "City," in the sum of _____ **DOLLARS** (\$ _____), for payment of which we bind ourselves, our heirs, personal representatives, successors, and assigns, jointly and severally.

THE CONDITION OF THIS BOND is that if Principal:

1. Performs the terms of that certain _____ having an effective date of _____, entered into by and between the Principal and the City, for _____, hereinafter referred to as the "Contract," being made a part of this bond by reference, at the times and in the manner prescribed in the Contract; and
2. Promptly makes payments to all claimants, as defined in Section 255.05(1), Florida Statutes, supplying Principal with labor, materials, or supplies, used directly or indirectly by Principal in the prosecution of the work provided for in the Contract (the "Work"); and
3. Pays Owner all losses, damages, delay damages (including contractually authorized liquidated damages), expenses, costs, and attorney's fees, including appellate proceedings, that Owner sustains because of a breach or material breach by Principal under the Contract documents; and
4. Performs the guarantee of all work and materials furnished under the Contract for the time specified in the Contract, then this bond is void; otherwise it remains in full force.

Notice of Nonpayment and Time Limitations

Any action instituted by a claimant under this bond for payment must be in accordance with the notice and time limitation provisions in Sections 255.02(2), (8) and (10), Florida Statutes.

Any changes in or under the contract documents and compliance or noncompliance with any formalities connected with the contract or the changes does not affect Surety's obligation under this bond.

(Capital Projects)
[MTR/sal 2016-02-26]

Page 1 of 2
Public Construction Bond

IN WITNESS WHEREOF, this performance and payment bond is executed in duplicate originals, each of which shall be deemed an original, this _____, day of _____, 20__.

Attest:

(Name of Principal)

(As to Corporate Principal) Secretary

By: _____
Name/Title: _____

(Witness to Principal)

(Corporate Seal)

(Surety)

(Witness to Surety)

By: _____
Name: _____

(Attorney-in-Fact)

(Corporate Seal)

NOTE: Date of BOND must not be prior to date of Contract. If Developer/Principal is Partnership, all partners should execute BOND. All BONDS signed by an agent must be accompanied by a certified copy of the authority to act.

IMPORTANT: Surety companies executing BONDS must appear on the Treasury Department's most current list (Circular 570 as amended) and be authorized to transact business in the State of Florida.

(Capital Projects)
[MTR/sal 2016-02-26]

Page 2 of 2
Public Construction Bond



CITY OF PORT ORANGE STANDARD CONTRACT FOR SERVICES

This Standard Contract for Services ("Contract") is entered into this ____ day of _____, 20____, by and between the **CITY OF PORT ORANGE**, a Florida municipal corporation, whose principal address is 1000 City Center Circle, Port Orange, Florida 32129 (the "City"), and _____, a _____ corporation whose principal address is _____ ("Contractor"). (The City and Contractor are collectively referred to herein as the "Parties.")

1. Provision of Services

(a) The Contractor hereby agrees to provide the following equipment, materials, labor and other such related services to the City of Port Orange:

(i) _____

(b) The time, manner and place for performance of such services shall be:

Term: The initial term of this Contract shall commence on the date this Contract is signed on behalf of the City and shall continue for a period of _____ thereafter (the "Initial Term"). In addition to the Initial Term, this Contract may be renewed for up to ____ additional _____ term(s) upon written consent of the parties and appropriation by City Council.

Manner and Place: As outlined in _____, in accordance with Standard Construction Details as required on all City owned facilities and properties (i.e. rights-of-way) and in a manner as required by all current federal, state, county, fire, building and land development codes, laws, ordinances and regulations, and with applicable permits and licenses per the City Code of Ordinances. Contractor shall not deliver goods or services without a written purchase order, signed by an authorized agent of the City of Port Orange. *If the contract is for goods include the following:* Contractor shall cause goods to be delivered to the City in the most expedient, cost effective manner. All items shall be shipped to the City of Port Orange designated facility identified in each purchase order, FOB Inside Delivery. Contractor shall bear the risk of loss for goods delivered under this Contract from the time of shipping to the City until delivered at the destination specified by the City for delivery.

Time and Essence: _____ from the date set out in paragraph 3 below or upon receipt of Notice to Proceed.

2. City Obligations. In return for the services identified above, the City agrees to compensate Contractor at the prices set forth in Exhibit "____" attached hereto, subject to a limit up to but not to exceed \$_____. The City's obligation to pay Contractor under this Contract is limited to the budgeted amount for the fiscal year approved by the Port Orange City Council for the then current fiscal year. All payments shall be governed by the Local Government Prompt Payment Act as set forth in Sections 218.70 through 218.79, Florida Statutes, as amended.

3. Contract Documents. The following forms, attached as Exhibit "____," are an integral part of this Contract and must be completed, signed, witnessed and notarized as indicated and returned with the signed Contract:

- (a) Front Page for Bond (F.S. § 255.05)
 - (b) Combination Payment and Performance Bond (F.S. § 255.05)
4. Contract Administration. The _____ shall perform contract administration of this Contract. For notice provisions, see the paragraph below entitled "Notice."
5. Termination for Convenience of the City
- (a) The parties agree that the City may terminate this Contract, or any work or delivery required hereunder, from time to time either in whole or part, whenever the City Manager of Port Orange shall determine that such termination is in the best interest of the City.
 - (b) Termination, in whole or in part, shall be effected by delivery of a Notice of Termination signed by the City Manager or his designee, mailed or delivered to the Contractor, and specifically setting forth the effective date of termination.
 - (c) Upon receipt of such Notice, the Contractor shall:
 - (i) cease any further deliveries or work due under this Contract, on the date, and to the extent, which may be specified in the Notice;
 - (ii) place no further orders with any subcontractors except as may be necessary to perform that portion of this Contract not subject to the Notice;
 - (iii) terminate all subcontracts except those made with respect to contract performance not subject to the Notice;
 - (iv) settle all outstanding liabilities and claims which may arise out of such termination, with the ratification of the Finance Director of Port Orange, and
 - (v) use best efforts to mitigate any damages which may be sustained by the Contractor as a consequence of termination under this clause.
 - (d) After complying with the provisions of subparagraph (c), above, the Contractor shall submit a termination claim, in no event later than six (6) months after the effective date of termination, unless one or more extensions of three (3) months each are granted by the Finance Director.
 - (e) The Finance Director, with the approval of the City Manager, shall pay from the using department's budget, reasonable costs of termination, including a reasonable amount for profit on supplies or services delivered or work completed. In no event shall this amount be greater than the original contract price, reduced by any payments made prior to Notice of Termination, and further reduced by the price of the supplies not delivered or the services not provided. This Contract shall be amended accordingly, and the Contractor shall be paid the agreed amount.
 - (f) In the event that the parties cannot agree on the whole amount to be paid to the Contractor by reason of termination under this clause, the Finance Director shall pay the Contractor the amounts determined as follows, without duplicating any amounts which may have already been paid under the preceding paragraph of this clause:
 - (i) With respect to all Contract performance prior to the effective date of Notice of Termination, the total of:
 - (1) the cost of work performed or supplies delivered;
 - (2) the cost of settling and paying any reasonable claims as provided in paragraph (c) (iv), above;
 - (3) a sum as profit on (a) determined by the Finance Director to be fair and reasonable.

- (ii) The total sum to be paid under (i) above shall not exceed the contract price, as further reduced by the contract price of work or supplies not terminated.

(g) In the event that the Contractor is not satisfied with any payments which the Finance Director shall determine to be due under this clause, the Contractor may appeal any claim to the City Council in accordance with Paragraph 22 of this contract concerning disputes.

6. Termination for Convenience for Subcontractors. In accordance with the termination for the convenience of the City provision of this contract, the Contractor shall include similar provisions in any subcontract, and shall specifically include a requirement that subcontractors make all reasonable efforts to mitigate damages which may be suffered. Failure to include such provisions shall bar the Contractor from any recovery from the City whatsoever of loss or damage sustained by a subcontractor as a consequence of termination for convenience.

7. Termination for Default. Either party may terminate this Contract, without further obligation, for the default of the other party or its agents or employees with respect to any agreement or provision contained herein. In the event of default by the contractor, the City reserves the right to procure the item(s) bid from other sources and holds the bidder responsible for excess costs incurred as a result. City Council may elect to refrain from doing business with the bidder as stipulated in City Code 2-276 Suspension and Disbarment.

8. Examination of Records

(a) The Contractor agrees that the City, or any duly authorized representative, shall, until the expiration of five (5) years after final payment hereunder, have access to and the right to examine and copy any pertinent books, documents, papers and records of the Contractor involving transactions related to this Contract.

(b) The Contractor further agrees to include in any subcontract for more than \$10,000 entered into as a result of this Contract, a provision to the effect that the subcontractor agrees that the City or any duly authorized representative shall, until the expiration of five (5) years after final payment under the subcontract, have access to and the right to examine and copy any pertinent books, documents, papers and records of such contractor involved in transactions related to such subcontract, or this Contract. The term subcontract as used herein shall exclude purchase orders for public utility services at rates established for uniform applicability to the general public.

(c) The period of access provided in subparagraphs (a) and (b) above for records, books, documents and papers which may relate to any arbitration, litigation, or the settlement of claims arising out of the performance of this contract or any subcontract shall continue until any appeals, arbitration, litigation or claims shall have been finally disposed of.

9. Public Records Compliance. Contractor shall comply with public records laws as set forth in Chapter 119, Florida Statutes, and shall specifically:

(a) Keep and maintain public records that ordinarily and necessarily would be required by the City in order to perform the service.

(b) Provide the public with access to public records on the same terms and conditions that the City would provide the records and at a cost that does not exceed the cost provided in Section 119, Florida Statutes, or as otherwise provided by law.

(c) Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law.

(d) Meet all requirements for retaining public records and transfer to the City, at no cost, all public records in possession of the Contractor upon termination of the Contract and destroy any duplicate public records that are

exempt or confidential and exempt from public records disclosure requirements. All records stored electronically must be provided to the City in a format that is compatible with the information technology systems of the City.

If Contractor does not comply with a public records request, the City shall enforce the contract provisions in accordance with the contract.

10. Termination for Non-Appropriation of Funds

(a) If funds are not appropriated for any succeeding fiscal years subsequent to the one in which this contract is entered into, for the purpose of this Contract, then the City may terminate this Contract upon thirty (30) days prior written notice to the Contractor. Should termination be accomplished in accordance with this Section, the City shall be liable only for payments due through the date of termination.

(b) The City agrees that should it terminate in accordance with this Section, it shall not obtain services which are substantially equal to or similar to those for which this contract was entered into. This provision shall survive any termination of the Contract.

11. Insurance. Contractor shall maintain insurance during the life of this Contract. Contractor shall provide to the City a certificate of insurance identifying the City of Port Orange as an additional insured. For workers' compensation coverage, the bidder's insurance certificate shall include the insurer's waiver of subrogation in lieu of naming the city as an additional insured for workers' compensation.

Policies other than Workers' Compensation shall be issued by insurers licensed and/or duly authorized under Florida Law to do business in the State of Florida and all insuring companies are required to have a minimum rating of "A" in the "Best Key Rating Guide" published by A.M. Best & Company, Inc. Policies for Workers' Compensation may be issued by companies authorized as a group self-insurer by F.S. 440.572. Contractor shall not commence work under this Agreement until the City has received a certificate or certificates of insurance and endorsement evidencing the required insurance. Contractor shall provide the City written notice of cancellation, nonrenewal or any other changes in coverage no later than ten (10) days prior to the effective date of the change.

The City reserves the right to increase insurance coverage as determined for higher risk contracts and shall reimburse the Contractor for the reasonable additional costs of increased coverage.

Insurance	Standards	Comments
Workers' Compensation <u>Limits:</u> <u>Additional Coverage:</u>	Coverage A - Statutory Coverage B - \$100,000 All States (Broad Form) Voluntary Compensation	If the contract requires work on or about navigable waters, require Longshoreman's and Harbor Workers' Coverage. If vessels involved, require Jones Act coverage with limits of \$500,000.
Comprehensive General Liability (Including Completed Operations and Contractual Liability) <u>Limits:</u>	Combined Single Limit Bodily Injury and Property damage \$500,000 occurrence \$1,000,000 Aggregate	When the Contract work on or under Railroad rights of way or properties, the Contractor shall take out and maintain during the life of the Contract, Railroad protective liability and property damage insurance in amounts as requested by the Railroad.

Comprehensive Business, Automobile Liability to include all automobiles.	<u>Limits:</u>	Auto Liability Body Injury: \$100,000 each person \$300,000 each occurrence. Property Damage Liability \$100,000 each occurrence.	Or \$500,000 Combined Single Limit for Bodily Injury and Property Damage
	<u>Additional Coverage:</u>	Non-Owned, Hired Car	
Property Insurance Builders Risk.	<u>Limits:</u>	Buildings - Completed value of contract.	If the Contract requires handling or installation of Owner's equipment, coverage should be furnished on "All Risk" form, including transit and Owner shall be named.
	<u>Additional Coverage:</u>	"All Risk" coverage on latest ISO form or its equivalent. Permission granted to occupy. Owner named as insured ALMA	
Professional Liability (Errors & Omissions)	<u>Limits:</u>	Coverage- \$1,000,000 minimum	

12. A Contract for the purchase of supplies shall be governed by the City of Port Orange Code of Ordinances, as amended, and such supplies shall be deemed "goods," as defined therein.

13. Assignability of Contract. Neither this contract, nor any part hereof, may be assigned by the Contractor to any other party without the express written approval of the City Council.

14. Modifications or Changes to this Contract

(a) Change Orders. The Department Head, with the concurrence of the City's signatory as required by the City's Purchasing Policy, shall without notice to any sureties, have the authority to order changes in this Contract which affect the cost or time of performance. Such changes shall be ordered in writing specifically designated to be a change order. Such orders shall be limited to reasonable changes in the services to be performed or the time of the performance. The City will not be held liable for any changes which have not been properly authorized and approved in accordance with this Contract.

(b) If any change under this clause causes an increase or decrease in Contractor's cost of, or time required for the performance of the work hereunder, Contractor shall receive an equitable adjustment in accordance with subparagraph (d), which shall include all compensation to the Contractor, or the City, of any kind in connection with such change, including all costs and damages related to or incidental to such change.

(c) Contractor need not perform any work described in any change order unless it has received a certification from the City that there are funds budgeted and appropriated sufficient to cover the cost of such changes.

(d) No claim for changes ordered hereunder shall be considered if made after final payment in accordance with the Contract.

15. Sovereign Immunity. The City expressly retains all rights, benefits and immunities of sovereign immunity in accordance with Section 768.28, Florida Statutes. Notwithstanding anything set forth in any section of this Contract to the contrary, nothing in this Contract shall be deemed as a waiver of immunity or limits of liability of the City beyond any statutory limited waiver of immunity or limits of liability which may have been adopted by the Florida Legislature or may be adopted by the Florida Legislature and the cap on the amount and liability of the City for damages

regardless of the number or nature of claims in tort or equity shall not exceed the dollar amount set by the legislature for tort. Nothing in this Contract shall inure to the benefit of any third party for the purpose of allowing any claim against the City which would otherwise be barred under the Doctrine of Sovereign Immunity or operation of law.

16. Warranties. Contractor warrants that (1) the supplies to be provided to the City pursuant to this Contract are fit and sufficient for the purpose intended; (2) the supplies are merchantable, of good quality, and free from defects, whether patent or latent, in material or workmanship, and (3) the supplies sold to the City pursuant to this Contract conform to the standards required by this Contract.

Contractor further warrants that Contractor has title to the supplies provided, and that the supplies are free and clear of all liens encumbrances, and security interests. All warranties made in this Contract, together with service warranties and guarantees, shall run to the City and its successors and assigns.

17. Additional Warranties. Contractor further expressly warrants that materials and workmanship are warranted from defect for a one-year period. This is a minimum acceptable warranty.

18. Additional Bond Security. If any surety bond furnished in connection with this Contract becomes unacceptable to the City, Contractor shall promptly furnish such additional security as may be required from time to time to protect the interests of the City and a person supplying labor and materials in the prosecution of work contemplated by this Contract. Contractor expressly acknowledges that if the work to be performed hereunder is a public work, a Payment and Performance Bond, in accordance with Florida Statutes Section 255.05, in a form acceptable to the City, shall be provided and recorded with the Clerk of Volusia County at Contractors expense.

19. Inspection

(a) All supplies (which term throughout this clause includes without limitation raw materials, components, intermediate assemblies, and their products) shall be subject to inspection and test by the City, to the extent practicable at all times and places including the place of manufacturer, and in any event prior to acceptance.

(b) In the event any supplies or lots of supplies are defective in material or workmanship, or otherwise not in conformity with the requirements of this Contract, the City shall have the right either to reject them (with or without instructions as to their disposition) or to require their correction. Supplies or lots of supplies which have been rejected or required to be corrected shall be removed or, if permitted or required by the Finance Director, corrected in place by and at the expense of Contractor promptly after notice, and shall not thereafter be tendered for acceptance unless the former rejection or requirement of correction is disclosed. If Contractor fails promptly to remove such supplies or lots of supplies which are required to be removed or promptly to replace or correct such supplies or lots of supplies, the City may either (i) by contract or otherwise replace or correct such supplies and charge Contractor the cost for such replacement or correction; or (ii) may terminate this Contract for default as provided in the clause of this Contract entitled "Termination for Default." Unless Contractor corrects or replaces such supplies within the delivery schedule, the Finance Director may require the delivery of such supplies at a reduction in price, which is equitable under the circumstances. Acceptance or rejection of the supplies shall be made as promptly as practicable after delivery, except as otherwise provided in this Contract. Failure to inspect and accept or reject supplies shall neither relieve Contractor from responsibility for such supplies as are not in accordance with the Contract requirements nor impose liability on the City therefor.

(c) The inspection and test by the City of any supplies or lots thereof does not relieve Contractor from any responsibility regarding defects or other failures to meet the Contract requirements, which may be discovered prior to acceptance. Except as otherwise provided in this Contract, acceptance shall be conclusive except as regards latent defects, fraud, or such gross mistakes as amount to fraud.

20. Liability for Loss or Damage. Contractor shall be liable for any loss of, or damage to, City property caused by the negligence, recklessness, or intended wrongful misconduct of Contractor, his/its agents, servants and employees and shall indemnify and save the City harmless against all actions, proceedings, claims, demands, costs, damages and expenses, including attorney's fees, by reason of any suit or action brought for any actual or alleged injury to or death of any person or damage to property other than City property, resulting from the performance of the Contract by Contractor, his/its agents, servants and employees. Contractor shall submit a full written report to the Finance Director within twenty-four (24) hours following the occurrence of such damage, loss or injury.

21. Non-discrimination. During the performance of this Contract, Contractor agrees as follows:

(a) Contractor will not discriminate against any employee or applicant for employment because of race, religion, color, sex, disability, marital status, age or national origin, except where such is a bona-fide occupational qualification reasonably necessary to the normal operation of Contractor. Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this non-discrimination clause. Contractor agrees and fully supports and complies with the Americans with Disabilities Act of 1990.

(b) Contractor shall state in all solicitations or advertisements for employees placed by or on behalf of Contractor that Contractor is an equal opportunity employer.

(c) Notices, advertisements and solicitations placed in accordance with federal law, rule or regulation shall be deemed sufficient compliance with this provision. Contractor shall include the provisions of the foregoing subparagraphs (a), (b), and (c) in every subcontract or purchase order of over \$10,000 so that the provisions will be binding upon each subcontractor or vendor.

22. Disputes. The Finance Director, who shall reduce his decision to writing and mail or otherwise furnish a copy thereof to Contractor, shall decide disputes with respect to this Contract in the first instance. The decision shall be final and binding unless, within thirty-(30) days from the date of such decision, Contractor mails or otherwise furnishes to the Finance Director a written appeal addressed to the City Manager. The decision by the City Manager shall be final and binding unless, within ten (10) days from the date of receipt of the decision of the City Manager, appeal is made to the City Council. The decision of the City Council shall be final and binding unless set aside by a court of competent jurisdiction as fraudulent, capricious, arbitrary, or so grossly erroneous as necessary to imply bad faith, or not to be supported by any evidence. Pending a final determination of a properly appealed decision of the Finance Director, Contractor shall proceed diligently with the performance of this Contract in accordance with that decision.

23. Force Majeure. Neither party shall be liable for any delay in performance or failure to perform any obligation hereunder if, and to the extent that, such failure or delay is caused by an event of Force Majeure. Force Majeure shall mean any act, event or condition that is beyond the party's reasonable control, that materially and adversely affects the party's ability to perform its obligations hereunder, and that is not the result of the party's willful neglect, error, omission or failure to exercise reasonable due diligence.

24. Controlling Law. **THIS AGREEMENT CONTAINS IMPORTANT MATTERS AFFECTING LEGAL RIGHTS AND IS ACCEPTED AND ENTERED INTO IN FLORIDA AND ANY QUESTION REGARDING ITS VALIDITY, CONSTRUCTION, ENFORCEMENT, OR PERFORMANCE SHALL BE GOVERNED BY FLORIDA LAW. ANY LEGAL PROCEEDING ARISING FROM OR IN ANY WAY REGARDING THE AGREEMENT SHALL HAVE ITS VENUE LOCATED EXCLUSIVELY IN THE CIRCUIT COURT OF VOLUSIA COUNTY, FLORIDA, AND THE PARTIES HEREBY EXPRESSLY CONSENT AND SUBMIT THEMSELVES TO THE PERSONAL JURISDICTION AND VENUE OF THE COURT.**

25. Additional Provisions. As may have been outlined in _____ and written quotes and purchase orders and any attachments or exhibits to this Contract whether delivered herewith or subsequently approved as a part hereof, such as drawings or technical specifications prepared in the performance of this work.

26. Integration. This Contract and the documents incorporated herein by reference shall constitute the whole agreement between the parties. There are no promises, terms, conditions, or obligations other than those contained herein, and this Contract shall supersede all previous communications, representations, or agreements, written or verbal, between the parties hereto.

27. Notice. For purposes of this agreement, notices shall be sent as follows:

City: City of Port Orange
Attention: City Manager
1000 City Center Circle
Port Orange, Florida 32129
(386) 506-5501

Copy to: City of Port Orange
Attention: _____
1000 City Center Circle
Port Orange, Florida 32129
(386) 506-____

Contractor: _____
Attention: _____

Any notice or other communication given under the Contract will be in writing and delivered by hand, sent by facsimile (provided acknowledgement of receipt thereof is delivered to the sender), sent by certified, registered mail, or sent by any nationally recognized overnight courier service to the addresses provided herein. The parties may, from time to time and at any time, change their respective addresses and each will have the right to specify as its address any other address by at least 10 days written notice to the other party.

28. Contract Construction

This Agreement may be executed in one or more counterparts, each of which shall be deemed to be an original but all of which together shall constitute one and the same instrument. The delivery by facsimile or e-mail of an executed copy of this Agreement shall be deemed valid as if an original signature was delivered. No contract shall be formed between Contractor and the City until the City signs this Agreement.

29. Authority to Sign. Each person signing this Agreement warrants that he or she is duly authorized to do so and to bind the respective party to the Agreement.

[Remainder of this page intentionally left blank]

Witnesses: _____

Printed Name: _____

Printed Name: _____

By: _____

Printed Name: _____

Title: _____

If this Contract is signed by an individual not identified as the President of the corporation in the records of the Florida Department of State, Division of Corporations, please provide written authorization for that individual to enter into contracts on behalf of the corporation.

Date: _____

STATE OF _____
COUNTY OF _____

The foregoing instrument was acknowledged before me this _____ day of _____, 20____, by _____, as _____ of _____, a _____ corporation, and who:

[Notary: Please select one]

- ☐ is personally known to me; or
☐ has produced _____ as identification.

Notary Public, State of _____
Printed, typed or stamped name, commission and expiration:

Witnesses:

CITY OF PORT ORANGE

Printed Name: _____

By: _____
Allen Green, Mayor

Printed Name: _____

Date: _____

STATE OF FLORIDA
COUNTY OF VOLUSIA

The foregoing instrument was acknowledged before me this _____ day of _____, 20____, by Allen Green, as Mayor of the City of Port Orange, a Florida municipal corporation, on behalf of the city, and who is personally known to me.

Notary Public, State of Florida
Printed, typed or stamped name, commission and expiration:

Witnesses:

ATTEST:

Printed Name: _____

By: _____
Robin L. Fenwick, CMC, City Clerk

Printed Name: _____

Date: _____

STATE OF FLORIDA
COUNTY OF VOLUSIA

The foregoing instrument was acknowledged before me this _____ day of _____, 20____, by Robin L. Fenwick, as City Clerk of the City of Port Orange, a Florida municipal corporation, on behalf of the city, and who is personally known to me.

Notary Public, State of Florida
Printed, typed or stamped name, commission and expiration:

[CA ____]



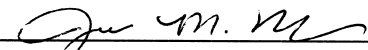
End of Solicitation Documents

SECTION 7 – REQUIRED FORMS

FORM 7.1 – BID SUBMITTAL CHECKLIST

- ☒ Form 7.2 – Vendor’s Acknowledgement
- ☒ Form 7.3 – Addendum and Change Order Procedure Acknowledgement
- ☒ Form 7.4 – Drug Free/Tie Preference Statement
- ☒ Form 7.5 – Public Entity Crimes Statement
- ☒ Form 7.6 – Affidavit of Anti-Collusion
- ☒ Form 7.7 – Authorized Signatures/Negotiators
- ☒ Form 7.8– Statement of Vendor’s Qualifications
- ☒ Form 7.9 – Professional References for Previous Experience
- ☒ Form 7.10 – Listing of Subcontractors
- ☒ Form 7.11 – Vendor Application
- ☒ W-9 Form
- ☒ N/A Form 7.12 – Local Business Affidavit of Eligibility
- ☒ Attachment 1 – Bid Proposal
- ☒ Bid Bond
- ☒ Copy of Certificate of Insurance
- ☒ Submission of one (1) original marked “ORIGINAL” and one (1) digital (CD or flash drive) version in PDF format.

BY: Athletic Resources, Inc.
Name of Business


Authorized Signature

12-2-15
Date

This document must be completed and returned with your Submittal

FORM 7.2 – VENDOR'S ACKNOWLEDGEMENT FORM

I have carefully examined the Invitation to Bid (ITB), Instructions to Vendors, General and/or Special Conditions, Specifications, and any other documents accompanying or made a part of this invitation.

I hereby propose to furnish the goods or services specified in the Invitation to Bid at the prices or rates as finally negotiated. I agree that my bid will remain firm for a period of up to ninety (90) days in order to allow the City of Port Orange adequate time to evaluate the proposed bid. Furthermore, I agree to abide by all conditions of the Invitation to Bid.

I certify that all information contained in this Bid is truthful to the best of my knowledge and belief. I further certify that I am a duly authorized to submit this Bid on behalf of the Vendor / Contractor as its act and deed and that the Vendor / Contractor is ready, willing and able to perform if awarded the contract.

I further certify that this Bid is made without prior understanding, Contract, connection, discussion, or collusion with any person, firm or corporation submitting a Bid for the same product or service; no officer, employee or agent of the City of Port Orange City Council or of any other Vendor interested in said ITB; and that the undersigned executed this Vendor's Acknowledgement with full knowledge and understanding of the matters therein contained and was duly authorized to do so.

I further certify that having read and examined the specifications and documents for the designated services and understanding the general conditions for contract under which services will be performed, does hereby propose to furnish all labor, equipment, and material to provide the services set forth in the ITB.

I hereby declare that the following listing states any clarifications, any and all variations from and exceptions to the requirements of the specifications and documents. The undersigned further declares that the "work" will be performed in strict accordance with such requirements, and understands that any exceptions to the requirements of the specifications and documents may render the Bid non-responsive.

NO EXCEPTIONS ALLOWED AFTER THE BID IS SUBMITTED:

Please check one: ☒ I take NO exceptions. ☐ Exceptions (list below; add additional pages if necessary):

Athletic Resources, Inc.
NAME OF BUSINESS

[Signature]
AUTHORIZED SIGNATURE

John M. Kregbaum President
NAME, TITLE, TYPED

59-369-3315
FEDERAL IDENTIFICATION #

8162 Lombank Drive
MAILING ADDRESS

Naples, FL 34109
CITY, STATE & ZIP CODE

239-793-8900
TELEPHONE NUMBER / FAX NUMBER

matt@athleticresources.com
E-MAIL ADDRESS

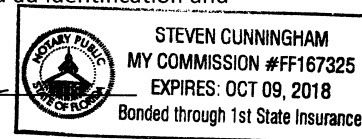
STATE OF Florida COUNTY OF Collier

The foregoing instrument was acknowledged before me this day of December, 2016 by John M. Kregbaum, who is personally known to me or who has produced identification and who did take an oath.

My Commission Expires: 10-9-18

[Signature]
Notary Public

This document must be completed and returned with your Submittal



FORM 7.3 – ADDENDUM and CHANGE ORDER PROCEDURE ACKNOWLEDGEMENT

ADDENDUM ACKNOWLEDGEMENT

I have carefully examined the Invitation to Bid (ITB), Instructions to Vendors, General and/or Special Conditions, Specifications, and any other documents accompanying or made a part of this invitation to Bid.

I acknowledge receipt and incorporation of the following addenda, and the cost, if any, of such revisions has been included in the price of the bid proposal.

Addendum # 1 Date: 11-23-16 Addendum # _____ Date: _____

Addendum # _____ Date: _____ Addendum # _____ Date: _____

CHANGE ORDER PROCEDURE ACKNOWLEDGEMENT

If awarded the Contract for this Solicitation, I acknowledge that no oral statement of any person shall modify or otherwise change, or affect the terms, conditions or specifications stated in the resulting contract. All change orders requests shall be made in writing by the Contractor for review by the Contract Administrator for the City of Port Orange. No work shall be performed as set forth in the change order until the Contractor receives an executed Purchase Order for the requested change.

I acknowledge the following statement regarding Change Orders to the awarded Contract:

"The Successful Contractor is responsible for giving the City of Port Orange, prior to the Contract expiration date, at least forty-five (45) calendar days' advance notice for any anticipated changes in price greater than \$25,000.00, time and/or scope of the awarded Contract. The Contractor shall not continue to provide services past the Contract expiration date unless approved by a written Change Order Notice from the City."

Athletic Resources, Inc.
Name of Business

By: John M. Kriegbaum
Printed Name: John M. Kriegbaum
Title: President

STATE OF Florida
COUNTY OF Collier

Sworn to (or affirmed) and subscribed before me this 2 day of December, 2016, by
John M. Kriegbaum (NAME), as President (TITLE) of
Athletic Resources, Inc. (NAME OF ORGANIZATION) and who:

[Notary: Please select one]

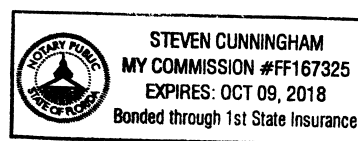
☒ is personally known to me; or

☐ has produced _____ as identification.

Steven Cunningham
Notary Public, State of Florida

Printed, typed or stamped name, commission and expiration:

This document must be completed and returned with your Submittal



FORM 7.4 – DRUG FREE PREFERENCE STATEMENT

IDENTICAL TIE BIDS - Preference shall be given to businesses with drug-free workplace programs. Whenever two or more bids, proposals, statements, or replies that are equal with respect to price, quality, and service are received by the city for the procurement of commodities or contractual services, a bid received from a business that certifies that it has implemented a drug-free workplace program shall be given preference in the award process. Established procedures for processing tie bids will be followed if none of the tied vendors have a drug-free workplace program.

In order to have a drug-free workplace program, a business shall:

1. Publish a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the workplace and specifying the actions that will be taken against employees for violations of such prohibition.
2. Inform employees about the dangers of drug abuse in the workplace, the business's policy of maintaining a drug-free workplace, any available drug counseling, rehabilitation and employee assistance programs, and the penalties that may be imposed upon employees for drug abuse violations.
3. Give each employee engaged in providing the commodities or contractual services that are under bid a copy of the statement specified in subsection (1).
4. In the statement specified in subsection (1), notify the employees that, as a condition of working on the commodities or contractual services that are under bid, the employee will abide by the terms of the statement and will notify the employer of any conviction of, or plea of guilty or nolo contendere to, any violation of chapter 893 or of any controlled substance law of the United States or any state, for a violation occurring in the workplace no later than five (5) days after such conviction.
5. Impose a sanction on, or require the satisfactory participation in a drug abuse assistance or rehabilitation program if such is available in the employee's community, by any employee who is so convicted.
6. Make a good faith effort to continue to maintain a drug-free workplace through implementation of Section 287.087, Florida Statutes.

As an authorized representative of the firm, I certify that this firm complies fully with the above requirements.

Athletic Resources, Inc.
Name of Business
By: [Signature]
Printed Name: John M. Kriegbaum
Title: President

STATE OF Florida
COUNTY OF Collier

Sworn to (or affirmed) and subscribed before me this 2 day of December, 2016, by
John M. Kriegbaum, as President of
(NAME) (TITLE)
Athletic Resources, Inc. and who:
(NAME OF ORGANIZATION)

[Notary: Please select one]

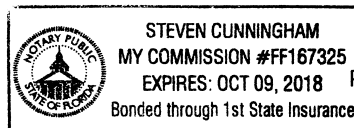
☒ is personally known to me; or

☐ has produced _____ as identification.

This document must be completed and returned with your Submittal

[Signature]
Notary Public, State of Florida

Printed, typed or stamped name, commission and expiration:



FORM 7.5 – SWORN STATEMENT UNDER SECTION 287.133(3)(A), FLORIDA STATUTES, ON PUBLIC ENTITY CRIMES

(To be signed in the presence of notary public or other officer authorized to administer oaths.)

Before me, the undersigned Authority, personally appeared affiant John Kriegbaum who, being by me first duly sworn, made the following statement:

1. The business address of Athletic Resources, Inc. (name of Offeror or business) is 8162 Lombank Drive Naples, FL 34109.
2. My relationship to Athletic Resources, Inc. (name of Offeror or business) is President (relationship such as sole proprietor, partner, president, vice president).
3. I understand that a public entity crime as defined in Section 287.133 of the Florida Statutes includes a violation of any state or federal law by a person with respect to and directly related to the transaction of business with any public entity in Florida or with an agency or political subdivision of any other state or with the United States, including, but not limited to, any proposal or contract for goods or services to be provided to any public entity or such an agency or political subdivision and involving antitrust, fraud, theft, bribery, collusion, racketeering, conspiracy or material misrepresentation.
4. I understand that "convicted" or "conviction" is defined by the Florida Statutes to mean a finding of guilt or a conviction of a public entity crime, with or without an adjudication of guilt, in any federal or state trial court of record relating to charges brought by indictment or information after July 1, 1989, as a result of a jury verdict, non-jury trial, or entry of a plea of guilt or nolo contendere.
5. I understand that "affiliate" is defined by the Florida Statutes to mean (1) a predecessor or successor of a person or a corporation convicted of a public entity crime, or (2) an entity under the control of any natural person who is active in the management of the entity and who has been convicted of a public entity crime, or (3) those officers, directors, executives, partners, shareholders, employees, members, and agents who are active in the management of an affiliate, or (4) a person or corporation who knowingly entered into a joint venture with a person who has been convicted of a public entity crime in Florida during the preceding 36 months.
6. Neither the Offeror or contractor, nor any officer, director, executive, partner, shareholder, employee, member or agent who is active in the management of the Offeror or contractor, nor any affiliate of the Offeror or contractor has been convicted of a public entity crime subsequent to July 1, 1989. (Draw a line through paragraph 6 if paragraph 7 below applies.)
7. There has been a conviction of a public entity crime by the Offeror or contractor, or an officer, director, executive, partner, shareholder, employee, member or agent of the Offeror or contractor who is active in the management of the Offeror or contractor. A determination has been made pursuant to Section 287.133(3) by order of the Division of Administrative Hearings that it is not in the public interest for the name of the convicted person or affiliate to appear on the convicted vendor list. The name of the convicted person or affiliate is _____ A copy of the order of the Division of Administrative Hearings is attached to this statement. (Draw a line through paragraph 7 if paragraph 6 above applies.)

Athletic Resources, Inc.
Name of Business

By: [Signature]
Printed Name: John M. Kriegbaum
Title: President

STATE OF Florida
COUNTY OF Collier

Sworn to (or affirmed) and subscribed before me this 2 day of December, 2016, by John M. Kriegbaum, as President of Athletic Resources, Inc. and who:

[Notary: Please select one]

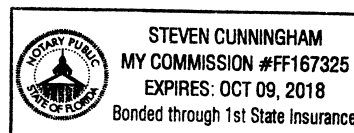
☒ is personally known to me; or

☐ has produced _____ as identification.

This document must be completed and returned with your Submittal

[Signature]
Notary Public, State of Florida

Printed, typed or stamped name, commission and expiration:



FORM 7.6 – ANTI-COLLUSION FORM

ANTI-COLLUSION STATEMENT BID FORM:

By signing this form, the Proposer agrees that this Bid is made without any other understanding, agreement, or connection with any person, corporation, or firm submitting a bid for the same purpose and that the bid is in all respects fair and without collusion or fraud.

SIGN in ink in the space provided below. Unsigned Bids will be considered incomplete, and will be disqualified, and rejected.

IT IS AGREED BY THE UNDERSIGNED VENDOR THAT THE SIGNING AND DELIVERY OF THE BID REPRESENTS THE VENDORS ACCEPTANCE OF THE TERMS AND CONDITIONS OF THE FOREGOING SPECIFICATIONS, CONTRACT AND PROVISIONS, AND IF AWARDED, THIS CONTRACT WILL REPRESENT THE AGREEMENT BETWEEN THE VENDORS AND THE CITY OF PORT ORANGE.

NAME OF FIRM: Athletic Resources, Inc.

SIGNED BY: John M. Kregbaum President
(MUST BE SIGNED BY A COMPANY OFFICER OR AUTHORIZED AGENT)

PRINTED SIGNATURE: John M. Kregbaum

TITLE: President

ADDRESS: 8162 Loxbank Drive

CITY: Maitis STATE: FL ZIP CODE: 34109

TELEPHONE: 239-793-8900 FAX: 239-643-8988

COMPLETION TIME: 90 Days

F.E.I.N. NUMBER: 59-3693315

NO Bid may be withdrawn for a period of ninety (90) days subsequent to the submittal of the Bids, without the consent of the City of Port Orange.

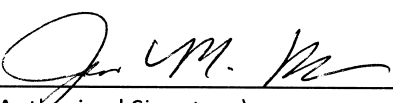
NO BID (REASON): _____

This document must be completed and returned with your Submittal

FORM 7.7 – AUTHORIZED SIGNATURES/NEGOTIATORS

The Vendor represents that the following persons are authorized to sign and/or negotiate contracts and related documents to which the Vendor will be duly bound:

<u>Name</u>	<u>Title</u>	<u>Phone #</u>
John M. Kriegbaum	President	239-793-8900
		239-269-0452


(Authorized Signature)

This document must be completed and returned with your Submittal

FORM 7.8 – STATEMENT OF VENDOR'S QUALIFICATIONS

The undersigned warrants that he or she is duly authorized to complete this document, and hereby affirms that the information contained in Form 7.8 is complete, true, and correct to the best of their knowledge and belief. If necessary, questions may be answered on separate paper and attached, with any additional information that may be pertinent.

A. Name of Vendor.

Athletic Resources, Inc.

B. Permanent main office address.

8162 Lombard Drive Naples, FL 34109

C. Date organized.

7/1998

D. If a corporation, where incorporated.

Florida

E. How many years have you been engaged in the contracting business under your present firm or trade name?

1991 EST INC.

15 Years

F. Contracts on hand: (Schedule these, showing amount of each contract and the appropriate anticipated dates of completion.)

G. General character of work performed by your company.

Sports Flooring and Gymnasium Equipment

H.⁽¹⁾ Have you ever failed to complete any work awarded to you? If so, where and why?

NO

H.⁽²⁾ Provide list of any lawsuits or judgments filed by or against your company in the last three years, indicating the nature and outcome.

N/A

I. Have you ever defaulted on a contract? If so, where and why?

NO

J. List the more important projects recently completed by your company, stating the approximate cost for each and the month and year completed.

Village School Naples - \$111,000 August '16

St. Luke's Lutheran, Oviedo - \$174,000 August '16

K. List your major equipment currently owned or leased.

L. Experience in work similar to this type of project.

18+ years of experience.

M. Background and experience of the principal members of your organization, including the officers.

N. Credit currently available: \$ *SELF FUNDED COMPANY*

O. Give bank reference: *First Integrity Bank*

P. Will you, upon request, fill out a detailed financial statement and furnish any other information that may be required by the Owner?

YES

(Form 7.8 Statement of Vendor's Qualifications – Page 2)

- Q. The undersigned hereby authorizes and requests any person, firm, or corporation to furnish any information requested by the Owner in verification of the recitals comprising this Statement of Vendor's Qualifications.

Athletic Resources, Inc.
Name of Business

By: [Signature]
Printed Name: John M. Kregbaum
Title: PRESIDENT

STATE OF Florida
COUNTY OF Collier

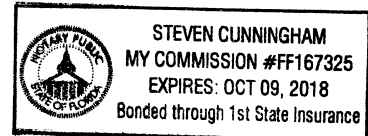
Sworn to (or affirmed) and subscribed before me this 2 day of December, 2016, by
John M. Kregbaum, as President
of Athletic Resources, Inc. and who:

[Notary: Please select one]

☒ is personally known to me; or

☐ has produced _____ as identification.

[Signature]
Notary Public, State of Florida
Printed, typed or stamped name, commission
and expiration:



This document must be completed and returned with your Submittal

FORM 7.9 – PROFESSIONAL REFERENCES FOR PREVIOUS EXPERIENCE

The Vendor proposes that he/she is qualified to perform the referenced work and has successfully done so on recent projects similar in nature and size. The City reserves the right to check references and confirm information provided herein.

Please provide three (3) current and correct references from clients for similar services.

(Do not include the City of Port Orange)

1. Company Name: City of Port St. Lucie - Minsky Gymnasium
Contact Person: Terry Roberts
City, State: Port St. Lucie, FL
Telephone Number: 772-344-4142
Email Address: troberts@cityofpsl.com
Description of goods or
Services provided: Installed telescopic bleachers
Contract Amount: \$23,340
Start/End Date of Contract: March 2015
2. Company Name: Sarasota Christian School
Contact Person: Larry Litwiler
City, State: Sarasota, FL
Telephone Number: 941-371-6481
Email Address: llitwiler@sarasotachristian.org
Description of goods or
Services provided: Installed telescopic bleachers
Contract Amount: \$43,164
Start/End Date of Contract: July 2016
3. Company Name: Barton High School - Strickland Construction
Contact Person: Mickey Myers
City, State: Barton, FL
Telephone Number: 863-683-8048
Email Address: mickey@stricklandconstructioninc.com
Description of goods or
Services provided: Installed telescopic bleachers
Contract Amount: \$125,625
Start/End Date of Contract: August 2015

This document must be completed and returned with your Submittal.

FORM 7.10 – LISTING OF SUBCONTRACTORS

The Vendor proposes that the following subcontractors are qualified to perform the referenced work and have successfully done so on recent projects similar in nature and size. All subcontractors whose work product accounts for 5% or more of the total contract value shall be listed. Upon approval of subcontractors listed, the successful Vendor shall not substitute subcontractors without approval from the Engineer. Vendor shall attach additional sheets as necessary.

Subcontractor No. 1

Name: CERTIFIED Development

Description of Work: Installation

Percent of Contract Price: _____

Previous Experience Together: Yes 15 YEARS WORKING TOGETHER

Subcontractor No. 2

Name: _____

Description of Work: _____

Percent of Contract Price: _____

Previous Experience Together: Yes/No _____

Subcontractor No. 3

Name: _____

Description of Work: _____

Percent of Contract Price: _____

Previous Experience Together: Yes/No _____

Subcontractor No. 4

Name: _____

Description of Work: _____

Percent of Contract Price: _____

Previous Experience Together: Yes/No _____

Subcontractor No. 5

Name: _____

Description of Work: _____

Percent of Contract Price: _____

Previous Experience Together: Yes/No _____

This document must be completed and returned with your Submittal

FORM 7.11 – VENDOR APPLICATION



**City of Port Orange
Vendor Application**

City of Port Orange

Date:

Attn: Purchasing Division
(386) 506-5704
purchdiv@port-orange.org
1000 City Center Circle
Port Orange, FL 32129

FIRM NAME: Athletic Resources, Inc.

ADDRESS: 8162 Lombank Drive

CITY: Naples STATE: FL ZIP CODE: 34109

If remittance payment address is different than application or W9 please fill out below:

ADDRESS: _____

TEL. # (including area code): 239-753-8900 FAX # 239-643-8988

SIGNATURE PERSON FILING APPLICATION: [Signature]

PRINTED NAME: John M. Kriegbaum

TITLE: President

FEDERAL I.D. (F.E.I.N.) # 59-369-3315

E-MAIL ADDRESS: mkt@athleticresources.com
(Authorized Company Representative)

COMPANY STATUS:

INCOPRORATED: ☒ Y ☐ N State Incorporated: FL Year: 2001

TYPE OF ORGANIZATION: ☐ Indiv. ☐ Partnership ☒ Corp. ☐ Non-Profit ☐ LLC

ATTORNEY TRUST ACCOUNT NAME: _____

INSURANCE: Proof of adequate coverage for professional general liability, errors and omissions and workers' compensation may be required for certain types of procurements.

☐ Check this box to waive insurance requirements **only** if you are providing goods for F.O.B destination with no installation services.

*** NOTE TO VENDORS***

The City of Port Orange, Florida does not maintain a prospective vendor's list, classified by commodities for the purpose of inviting sealed bids and quotation.

The City utilizes DemandStar www.demandstar.com to release Bids/RFP's and quotes. While the City advertises the Invitation to Bid in the local newspaper (Daytona News Journal) only in rare cases does the City mail out announcement notices to vendors. Vendors interested in becoming a member of DemandStar may visit their web site at: www.demandstar.com or by calling them at 1-800-711-1712.

Vendors will automatically receive notice of request for Bids/RFP's or quotes after they sign up on DemandStar. It is important that vendors sign, complete and return this application. Also include the W-9 and insurance information requirements in order for the City to assign a vendor number on our computer system.

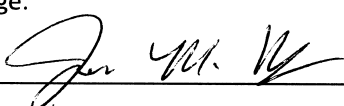
It is also the vendor's responsibility to keep the Purchasing Division informed as to any change of address or insurance that may occur.

If your company is interested in bidding on commodities/services in addition to those specified, on any specific article related to the main category, insert the type of those materials on the blank space provided for each category group. Attorney services are secured by direct telephone quotes or written price inquires.

Drug Free Workplace: A statement as to whether or not your firm has implemented a drug-free workplace program, as described in Section 287.087 of the Florida Statutes should be noted. Failure to respond in affirmative to this request will not disqualify you from consideration. Preference will be given to firms which have implemented a drug-free workplace program in the case where the City has received two or more bids what are equal with respect to price, quality, and service.

Equal Employment Opportunity (EEO). All vendors will be required to make an affirmative statement as to their support of all applicable equal opportunity affirmative action requirements. A copy of the City's Equal Employment Opportunity statement (EEO) will be available to the vendor upon request.

I certify that the information supplied herein is correct and that neither the applicant nor any person (or concern) in any connection with the applicant as a principal or officer, so far as is known, is now disqualified from the public contracting and purchasing process by any agency of the federal government, the State of Florida or the City of Port Orange.

Signature of Person Completing Form: 

Printed/Types Name: John M. Kerecbaum Title: PRESIDENT

Commodity/Services Athletic Flooring & equipment sales & installation

This document must be completed and returned with your Submittal

W-9 Form

Form W-9
(Rev. January 2011)
Department of the Treasury
Internal Revenue Service

Request for Taxpayer Identification Number and Certification

Give Form to the
requester. Do not
send to the IRS.

Name (as shown on your income tax return)
Athletic Resources, Inc.

Business name/disregarded entity name, if different from above

Check appropriate box for federal tax classification (required):
☐ Individual/sole proprietor ☐ C Corporation ☒ S Corporation ☐ Partnership ☐ Trust/estate
☐ Limited liability company. Enter the tax classification (C=C corporation, S=S corporation, Partnership)*
☐ Other (see instructions)*

Address (number, street, and apt. or suite no.)
8162 Lombank DR.

City, state, and ZIP code
NAPLES FL 34109

List account number(s) here (optional)

Requester's name and address (optional)

Exempt payee

Part I Taxpayer Identification Number (TIN)

Enter your TIN in the appropriate box. The TIN provided must match the name given on the "Name" line to avoid backup withholding. For individuals, this is your social security number (SSN). However, for a resident alien, sole proprietor, or disregarded entity, see the Part I instructions on page 3. For other entities, it is your employer identification number (EIN). If you do not have a number, see *How to get a TIN* on page 3.

Social security number

--	--	--	--	--	--	--	--	--	--

Note. If the account is in more than one name, see the chart on page 4 for guidelines on whose number to enter.

Employer identification number

59-3693315

Part II Certification

Under penalties of perjury, I certify that:

- The number shown on this form is my correct taxpayer identification number (or I am waiting for a number to be issued to me), and
- I am not subject to backup withholding because: (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding, and
- I am a U.S. citizen or other U.S. person (defined below).

Certification instructions. You must cross out item 2 above if you have been notified by the IRS that you are currently subject to backup withholding because you have failed to report all interest and dividends on your tax return. For real estate transactions, item 2 does not apply. For mortgage interest paid, acquisition or abandonment of secured property, cancellation of debt, contributions to an individual retirement arrangement (IRA), and generally, payments other than interest and dividends, you are not required to sign the certification, but you must provide your correct TIN. See the instructions on page 4.

Sign Here

Signature of U.S. person ^a

J. M. R.

Date ^a *12-2-16*

This document must be completed and returned with your Submittal

General Instructions

Section references are to the Internal Revenue Code unless otherwise noted.

Purpose of Form

A person who is required to file an information return with the IRS must obtain your correct taxpayer identification number (TIN) to report, for example, income paid to you, real estate transactions, mortgage interest you paid, acquisition or abandonment of secured property, cancellation of debt, or contributions you made to an IRA.

Use Form W-9 only if you are a U.S. person (including a resident alien), to provide your correct TIN to the person requesting it (the requester) and, when applicable, to:

1. Certify that the TIN you are giving is correct (or you are waiting for a number to be issued),

2. Certify that you are not subject to backup withholding, or

3. Claim exemption from backup withholding if you are a U.S. exempt

payee. If applicable, you are also certifying that as a U.S. person, your allocable

share of any partnership income from a U.S. trade or business is not subject to the

withholding tax on foreign partners' share of effectively connected income.

Note. If a requester gives you a form other than Form W-9 to request your TIN, you must use the requester's form if it is substantially similar to this Form W-9.

Definition of a U.S. person. For federal tax purposes, you are considered a U.S. person if you are:

- An individual who is a U.S. citizen or U.S. resident alien,
- A partnership, corporation, company, or association created or organized in the United States or under the laws of the United States,
- An estate (other than a foreign estate), or
- A domestic trust (as defined in Regulations section 301.7701-7).

Special rules for partnerships. Partnerships that conduct a trade or business in the United States are generally required to pay a withholding tax on any foreign partners' share of income from such business. Further, in certain cases where a Form W-9 has not been received, a partnership is required to presume that a partner is a foreign person, and pay the withholding tax.

Therefore, if you are a U.S. person that is a partner in a partnership conducting a trade or business in the United States, provide Form W-9 to the partnership to establish your U.S. status and avoid withholding on your share of partnership income.

FORM 7.12 – LOCAL BUSINESS AFFIDAVIT OF ELIGIBILITY

City of Port Orange

*This declaration is executed under penalty of perjury of the laws to the United States and State of Florida***THIS AFFIDAVIT IS SUBMITTED IN REFERENCE TO THE FOLLOWING SOLICITATION:**

RFSQ/RFP/ITN/BID/CONTRACT/PROJECT # (as applicable): _____

BUSINESS NAME: _____

CONTACT PERSON/TITLE: _____

MAILING ADDRESS: _____

CITY-STATE-ZIP: _____

Length of Time at Address Provided: _____

N/A

Physical Presence of Business: ☐ Headquarters, ☐ Manufacturing Facility, or ☐ Locally Owned FranchiseAnd within Legal Boundaries: ☐ The City of Port Orange ☐ Volusia County ☐ The State of Florida

FEIN (Federal Employer Identification Number): _____

BUSINESS STRUCTURE: ☐ Corporation ☐ LLC ☐ Partnership ☐ Sole Proprietorship☐ Other (Specify): _____

PHONE NUMBER: _____ FAX: _____

EMAIL: _____

****Please attach a valid business tax receipt, or other such documentation******ATTESTATION – I understand that:**

- In accordance with City Of Port Orange City Code 2-275, local businesses shall have five (5) business days from bid/proposal opening to submit a best and final bid for evaluation. To qualify: A Port Orange business initial bid must be within (8%) of the lowest and best responsible bid from a non-Port Orange business; A Volusia County business initial bid must be within (5%) of the lowest and best responsible bid from a non-Volusia County business; A State of Florida business initial bid must be within (3%) of the lowest and best responsible bid from a non-State of Florida business.
- A local business must have its headquarters, manufacturing facility, or locally owned franchise located within the legal boundaries of the City of Port Orange, Volusia County, or the State of Florida, as indicated herein, for at least twelve (12) months prior to the bid or proposal opening date and a valid business license, issued by the corresponding government agency. Post office boxes are not verifiable and shall not be used for the purpose of establishing said physical address. Bidders shall attach to this affidavit of eligibility with a bid or proposal, a copy of a valid business tax receipt or such other documentation, to the city's satisfaction, demonstrating the physical business presence of the firm within corresponding local limits.
- The preference does not apply to goods or services exempted by statute or prohibited by Federal law, State law, or other funding source restrictions.
- The preference established in this policy does not prohibit the right of the City, or other authorized purchasing authority, to compare quality or fitness for use of supplies, materials, equipment and services proposed for purchase and compare qualifications, character, responsibility and fitness of all persons, firms or corporations submitting bids or proposals.
- The information contained herein may be subject to verification.
- A vendor who misrepresents the local preference status of its firm in a proposal or bid submitted to the City of Port Orange will lose the privilege to claim local preference status, and shall lose eligibility to claim local preference for a period of one (1) year. The City Manager may also recommend that the firm be referred for debarment.

BEFORE ME; the undersigned authority, in and for the State of Florida and the City of Port Orange personally appeared _____ who, after being sworn according to law, stated that he or she was authorized to represent _____ and to execute this affidavit on behalf of the said Business Entity and attests, under penalty of perjury, to the above.

(Form 7.12 – Local Business Affidavit of Eligibility – Page 2)

SWORN AND SUBSCRIBED BEFORE ME

SIGNATURE OF NOTARY PUBLIC

THIS _____ DAY OF _____, 20____

My Commission Expires: _____

NOTARY SEAL

SIGNATURE OF AFFIANT DATE

PRINTED NAME OF AFFIANT / TITLE

COMPANY

N/A

This document must be completed and returned with your Submittal



**ATTACHMENT 1 BID PROPOSAL SCHEDULE OF UNIT PRICING
BID FORM**

**CITY OF PORT ORANGE
BLEACHER REPLACEMENT SERVICES**

ITB # 17-02

Completed Exhibit 1 Bid Proposal form MUST be included with Bid Submission

Instruction to save Attachment from website: Perform "File Save As" and save spreadsheet to your computer.

Fill in pricing in highlighted green cells, preferably electronically.

Bidders are required to complete all fields shaded in green. All other fields will be automatically calculated.

NAME OF BUSINESS: Athletic Resources, Inc.

CONTACT PERSON: John M. Kriegbaum

EMAIL ADDRESS: matt@athleticresources.com

AUTHORIZED SIGNATURE:

ITEM #	DESCRIPTION	QTY	UNIT	UNIT COST INSTALLED	TOTAL COST
1	GYMNASIUM No.1 (PER SPECIFICATIONS LISTED IN SCOPE)	1	Ea.	\$ 9,490.00	\$ 9,490.00
2	GYMNASIUM No.2 (PER SPECIFICATIONS LISTED IN SCOPE)	1	Ea.	\$ 37,125.00	\$ 37,125.00
TOTAL BASE BID					\$ 46,615.00



8162 Lowbank Drive
Naples, Florida 34109
(239) 793-8900
WWW.ATHLETICRESOURCES.COM

BID CLARIFICATION

Sunday, December 04, 2016

PROJECT NAME: City of Port Orange Bleacher Replacement Services – ITB # 17-02

FOR DELIVERY / COMPLETION: 2017

ATHLETIC RESOURCES, INC. will provide all new material as specified below. All work will be performed in a substantial and timely, workmanlike manner to the manufactures specifications. Any changes or deviations will be approved in writing.

SCOPE OF WORK:

Gymnasium No. 1

\$9,490.00

1. Deliver and Install One Bank of Telescopic Bleachers by Sheridan Seating
 - a. 5 Rows x 34'6" Long
 - b. 115 Gross Plastic Molded Seats
 - c. Rails
 - d. Aisles
 - e. Column Cutouts
 - f. Manual Operation

Gymnasium No. 2

\$37,125.00

1. Deliver and Install Two Banks of Telescopic Bleachers by Sheridan Seating
 - a. 1 Bank: 5 Rows x 66' Long; 1 Bank: 5 Rows x 70' Long
 - b. 450 Gross Plastic Molded Seats
 - c. Rails
 - d. Aisles
 - e. Column Cutouts
 - f. Manual Operation

Electric Operation

1. Add \$2,020.00 for electric operation on Gymnasium No. 1 bleachers.
2. Add \$4,270.00 for electric operation on Gymnasium No. 2 bleachers.

EXCLUSIONS AND CLARIFICATIONS:

All electrical work to be completed by others.

Existing bleachers to be removed by others.

Price based on ordering, shipping, and installing Gymnasium No. 1 and Gymnasium No. 2 bleachers at the same time.

TOTAL AMOUNT PROPOSED: \$46,615.00

ATHLETIC RESOURCES: John M. Kriegbaum, President DATE: 12/4/16
John M. Kriegbaum, President

BID BOND

BID BOND

Bond No.: 71852676

KNOW ALL MEN BY THESE PRESENTS that Athletic Resources, Inc., as Contractor, duly authorized to conduct business in the State of Florida, whose principal place of business is located at 8162 Lowbank Drive, Naples, FL 34109, Tel.: 239-566-7828, (hereinafter called "PRINCIPAL"), and Western Surety Company, as SURETY, duly authorized to conduct business in the State of Florida, whose principal place of business is located at 333 South Wabash Avenue, 41st Floor, Chicago, IL 60604, Tel.: 215-766-1990 (hereinafter called "SURETY"), are held and firmly bound unto the City of Port Orange, Florida, as CITY, a Florida municipal corporation, whose address is City of Port Orange, 1000 City Center Circle, Port Orange, Florida 32129, Tel.: (386) 508-5501, (hereinafter called "OBLIGEE" or "CITY"), in the penal sum of 5% of Bid Amount dollars and (n/a)/100 (\$ 5% of Bid), lawful money of the United States, for the payment of which sum shall and truly be made, whereof PRINCIPAL and SURETY bind themselves, their heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

THE CONDITION OF THIS OBLIGATION IS SUCH that, whereas the Principal has submitted the accompanying bid, dated December 5, 2016, for:

Project Name / Bid No.: ITB #17-02: Bleacher Replacement Services

Project Address: Parks & Recreation Gymnasium
4655 City Center Circle
Port Orange, FL 32129

Legal Description: See Attached

Description of Work: Provide and Install New Bleachers in Two (2) Gymnasiums

NOW, THEREFORE,

A. If the principal shall not withdraw said bid within one hundred twenty (120) days after date of opening of the same, and shall within ten (10) days after the prescribed forms are presented to it for signature, enter into a written contract with the City in accordance with the bid as accepted, and give bonds with good and sufficient surety or sureties, as may be required, for the faithful performance and proper fulfillment of such contract, then the above obligations shall be void and of no effect, otherwise to remain in full force and virtue.

B. In the event of the withdrawal of said bid within the period specified, or the failure to enter into such contract and give such bonds within the time specified, if the principal shall pay the City the difference between the amount specified in said bid and the amount for which the City may procure the required work and supplies, if the latter amount be in excess of the former, then the above obligations shall be void and of no effect, otherwise to remain in full force and virtue.

IN WITNESS WHEREOF, the above parties have executed this instrument under their several seals, this 5th day of December, A.D. 2016, the name and corporate seal of each corporate party being hereto affixed and these presents duly signed by its undersigned representative, pursuant to authority of its governing body.

Note: If the firm is a sole ownership or partnership including limited liability company, two (2) witnesses are required to attest the signature. If the firm is a corporation, then the corporate secretary shall attest and affix the corporate seal (Attach power of attorney to original bid bond and financial statement of Surety Company).

PRINCIPAL: Athletic Resources, Inc.

Signature: John M. Kriegbaum
Corporate Officer & Title: President

ATTEST:

Signature: John M. Kriegbaum
Corporate Secretary (Affix Corporate Seal)

WITNESSES:

SURETY: Western Surety Company

Attorney-in-Fact (Signature): [Signature]
Name & Title: John D. Weisbrot, Attorney-in-Fact
Name of Local Resident Agent: John D. Weisbrot, Attorney-in-Fact
City, State, Zip: 6023A Kellers Church Road, Pipersville, PA 18947

ATTEST:

Signature: [Signature]
Corporate Secretary: Tracy Konopka, Underwriting Assistant
(Affix Corporate Seal)

* Non-Resident Agent

Telephone: _____
A.M. Best No.: 000974 NAIC No.: 13188

STATE OF PENNSYLVANIA
COUNTY OF BUCKS

Before me this day personally appeared John D. Weisbrot (affiant), who, being duly sworn, deposes and says that he/she is the Attorney-in-Fact for the Western Surety Company (corporate surety) and that this person has been authorized by Western Surety Company (corporate surety) to execute the foregoing bond on behalf of the Contractor named therein in favor of the City of Port Orange, Florida.

Signature of Affiant

Sworn to / Affirmed and subscribed before me this 5th day of December, 2016, by John D. Weisbrot, who is personally known to me or who produced n/a - Personally Known as identification.

NOTARY PUBLIC - STATE OF COMMONWEALTH OF PENNSYLVANIA

Type or print name: Patricia A. Tinsman
Commission No.: _____
Commission Expires: _____
(Seal) My Commission Expires Feb 12, 2019

END OF BID BOND

This document must be completed and returned with your Submittal

POWER OF ATTORNEY

(Irrevocable)

No. SP-

26256620

Know All Men by These Presents:

That this Power of Attorney is not valid or in effect unless attached to the bond which it authorizes executed, but may be detached by the approving officer if desired. That Western Surety Company, a corporation, does hereby make, constitute and appoint the following

TWO

2

authorized individuals:

AUTHORIZED INDIVIDUALS	AUTHORIZED INDIVIDUALS
JOHN D WEISBROT	PATRICIA A TINSMAN

in the City of **PIPERSVILLE**, State of **PENNSYLVANIA**, with limited authority, its true and lawful Attorney(s) in fact with full power and authority hereby conferred, to sign, execute, acknowledge and deliver for and on its behalf as Surety, the following described bond:

ONE CONTRACT SURETY: BID, PERFORMANCE AND PAYMENT BOND, UNDERTAKING, OR OTHER OBLIGATORY INSTRUMENT OF A SIMILAR NATURE IN AMOUNTS NOT EXCEEDING ONE MILLION AND NO/100 DOLLARS (1,000,000.00).**

The acknowledgment and execution of such bond by the said Attorney in Fact shall be as binding upon this Company as if such bond had been executed and acknowledged by the regularly elected officers of this Company.

All authority hereby conferred shall expire and terminate, without notice, unless used before midnight of

OCTOBER 31, 2021, but until such time shall be irrevocable and in full force and effect.

WESTERN SURETY COMPANY further certifies that the following is a true and exact copy of Section 7 of the By-Laws of Western Surety Company, duly adopted and now in force, to wit: "Section 7. All bonds, policies, undertakings, Powers of Attorney, or other obligations of the corporation shall be executed in the corporate name of the Company by the President, Secretary, any Assistant Secretary, Treasurer, or any Vice President, or by such other officers as the Board of Directors may authorize. The President, any Vice President, Secretary, any Assistant Secretary, or the Treasurer may appoint Attorneys in Fact or Agents who shall have authority to issue bonds, policies, or undertakings in the name of the Company. The corporate seal is not necessary for the validity of any bonds, policies, undertakings, Powers of Attorney or other obligations of the corporation. The signature of any such officer and the corporate seal may be printed by facsimile."

The penal amount of the bond herein described may be increased if there is attached to this Power, written authority so authorizing in the form of an endorsement, letter or telegram signed by the Underwriting Manager, Underwriting Consultant, Underwriting Specialist, Underwriter, President, Vice President, Assistant Vice President, Treasurer, Secretary or Assistant Secretary of Western Surety Company specifically authorizing said increase.

IN WITNESS WHEREOF, Western Surety Company has caused these presents to be executed by its Vice President with its corporate seal affixed this 13th day of June, 2016.

WESTERN SURETY COMPANY

STATE OF SOUTH DAKOTA

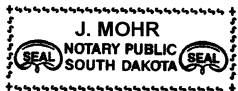
COUNTY OF MINNEHAHA

ss.

By

Paul T. Bruflat
Vice President

On this 13th day of June, in the year 2016, before me, a Notary Public, personally appeared Paul T. Bruflat, who being by me duly sworn, acknowledged that he signed the above Power of Attorney as the aforesaid officer of WESTERN SURETY COMPANY and acknowledged said instrument to be the voluntary act and deed of said corporation.



My Commission Expires June 23, 2021

I, the undersigned officer of Western Surety Company, a stock corporation of the State of South Dakota, do hereby certify that the attached Power of Attorney is in full force and effect and is irrevocable; and furthermore, that Section 7 of the By-Laws of the company as set forth in the Power of Attorney, is now in force.

In testimony whereof, I have hereunto set my hand and the seal of Western Surety Company this * 5th day of December 2016

WESTERN SURETY COMPANY

By

Paul T. Bruflat
Vice President

* IMPORTANT: This date must be filled in before it is attached to the bond and it must be the same date as the bond.

Form 749-6-2016

To validate bond authenticity, go to www.cnasurety.com > Owner/Obligee Services > Validate Bond Coverage.

NOTICE: This border must be BLUE. If it is not BLUE, this is not a certified copy. —>

WESTERN SURETY COMPANY
Sioux Falls, South Dakota
Statement of Net Admitted Assets and Liabilities
December 31, 2015

ASSETS

Bonds	\$ 1,694,282,606
Common stocks	24,218,356
Cash, cash equivalents, and short-term investments	25,339,975
Investment income due and accrued	20,596,996
Premiums and considerations	27,577,388
Amounts recoverable from reinsurers	9,329,459
Federal & foreign income taxes recoverable	3,597,963
Net deferred tax asset	16,095,068
Receivable from parent, subsidiaries, and affiliates	1,645,324
Other assets	1,016,832
Total Assets	<u>\$ 1,823,699,967</u>

LIABILITIES AND SURPLUS

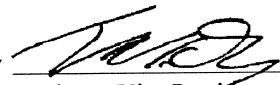
Losses	\$ 214,978,759
Loss adjustment expense	56,382,252
Other expenses	1,040,680
Taxes, License and fees	2,313,346
Unearned premiums	207,378,031
Advance premiums	5,566,599
Ceded reinsurance premiums payable	1,844,830
Provision for reinsurance	681,280
Other liabilities	10,175,884
Total Liabilities	<u>\$ 500,361,661</u>

Surplus Account:

Common stock	\$ 4,000,000
Gross paid in and contributed surplus	280,071,837
Unassigned funds	<u>1,039,266,469</u>
Surplus as regards policyholders	<u>\$ 1,323,338,306</u>
Total Liabilities and Capital	<u>\$ 1,823,699,967</u>

I, Troy Wray, Assistant Vice President of Western Surety Company hereby certify that the above is an accurate representation of the financial statement of the Company dated December 31, 2015, as filed with the various Insurance Departments and is a true and correct statement of the condition of Western Surety Company as of that date.

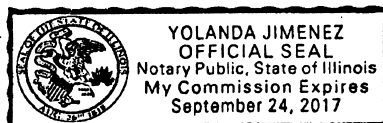
Western Surety Company

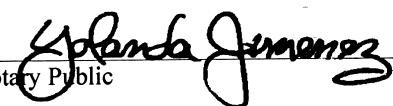
By 

Assistant Vice President

Subscribed and sworn to me this 21st day of March, 2016.

My commission expires:




Notary Public



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
11/17/2016

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Brown & Brown Of Florida, Inc. 1421 Pine Ridge Road Suite 200 Naples FL 34109		CONTACT NAME: PHONE (A/C, No, Ext): 239-262-5143 FAX (A/C, No): E-MAIL ADDRESS: certs@bbnaples.com	
INSURED Athletic Resources, Inc. 8162 Lowbank Drive Naples FL 34109		INSURER(S) AFFORDING COVERAGE INSURER A: American States Ins. Co. INSURER B: Travelers Indemnity Co. of Ame INSURER C: Liberty Insurance Und Inc INSURER D: INSURER E: INSURER F:	
ATHLE-1		NAIC # 19704 25666 19917	

COVERAGES

CERTIFICATE NUMBER: 1379363199

REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	☒ COMMERCIAL GENERAL LIABILITY ☐ CLAIMS-MADE ☒ OCCUR ☒ Contractual Liab GEN'L AGGREGATE LIMIT APPLIES PER: ☐ POLICY ☐ PRO-JECT ☐ LOC OTHER:			01CI52640960	11/13/2016	11/13/2017	EACH OCCURRENCE \$1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$200,000 MED EXP (Any one person) \$10,000 PERSONAL & ADV INJURY \$1,000,000 GENERAL AGGREGATE \$2,000,000 PRODUCTS - COMP/OP AGG \$2,000,000 \$
A	AUTOMOBILE LIABILITY ☐ ANY AUTO ☐ ALL OWNED AUTOS ☐ SCHEDULED AUTOS ☒ HIRED AUTOS ☒ NON-OWNED AUTOS			01CI52640960	11/13/2016	11/13/2017	COMBINED SINGLE LIMIT (Ea accident) \$1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
C	☒ UMBRELLA LIAB ☒ OCCUR ☐ EXCESS LIAB ☐ CLAIMS-MADE ☐ DED ☒ RETENTION \$10,000			01-SU-425775-60	11/13/2016	11/13/2017	EACH OCCURRENCE \$4,000,000 AGGREGATE \$4,000,000 \$
B	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below		☐ Y/N N/A	IHUB4276T23016	5/18/2016	5/18/2017	☒ PER STATUTE ☐ OTH-ER E.L. EACH ACCIDENT \$1,000,000 E.L. DISEASE - EA EMPLOYEE \$1,000,000 E.L. DISEASE - POLICY LIMIT \$1,000,000
SAMPLE							

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

Athletic Flooring Sales and Installation.
Automatic Status - Owners Lessees, or Contractors for Certificate Holder on a primary and noncontributory basis when required by written contract per Form #CG8674 (10-02) & #CG8672 (10-02 with respect to Ongoing and Completed Operations. Designated Construction Project(s) General Aggregate Limit per CG2503 (05-09) with regards to designated construction project(s) all when required by written contract. General Liability Blanket Waiver of Subrogation Applies when required by written contract per See Attached...

CERTIFICATE HOLDER

CANCELLATION

City of North Port 5455 Pan American Blvd Property Maintenance Division North Port FL 34287	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. AUTHORIZED REPRESENTATIVE
--	---

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**ADDITIONAL REMARKS SCHEDULE**Page 1 of 1

AGENCY Brown & Brown Of Florida, Inc.		NAMED INSURED Athletic Resources, Inc. 8162 Lowbank Drive Naples FL 34109
POLICY NUMBER		
CARRIER	NAIC CODE	EFFECTIVE DATE:

ADDITIONAL REMARKS**THIS ADDITIONAL REMARKS FORM IS A SCHEDULE TO ACORD FORM,****FORM NUMBER:** 25 **FORM TITLE:** CERTIFICATE OF LIABILITY INSURANCE

#CG2404 (05-09) Blanket Waiver of Subrogation. Worker's Compensation Waiver of Subrogation in favor of certificate holder per Form #WC00031300 Waiver of Our Right to Recover Endorsement.



**CITY OF PORT ORANGE, FLORIDA
ITB TABULATION SHEET**

ALL BIDS ACCEPTED BY THE CITY OF PORT ORANGE ARE SUBJECT TO THE CITY'S TERMS AND CONDITIONS. ANY AND ALL ADDITIONAL TERMS AND CONDITIONS SUBMITTED BY THE BIDDERS ARE REJECTED AND SHALL HAVE NO FORCE AND EFFECT. BIDS FROM THE BIDDERS LISTED HEREIN ARE THE ONLY BIDS RECEIVED TIMELY AS OF THE OPENING DATE AND TIME. ALL OTHER BIDS SUBMITTED IN RESPONSE TO THIS SOLICITATION, IF ANY, ARE HEREBY REJECTED AS LATE. ALL BIDS ARE SUBJECT TO REVIEW BY THE CITY AND AWARD REQUIRES A FORMAL CONTRACT AND APPROVAL BY CITY COUNCIL.

ITB NUMBER: ITB-17-02
ITB TITLE: ITB #17-02 BLEACHER REPLACEMENT SERVICES
OPENING DATE/TIME: 12-05-16 AT 2:30 P.M.

		Response 1	Response 2	Response 3	Response 4
Submittal Required Forms (mark "yes" or "no")		Athletic Resources Inc. of Naples, FL	SSE & Associates Inc. of New Smyrna Beach, FL		
1	Form 7.1 Submittal Checklist	YES	YES		
2	Form 7.2 Bidder's Acknowledgment	YES	YES		
3	Form 7.3 Addendum & Change Order Acknowledgement	YES	YES		
4	Form 7.4 Drug Free Preference Statement	YES	YES		
5	Form 7.5 Statement on Public Entity Crimes	YES	YES		
6	Form 7.6 Affidavit of Anti-Collusion	YES	YES		
7	Form 7.7 Authorized Signatures	YES	YES		
8	Form 7.8 Statement of Vendors Qualifications	YES	YES		
9	Form 7.9 Professional References	YES	YES		
10	Form 7.10 Listing of Subcontractors	YES	YES		
11	Form 7.11 Vendor Application	YES	YES		
12	W-9 Form	YES	YES		
13	Form 7.12 Local Business Affidavit	YES	YES		
14	Attachment 1 -Bid Proposal	YES	YES		
15	Bid Bond	YES	YES		
16	Copy of Insurance	YES	YES		
1 Original and 1 Digital Copy		YES	YES		
Deemed Responsive?		YES	YES		
TOTAL BID		\$ 52,905.00	\$ 59,975.00	\$ -	\$ -

Opened and tabulated by: David Battaglia, Purchasing Agent
Witnessed by: O. T. Powell, Buyer



INTENT TO AWARD

ITB #17-02

BLEACHER REPLACEMENT SERVICES

December 05, 2016

On December 5, 2016 Purchasing received two (2) bid submittals for ITB #17-02 Bleacher Replacement Services.

After review of the bids submitted, the City Staff has made a recommendation to award to Athletic Resources Inc. of Naples, Florida in the amount of \$52,905.

Recommendation to award will be presented for City Council approval on January 17, 2016.

**Diana M. Fye, CPPB, FCPA
Purchasing Manager**



CITY COUNCIL AGENDA ITEM

REQUESTED COUNCIL MEETING DATE 01/17/2017

Consent item: No

SUBJECT: (B7) Hurricane Matthew Federally Funded Public Assistance State Agreement

DEPARTMENT: Finance

GOAL:

RECOMMENDED MOTION: Move to approve the Federally Funded Public Assistance State Agreement

SUMMARY: Prior to applying for a grant, Policy 1-24 (copy attached) requires City Council approval

In order to reimburse the City for expenditures related to Hurricane Matthew, the attached Federally Funded Public Assistance State Agreement is required to be filed with the Florida Division of Emergency Management.

The City will be eligible to receive 75% of allowed expenditures from the Federal government and an additional 12.5% from the State of Florida. Reimbursements rates are slightly higher for certain categories of work completed within the first 30 days following the declared natural disaster, and slightly lower for private property debris removal due to the State's decision to suspend its 12.5% cost sharing for private property debris removal.

Project No.: Funding Account No.:

ATTACHMENTS:

1.	Policy 1-24 Grant Applications & Subsequent Administration	POLICY 1-24 GRANT APPLICATIONS & SUBSEQUENT ADMINISTRATION.pdf
2.	Instructions for Public Assistance Agreement	FEMA Instructions for Fed PA Agreement.pdf
3.	FEMA Public Assistance State Agreement	FEMA Public Assistance State Agreement.pdf
4.	Attachment A-Statement of Assurances	FEMA Attachment A-Statement of Assurances.pdf
5.	Attachment B-Public Assistance Quarterly Report	FEMA Attachment B-PA Qtrly Report.pdf
6.	Attachment C-Vendor Certification (blank)	FEMA Attachment C-Vendor Certification.pdf
7.	Attachment D-Designation of Authority	FEMA Attachment D-Designation of Authority.pdf
8.	Attachment E-OIG Audit	FEMA Attachment E-OIG Audit

	Acknowledgement	Acknowledgement.pdf
9.	Attachment F-Advance Payment (not needed)	FEMA Attachment F-Advance Payment (not needed).pdf

Tracey Riehm	Created/Initiated - 12/27/2016
Tracey Riehm	Approved - 12/27/2016
Margaret Roberts	Approved - 01/05/2017
M. Jake Johansson	Approved - 01/05/2017
Robin Fenwick	Final Approval - 01/05/2017

Effective 1/8/2015
EFFECTIVE 10/01/99
(Supersedes Policy dated 10/01/93)

CHAPTER 1
GENERAL ADMINISTRATION
POLICY 1 - 24

GRANT APPLICATIONS AND SUBSEQUENT ADMINISTRATION

The purpose of this directive is to set forth City policy on applying for outside grants and subsequently administering all grant compliance.

STATEMENT OF POLICY

Applicability

The provisions of this directive apply to all departments within the City.

In General

Definitions:

Grants Coordinator- The responsibility of grant administration lies with the Grants Coordinator and the designated Project Manager; from the preparation of the initial grant application to request for final payment from the Grantor. The Grants Coordinator will retain copies of all grant documentation in conjunction with the Grantee Department to ensure grant restriction compliance and intra-departmental coordination. The Grants Coordinator inspects project sites and/or reviews project completion dates. The Grants Coordinator is solely responsible for providing all original documents, starting with the acceptance letter, to the City Clerk's Office. The Grants Coordinator shall provide copies of all grant documentation to the Finance Department for record keeping and the preparation of all requests for payment to be invoiced by the Finance Department. If necessary, the Grants Coordinator, along with the Finance Department, will work with outside audit personnel during annual grant compliance examination.

Grantee Department- The specific department is responsible for all grant administration. One City employee in the Grantee Department should be designated as Grant Liaison or Project Manager with concurrence with the City Manager. The Grant Liaison/Project Manager shall be the responsible person that in the following order, will:

- a) Identify available grants
- b) Compile capital and continuing operational budgetary information
- c) Contact Department Heads from other grant participating departments to obtain their concurrence (project viability, employee utilization, monetary participation, etc.)

- d) Prepare the Grant Application for final review by the Grants Coordinator prior to submission and seeking council approval.
- e) Notify the Grants Coordinator of any delays in the project completion date.
- f) Submit grant documentation and all evidence of grant compliance to the Grants Coordinator on a regular basis including amendments to a grant and/or contract that occurs after the initial award date.

Participating Departments- The operating departments in the City other than the Grantee Department that will contribute to (employee utilization or monetarily) the successful completion of the grant project or continued operation and maintenance after initial construction or purchase.

Procedures

- A. Each department will be responsible for identifying outside grants that can be used to subsidize departmental budgetary needs or provide full or partial funding for capital acquisition or construction. After a specific grant has been identified for such need, it shall be the department's responsibility to gather information regarding the grant and summarizing the scope of the grant funded project from both a monetary, capital, and continuing operational standpoint.
- B. Prior to submission of the grant application, the Grants Coordinator will prepare the appropriate Council Agenda Item Form so an approval of City Council is obtained prior to grant application preparation and submission.
- C. After Council and staff have reached consensus that the grant project is desirable for our community, the grant application will then be prepared by the Grantee Department/Project Manager with assistance from the Grants Coordinator, if needed. In addition to the number of copies required by the Grantor Agency, this grant application will also be distributed internally by the Grants Coordinator with one copy going to the City Clerk, and one copy remaining with the specific Grantee Department.
- D. Upon notice from the Grantor Agency that the City has not won the grant award, the Grants Coordinator shall notify the City Manager's office and the Grantee Department that the City was denied the grant. If, on the other hand, the City is awarded the grant, then the Grants Coordinator shall be responsible for preparing the appropriate Council Agenda Item Form so that City Council can approve acceptance of the grant. It shall be the responsibility of the Grantee Department to provide one copy of the Grant Acceptance Memorandum to the Grants Coordinator and to complete a total project budget, showing all sources and uses of funds.

- E. It shall be the responsibility of the Grantee Department to communicate with the Grants Coordinator on at least a monthly basis so that grant compliance and administration may be properly reviewed and documented. The Grantee Department will be responsible for the timely completion of the grant project. The Grantee Department may be called upon by the Grants Coordinator at any time during the grant project to inspect the project site and/or review the project completion date.
- F. Grant requests for payment shall be prepared at least monthly, or based on the Grantor Agency's guideline, by the Grantee Department and submitted to the Grants Coordinator before the 20th of each month for billing to the Grantor Agency. All final requests for payment must be marked FINAL. The Grants Coordinator will coordinate with the Finance Department for invoicing all pay requests.
- G. On the final request for payment to the Grantor Agency, the Grants Coordinator will be notified by the Grantee Department that the grant project is now complete and that the City is only awaiting final payment from the Grantor. All final requests for payment must be submitted to the Grants Coordinator within 30 days of the project completion date.



David T. Harden, Interim City Manager
January 8, 2015

**INSTRUCTIONS TO EXECUTE THE
FEDERALLY FUNDED PUBLIC ASSISTANCE FUNDING AGREEMENT
BY THE SUBGRANTEE/SUBRECIPIENT**

FEMA's Public Assistance program is a Federal grant to aid State and Local governments in returning a disaster area to pre-disaster conditions. A minimum of 75% of eligible cost is provided to primarily address the repair and restoration of public facilities and infrastructure which have been damaged or destroyed, or the restoration of services which were negatively impacted. Eligible Applicants are State, tribal, or local governments, and the owners or operators of certain private nonprofit facilities. In order to be eligible for federal funds, you were required to submit a Request for Public Assistance (RPA). That request has been approved.

FEMA and the State share the responsibility for making Public Assistance funds available to the Subgrantee/Subrecipient. Funds that FEMA obligates to the State via electronic transfer, reside in the Federal account (SMARTLINK) until the State is ready to award grants to the appropriate Subgrantees/Subrecipients.

EXECUTION OF THE AGREEMENT

SIGNATURE AUTHORITY

1. Because your request for Public Assistance (RPA) was approved, it is now necessary for you, as the Subgrantee/Subrecipient, to enter into the attached Agreement with the Florida Division of Emergency Management (the Grantee/Recipient). The following specific officers/officials, or their authorized designees, are required to sign this Agreement on behalf of the specified type of Subgrantee/Subrecipient. (NOTE: If this Agreement is signed by a designee, a duly authenticated delegation of authority evidencing the signer's authority to execute the Agreement for and on behalf of the Subgrantee/Subrecipient *must* be attached to the Agreement for review by the Division.)
 - a. **Corporation:** the chair of the board of directors or president;
 - b. **City:** the mayor or city manager;
 - c. **County:** the chair of the board of county commissioners or the county manager;
 - d. **School Board:** the superintendent;
 - e. **Fire District:** the district chief;
 - f. **Special Districts:** the executive director;
 - g. **Institution of Higher Education:** the president of the institution;
 - h. **Charter School:** the chair of the board of directors;
 - i. **County Sheriff's Office:** the sheriff;
 - j. **State Agencies:** the Secretary or Director of the Agency;
 - k. **All other Subgrantee/Subrecipients:** the chief executive officer of the entity.
2. Copies of the Agreement can be obtained through FloridaPA.org by anyone authorized by the Subgrantee/Subrecipient to access the system.

CHECKLIST FOR EXECUTING THE FUNDING AGREEMENT

In what may be a change from how the Funding Agreement has been executed in previous disasters, it is now necessary take the following steps to ensure that the Funding Agreement and associated documentation is processed as quickly as possible:

- O 1. Download the Agreement and these instructions from the "Funding Agreement" section of your FloridaPA.org Subgrantee/Subrecipient Account Summary page for disaster FEMA-4283-DR-FL within www.FloridaPA.org;
- O 2. Complete all user-defined fields, save the Agreement to your local computer, then print a copy of the Agreement with all attachments. (Print two copies if you want to receive an executed copy with original signatures back from the Division);
- O 3. Have the officer/official listed above, or their designee with signature authority, sign:
 - a. the Statement of Assurances signature page (Attachment A);
 - b. the Funding Agreement on page 23, under the subsection "For the Subgrantee/Subrecipient," (If signed by a designee, a duly authenticated delegation of authority evidencing the signer's authority to execute the Agreement for and on behalf of the Subgrantee/Subrecipient must be attached.); and
 - c. the bottom of Attachment D, on the line for "Subgrantee/Subrecipient Authority/Board/Commission Signature."
 - d. The bottom of Attachment E on the line "FOR: Subgrantee/Subrecipient BY:"
- O 4. Scan a PDF copy of the Agreement with *all* Attachments and upload the PDF copy into www.FloridaPA.org. (This can be accomplished by selecting "View Funding Agreement" on the Event Summary page for disaster FEMA-4283-DR-FL.)
- O 5. Once uploaded, advance the Agreement in www.FloridaPA.org, where it will be reviewed and advanced for legal review.
- O 6. Send the original(s) of the signed Agreement by U.S. Mail or courier service to the following address:

Attn: Evan Rosenberg, Bureau Chief
Florida Division of Emergency Management
2555 Shumard Oak Boulevard
Tallahassee, FL 32399-2100.

Once received, the Division's representative will execute the Agreement and a scanned copy of the fully executed Agreement will be uploaded into www.FloridaPA.org. (If the Subgrantee/Subrecipient has sent two copies of the Funding Agreement, each with original signatures, the Division will return one fully executed copy with original signatures to the Subgrantee/Subrecipient. If only one copy with original signatures has been sent by the Subgrantee/Subrecipient, then the Division will retain the resulting fully executed copy of the Agreement.)

OTHER INFORMATION

It is the Subgrantee's/Subrecipient's responsibility to review all of the provisions in the Agreement and Attachments, and completely fulfill its duties and obligations thereunder. While

the provisions may not be modified, the Subgrantee/Subrecipient has the right to consult with counsel and have counsel review the Agreement before signing and submitting it to the Division for acceptance.

While all of the provisions are important and must be complied with, the following provisions are especially important for the Subgrantee/Subrecipient to be aware of:

GRANTEE'S/RECIPIENT'S WEB-BASED PROJECT MANAGEMENT SYSTEM (FloridaPA.org)

Subgrantees/Subrecipients *must* use the Grantee's/Recipient's web-based project management system, FloridaPA.org, (available at www.FloridaPA.org) to access and exchange project information with the State throughout the project's life. This includes processing advances, reimbursement requests, quarterly reports, final inspection schedules, change requests, time extensions, and other services as identified in the Agreement. Training on this system will be supplied by the Grantee/Recipient upon request by the Subgrantee/Subrecipient. *The Subgrantee/Subrecipient is required to have working knowledge of the FloridaPA.org system.*

TIMELINE FOR PERFORMANCE OF WORK

COMPLETION DATES

In accordance with 44 C.F.R. § 206.204, the Subgrantee/Subrecipient must complete all projects – whether small projects or large projects – no later than 18 months from the date a major disaster or emergency is declared by the President, except that the Subgrantee/Subrecipient only has 6 months to complete projects related to debris removal and emergency work. Based on extenuating circumstances or unusual project requirements beyond the control of the Subgrantee/Subrecipient, the Grantee/Recipient may – but is not required to – extend the completion deadline for an additional 6 months for debris removal and emergency work, and 30 months for permanent restoration work. The Subgrantee/Subrecipient must notify the State and certify work is complete on small projects.

CLOSEOUT

The Public Assistance Program is considered programmatically closed when FEMA assures that all of the grants awarded under this Agreement for a disaster meet the statutory and regulatory requirements that govern the program. To achieve programmatic closure, the Grantee/Recipient ensures that all funds have been obligated and all work has been completed in accordance with this Agreement. In addition, FEMA must resolve any appeals before programmatic closure is complete. Financial reconciliation of the grant, or grant closure, occurs later, when FEMA and the Grantee/Recipient (State) reach agreement that all applicable administrative actions related to the Public Assistance Program are complete and all program funds related to the disaster have been reconciled. A signed Project Completion and Certification report is required to close this Agreement.

Contract Number: 17-PA-U5-06-74-01-131

Subgrantee/Subrecipient: Port Orange, City Of

FIPS/PAID Number: 127-58575-00

HURRICANE MATTHEW DISASTER DECLARATION (FEMA-4283-DR-FL)

Federally Funded Public Assistance State Agreement

THIS AGREEMENT is entered into by the State of Florida, Division of Emergency Management, whose headquarters is in Tallahassee, Leon County, Florida (hereafter referred to as the "Grantee/Recipient"), and:

City of Port Orange
(hereinafter referred to as the "Subgrantee/Subrecipient").

WHEREAS,

On October 8, 2016, President Barack H. Obama issued a Major Disaster Declaration designated FEMA-4283-DR-FL for the State of Florida as a result of Hurricane Matthew; and

WHEREAS,

The Declaration, as amended, authorizes Public Assistance funding for eligible disaster recovery efforts in Bradford, Brevard, Clay, Duval, Flagler, Indian River, Lake, Martin, Nassau, Palm Beach, Putnam, Seminole, St. Johns, St. Lucie, and Volusia Counties.

WHEREAS,

The FEMA-State Agreement executed October 12, 2016, and subsequently amended, between the State of Florida and the Federal Emergency Management Agency (FEMA) governing the use of such funds requires the State to share the costs eligible for federal financial assistance, and the State has undertaken to share those costs, as appropriated, with its Subgrantees/Subrecipients; and

WHEREAS,

The Subgrantee/Subrecipient is located in the affected area and appears to have suffered eligible damage; now

THEREFORE, the Grantee/Recipient and the Subgrantee/Subrecipient, as evidenced by the execution of this document by affixing the signatures of the parties' authorized representatives below, agree to the following:

1) DEFINITIONS.

- a. As used in this Agreement, the following terms have the following meanings unless another meaning is specified elsewhere:
 - i. **Agreement Sum:** is the Grantee's/Recipient's amount of reimbursement to the Subgrantee/Subrecipient for its verified expenses, subject to the scope of work identified in the Project Worksheet for Small and/or Large Projects.
 - ii. **Eligible activities:** are those activities authorized in the FEMA-State Agreement (located in FloridaPA.org on the main Disaster Summary Page

under "documents"), and in the Robert T. Stafford Disaster Relief and Emergency Assistance Act, Public Law 93-288, as amended, 42 U.S.C §§ 5121-5207 (Stafford Act); in accordance with 44 C.F.R.; 2 C.F.R.; and applicable policies of both the State of Florida and FEMA.

- iii. **FEMA - State Agreement:** is the agreement executed October 12, 2016, and amended from time to time, between the FEMA and the State of Florida, for a presidential major disaster declaration designated FEMA-4283-DR-FL.
- iv. **Large Project Threshold:** When the approved estimate of eligible costs for an individual project under this major disaster is \$123,100⁰⁰ or greater, it is a Large Project.
- v. **P.2. package:** is the formal notification used for all versions of a Project Worksheet with a change in the funding amount.
- vi. **Project Worksheet (Subgrant Application):** is the primary form used to document the location, damage description and dimensions, scope of work, Special Considerations, and cost estimates for each small or large project. It is the basis for the grant.
- vii. **Reasonable:** for purposes of access to records, is construed according to the circumstances, but ordinarily means during the normal business hours of 8:00 a.m. to 5:00 p.m., local time, on any Monday through Friday that is not a state or federal holiday.
- viii. **Zero (0) Dollar Notification Letter:** is the notification for projects where there are scope changes, improved or alternate projects, ineligible cost or a zero (0) dollar variance closeout.

2) AGREEMENT TO BE BOUND.

- a. The parties enter into this Agreement intending to be bound by same.
- b. The parties specifically agree to comply with all conditions, obligations, and duties imposed by this Agreement, by the FEMA - State Agreement, and by all applicable State and federal laws, regulations, and policies without limitation, including but not limited to 44 C.F.R.; 2 C.F.R.; and applicable policies of both the State of Florida and FEMA. The Subgrantee/Subrecipient further agrees to comply with the Statement of Assurances attached hereto as Attachment "A" and incorporated herein by reference.

3) FUNDING.

- a. The federal share of the eligible costs specified in the Project Worksheets under this Agreement is seventy-five percent (75%) of such costs, unless a higher percentage is approved. The non-federal share is the remaining amount.
- b. Payment of all or a specified portion of the nonfederal share of such costs is contingent upon a potential future State appropriation defining the apportionment of the nonfederal share.
- c. The Subgrantee/Subrecipient acknowledges that the Grantee's/Recipient's obligation to pay under this Agreement is contingent upon an appropriation by the

State Legislature, subject to any modification in accordance with Chapter 216, Florida Statutes, or the Florida Constitution.

- d. Disbursement must be consistent with section 252.37, Florida Statutes. Administrative costs in addition to the Project Worksheets that are otherwise eligible under 44 C.F.R. Part 206.228 and do not require matching funds may also be funded by FEMA.
- e. Subject to an advance payment of funds by the Grantee/Recipient to the Subgrantee/Subrecipient, the Grantee/Recipient will provide funds on a cost reimbursement basis to the Subgrantee/Subrecipient for eligible activities approved by the Grantee/Recipient and FEMA, as specified in the approved Subgrantee/Subrecipient Project Worksheets.
- f. The Grantee/Recipient may provide some portion of any nonfederal share for some Subgrantees/Subrecipients. As a condition of receipt of the federal funding, the Subgrantee/Subrecipient agrees to provide any nonfederal share not paid by the Grantee/Recipient. The federal allowable costs must be determined as per 2 C.F.R. and 44 C.F.R. §§ 13 and 206.
- g. The approved Project Worksheets will be transmitted to the Subgrantee/Subrecipient, and must state the cumulative funding allowed, the scope of the eligible project, and the costs eligible under this Agreement.
- h. Project Worksheets may obligate or deobligate funding, thereby amending the total funding for the project. **These actions will be denoted in the final version of the obligated project worksheet for each project.**
- i. The approved Project Worksheets will document the total eligible costs and the total federal share of those costs.
- j. As a condition of funding under this Agreement, the Subgrantee/Subrecipient agrees that the Grantee/Recipient may withhold funds otherwise payable to the Subgrantee/Subrecipient from any disbursement to the Grantee/Recipient, by FEMA or any other source, upon a determination by the Grantee/Recipient or FEMA that funds exceeding the eligible costs have been disbursed to the Subgrantee/Subrecipient pursuant to this Agreement or any other funding agreement administered by the Grantee/Recipient.
- k. The Subgrantee/Subrecipient understands and agrees that the Grantee/Recipient may offset any funds due and payable to the Subgrantee/Subrecipient until the debt to the State is satisfied. In such event, the Grantee/Recipient will notify the Subgrantee/Subrecipient via the entry of notes in FloridaPA.org.

4) INSURANCE.

- a. The Subgrantee/Subrecipient understands and agrees that disaster funding for insurable facilities provided by FEMA is intended to supplement, not replace, financial assistance from insurance coverage and/or other sources. Actual or anticipated insurance proceeds must be deducted from all applicable FEMA Public Assistance grants in order to avoid a duplication of benefits. The Subgrantee/Subrecipient further understands and agrees that If Public Assistance funding is obligated for work that is subsequently determined to be covered by insurance and/or other sources of funding, FEMA must deobligate the funds per Stafford Act Sections 101 (b)(4) and 312 (c).

- b. As a condition of funding under this Agreement, pursuant to 44 C.F.R. §§ 206.252-253, for damaged facilities, the Subgrantee/Subrecipient understands it must, and it agrees to, maintain such types of insurance as are reasonable and necessary to protect against future loss for the anticipated life of the restorative work or the insured facility, whichever is lesser. Except that the Grantee/Recipient acknowledges FEMA does not require insurance to be obtained and maintained for projects where the total eligible damage is less than \$5,000⁰⁰.
- c. In addition to the preceding requirements, the Subgrantee/Subrecipient understands it is required to obtain and maintain insurance on certain permanent work projects in order to be eligible for Public Assistance funding in future disasters pursuant to § 311 of the Stafford Act. As stated in the Stafford Act, "Such coverage must at a minimum be in the amount of the eligible project costs." Further, the Stafford Act, requires a Subgrantee/Subrecipient to purchase and maintain insurance, where that insurance is "reasonably available, adequate or necessary to protect against future loss" to an insurable facility as a condition for receiving disaster assistance funding. The Act further states "If the requirement to purchase insurance is not met, FEMA will not provide assistance for damages sustained in the current disaster." If the State Insurance Commissioner certifies that the type and extent of insurance is not "reasonably available, adequate or necessary to protect against future loss" to an insurable facility, the Regional Administrator may modify or waive the requirement in conformity with the certification.
- d. The Subgrantee/Subrecipient understands and agrees it is responsible for being aware of, and complying with, all insurance considerations contained in the Stafford Act and in 44 C.F.R. §§ 206.252-253.
- e. The Subgrantee/Subrecipient agrees to notify the Grantee/Recipient in writing within thirty (30) days of the date it becomes aware of any insurance coverage for the damage identified on the applicable Project Worksheets and of any entitlement to compensation or indemnification from such insurance. The Subgrantee/Subrecipient further agrees to provide all pertinent insurance information, including but not limited to copies of all policies, declarations pages, insuring agreements, conditions, exclusions, Statement of Loss, and Statement of Values for each insured damaged facility.
- f. The Subgrantee/Subrecipient understands and agrees that it is required to pursue payment under its insurance policies to the best of its ability to maximize potential coverage available.

5) DUPLICATION OF BENEFITS PROHIBITED.

- a. The Subgrantee/Subrecipient understands it may not receive funding under this Agreement to pay for damage covered by insurance, nor may the Subgrantee/Subrecipient receive any other duplicate benefits from any source whatsoever.
- b. The Subgrantee/Subrecipient agrees to reimburse the Grantee/Recipient if it receives any duplicate benefits, from any source, for any damage identified on the applicable Project Worksheets, for which the Subgrantee/Subrecipient has received payment from the Grantee/Recipient.
- c. The Subgrantee/Subrecipient agrees to notify the Grantee/Recipient in writing within thirty (30) days of the date it becomes aware of the possible availability of,

applies for, or receives funds, regardless of the source, which could reasonably be considered as duplicate benefits.

- d. In the event the Grantee/Recipient determines the Subgrantee/Subrecipient has received duplicate benefits, the Subgrantee/Subrecipient gives the Grantee/Recipient and/or the Chief Financial Officer of the State of Florida, the express authority to offset the amount of any such duplicate benefits by withholding them from any other funds otherwise due and payable to the Subgrantee/Subrecipient, and to use such remedies as may be available administratively, at law, or at equity, to recover such benefits.

6) COMPLIANCE WITH PLANNING/PERMITTING REGULATIONS AND LAWS.

- a. The Subgrantee/Subrecipient is responsible for the implementation and completion of the approved projects described in the Project Worksheets in a manner acceptable to Grantee/Recipient, and in accordance with applicable Local, State, and Federal legal requirements.
- b. If applicable, the contract documents for any project undertaken by the Subgrantee/Subrecipient, and any land use permitted by or engaged in by the Subgrantee/Subrecipient, must be consistent with the local government comprehensive plan.
- c. The Subgrantee/Subrecipient must ensure that any development or development order complies with all applicable planning, permitting, and building requirements including, but not limited to, the National Environmental Policy Act and the National Historic Preservation Act.
- d. The Subgrantee/Subrecipient must engage such competent, properly licensed, engineering, environmental, archeological, building, and other technical and professional assistance at all project sites as may be needed to ensure that the project complies with the contract documents.

7) DOCUMENTATION AND INSPECTIONS.

- a. The Subgrantee/Subrecipient must create and maintain documentation of work performed and costs incurred on each project site identified in a Project Worksheet sufficient to permit a formal audit comporting with ordinary, customary and prudent public accounting requirements. If the Grantee/Recipient determines the Subgrantee/Subrecipient has failed to create and maintain such documentation, the Grantee/Recipient may, in its sole discretion, terminate further funding under this Agreement. In such event the Subgrantee/Subrecipient must, within sixty (60) days of receipt of Notice by the Grantee/Recipient, reimburse the Grantee/Recipient for all payments disbursed to the Subgrantee/Subrecipient, together with any and all accrued interest.
 - i. Failure of the Grantee/Recipient to terminate funding when a Subgrantee's/Subrecipient's breach is discovered does not act as a waiver of the Grantee's/Recipient's right to enforce this provision later, nor does failure to enforce this provision in one instance act as a waiver to enforce this provision in other instances.
- b. For all projects, the Subgrantee/Subrecipient must state on the "Project Completion and Certification Report" that all work was performed in accordance with this

Agreement and the requirements in each Project Worksheet, and must state the date of completion.

- c. For Small Projects, the Subgrantee/Subrecipient must notify the State when work is complete and must upload photographs clearly demonstrating completion of the work to the Subgrantee/Subrecipient's FloridaPA.org account.
- d. For Large Projects the Subgrantee/Subrecipient must submit a Request for Closeout on FloridaPA.org, and include.
 - i. a Request for Reimbursement (if funds are owed to the Subgrantee/Subrecipient); and
 - ii. a Summary of Documentation which is automatically created when the request for closeout is submitted on FloridaPA.org.
- e. To ensure that all work has been performed within the scope of work specified on the Project Worksheets, the Grantee/Recipient will conduct final inspections on Large Projects, and may, at its sole discretion, select one or more Small Projects to be inspected. Costs determined to be outside of the approved scope of work and/or outside of the approved performance period cannot be reimbursed.
- f. Interim Inspections may be requested by the Subgrantee/Subrecipient, on both small and large projects, to:
 - i. conduct insurance reconciliations;
 - ii. review an alternate scope of work;
 - iii. review an improved scope of work; and/or
 - iv. validate scope of work and/or cost.
- g. Interim Inspections may be scheduled and submitted by the Grantee/Recipient as a request in FloridaPA.org under the following conditions:
 - i. a quarterly report has not been updated between quarters;
 - ii. the Subgrantee/Subrecipient is not submitting Requests for Reimbursement (RFR's) in a timely manner;
 - iii. requests for a Time Extension have been made that exceed the Grantee's/Recipient's authority to approve; and/or
 - iv. there are issues or concerns identified by the Grantee/Recipient that may impact funding under this agreement
- h. The Subgrantee/Subrecipient must submit a request Large Project closeout in FloridaPA.org no later than sixty (60) days after the project's completion.
 - i. The Grantee/Recipient will use its authority to submit a request for project closeout if the Subgrantee/Subrecipient has identified the project to be complete but has failed to submit the request for closeout.

8) PAYMENT.

- a. The Grantee/Recipient agrees to disburse the eligible costs to the Subgrantee/Subrecipient in accordance with the following procedures:

- i. **Funding for Small Projects:** Small project funding will be based on estimated costs, only if actual costs are not yet available. Payment is made on the basis of the initial approved amount, whether estimated or actual. Revisions to the initial Project Worksheet may be required if there are omissions or changes in the scope of work. (Revisions to the Project Worksheets may result in changes in funding level and/or category.) Payment methods are fully described in FEMA's Public Assistance Program and Policy Guide (January 2016). A request to increase cost on small projects is only allowed under a request for a Net Small Project Overrun. A Small Project Netting will require the inspection of *all* small projects to ensure that both the scope of work was completed and that all combined funds were expended.
 1. The Grantee/Recipient agrees to disburse the federal and nonfederal shares of the eligible costs for Small Projects to the Subgrantee/Subrecipient as soon as practicable after execution of this Agreement and formal notification by FEMA of its obligation of the pertinent Small Project Worksheet.
- ii. **Funding for Large Projects:** Although Large project funding must be based on documented actual costs, most Large Projects are initially approved based on estimated costs. Funds are made available to the Subgrantee/Subrecipient when work is in progress and funds have been expended with documentation of costs available. When all work associated with the project is complete, the State will perform a reconciliation of actual costs and will transmit the information to FEMA for its consideration for final funding adjustments.
 1. The Grantee/Recipient agrees to reimburse the Subgrantee/Subrecipient for the federal and nonfederal shares of the eligible costs for Large Projects as soon as practicable after execution of this Agreement and formal notification by FEMA of its approval of the pertinent Large Project Worksheet and submission of a Request for Reimbursement (RFR) by the Subgrantee/Subrecipient. The submission from the Subgrantee/Subrecipient requesting this reimbursement must include:
 - a) a Request for Reimbursement (available in FloridaPA.org);
 - b) a Summary of Documentation (SOD) which is titled Reimbursement Detail Report in FloridaPA.org and is automatically created when the Request for Reimbursement is submitted (and is supported by copies of original documents such as, but not limited to, contract documents, insurance policies, payroll records, daily work logs, invoices, purchase orders, and change orders); and
 - c) the FEMA Cost Claim Summary Workbook (found in the Forms section of FloridaPA.org), along with copies of original documents such as contract documents, invoices, change orders, canceled checks (or other proof of expenditure), purchase orders, etc.

- b. Once the work is completed, the Grantee/Recipient and the Subgrantee/Subrecipient will conduct a final inspection to determine if the payments to the Subgrantee/Subrecipient were proper, if it is owed additional monies, or if it must submit repayment to the State for overpayment.
- c. In the event that funds are owed to the State on any Federal grant, all payables are subject to be applied to any receivable until the total debt is satisfied.
- d. The amount which may be advanced may not exceed the expected cash needs of the Subgrantee/Subrecipient for the first three (3) months of the contract term, not to exceed the Federal share.
- e. Advances.
 - i. Payments under the Public Assistance Alternative Procedures Program (PAAP) are paid as an Advance Payment. Notwithstanding Paragraph "3) Funding," above, these payments are not bound by Section 216.181(16), Florida Statutes.
 - 1. The Grantee/Recipient must request a waiver from the State Comptroller each Fiscal year.
 - 2. For a federally funded contract, any advance payment is also subject to 2 C.F.R., federal OMB Circulars A-87, A-110, A-122, and the Cash Management Improvement Act of 1990.
 - 3. All advances must be held in an interest-bearing account with the interest being remitted to the Grantee/Recipient as often as practicable, but not later than ten (10) business days after the close of each calendar quarter.
 - 4. In order to prepare a Request for Advance (RFA) the Subgrantee/Subrecipient must certify to the Grantee/Recipient that it has procedures in place to ensure that funds are disbursed to project vendors, contractors, and subcontractors without unnecessary delay. The Subgrantee/Subrecipient must prepare and submit a budget that contains a timeline projecting future payment schedules through project completion.
 - 5. A separate RFA must be completed for each Project Worksheet to be included in the Advance Funding Payment.
 - 6. The Subgrantee/Subrecipient must complete a Request for Reimbursement (RFR) via FloridaPA.org no more than ninety (90) days after receiving its Advance Payment for a specific project. The RFR must account for all expenditures incurred while performing eligible work documented in the applicable Project Worksheet for which the Advance was received.
 - 7. If a reimbursement has been paid prior to the submittal of a request for an advance payment, an Advance cannot be accepted for processing.

8. The Grantee/Recipient may advance funds to the Subgrantee/Subrecipient, not exceeding the Federal share, only if the Subgrantee/Subrecipient meets the following conditions:
 - a) the Subgrantee/Subrecipient must certify to the Grantee/Recipient that Subgrantee/Subrecipient has procedures in place to ensure that funds are disbursed to project vendors, contractors, and subcontractors without unnecessary delay;
 - b) the Subgrantee/Subrecipient must submit to the Grantee/Recipient the budget supporting the request.
9. The Subgrantee/Subrecipient must submit a statement justifying the advance and the proposed use of the funds, which also specifies the amount of funds requested and certifies that the advanced funds will be expended no more than 90 days after receipt of the Advance;
10. The Grantee/Recipient may, in its sole discretion, withhold a portion of the federal and/or nonfederal share of funding under this Agreement from the Subgrantee/Subrecipient if the Grantee/Recipient reasonably expects that the Subgrantee/Subrecipient cannot meet the projected budgeted timeline or that there may be a subsequent determination by FEMA that a previous disbursement of funds under this or any other Agreement with the Subgrantee/Subrecipient was improper.

9) FINAL PAYMENT.

- a. The Grantee/Recipient agrees to disburse the final payment to the Subgrantee/Subrecipient upon satisfaction of the following conditions:
 - i. the Subgrantee/Subrecipient must have completed the project to the satisfaction of the Grantee/Recipient;
 - ii. the Subgrantee/Subrecipient must have submitted the documentation required by this Agreement;
 - iii. in the case of Large Projects, the Grantee/Recipient must have performed the final inspection;
 - iv. in the case of Small Projects, the project listing and certification must have been reviewed by the Grantee/Recipient, or alternatively, the Grantee/Recipient must have performed a final inspection (the subgrantee notifies the state when work is complete on small projects, small projects are considered closed when the P.4. has been processed and FEMA has closed the subgrantee Grant); and
 - v. the Subgrantee/Subrecipient must have requested final reimbursement.
- b. The Grantee/Recipient may submit the final Request for Reimbursement (RFR) based on final inspections and closeout versions.

10) RECORDS MAINTENANCE.

- a. The funding of eligible costs under this Agreement and the performance of all other conditions are subject to the following requirements, in addition to such other requirements as may be imposed by operation of law:
 - i. The "Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments," as codified in 2 C.F.R. and 44 C.F.R. § 13, as amended;
 - ii. Office of Management and Budget Circular (OMB) No. A-87, "Cost Principles for State and Local Governments," as amended;
 - iii. OMB Circular A-110, "Uniform Administrative Requirements for Grants and Other Agreements with Institutions of Higher Education, Hospitals and Other Non-Profit Organizations," as amended;
 - iv. OMB Circular A-122, "Cost Principles for Non-Profit Organizations," as amended; and
 - v. OMB Circular A-133, "Audits of States, Local Governments, and Non-Profit Organizations," as amended.
- b. The Subgrantee/Subrecipient must retain sufficient records to show its compliance with the terms of this Agreement, including documentation of all program costs, in a form sufficient to determine compliance with the requirements and objectives under this Agreement and all other applicable laws and regulations, for a period of five (5) years from the date of the Subgrantee/Subrecipient account closeout by FEMA.
 - i. The five (5) year period is extended if any litigation, claim or audit is started before the five (5) year period expires, and extends beyond the five (5) year period. The records must then be retained until all litigation, claims, or audit findings involving the records have been resolved.
- c. Records for the disposition of non-expendable personal property valued at \$5,000⁰⁰ or more at the time it is acquired must be retained for five (5) years after final account close out.
- d. Records relating to the acquisition of real property must be retained for five (5) years after final account close out.
- e. The Subgrantee/Subrecipient and its employees or agents, including all sub-contractors or consultants to be paid from funds provided under this Agreement, must allow access to its records at reasonable times to the Grantee/Recipient, the Florida Chief Financial Officer, the Florida Auditor General, the Comptroller General of the United States, the Department of Homeland Security (DHS), and FEMA, to include any designated employees and/or agents of such entities.

11) REPAYMENT BY SUBGRANTEE/SUBRECIPIENT.

- a. If upon final inspection, final audit, or other review by the Grantee/Recipient, FEMA, or any other authority, it is determined that the disbursements to the Subgrantee/Subrecipient under this Agreement exceed the eligible costs, the Subgrantee/Subrecipient must reimburse to the Grantee/Recipient the amount by which the total disbursements exceed the eligible costs no later than forty-five (45)

days from the date the Subgrantee/Subrecipient receives notice of such determination.

- b. All refunds or repayments owing to the Grantee/Recipient under this Agreement are to be made payable to the order of "Division of Emergency Management, Cashier" and mailed directly to:

Cashier, Division of Emergency Management,
2555 Shumard Oak Boulevard
Tallahassee, Florida 32399-2100.

- c. In accordance with section 215.34 (2), Florida Statutes, if a check or other draft is returned to the Grantee/Recipient for collection, Recipient must pay the Grantee/Recipient a service fee of \$15⁰⁰ or 5% of the face amount of the returned check or draft, whichever is greater.

12) AUDIT

- a. The Subgrantee/Subrecipient shall comply with the audit requirements contained in 2 C.F.R. Part 200, Subpart F.
- b. In accounting for the receipt and expenditure of funds under this Agreement, the Subgrantee/Subrecipient shall follow Generally Accepted Accounting Principles ("GAAP"). As defined by 2 C.F.R. § 200.49, GAAP "has the meaning specified in accounting standards issued by the Government Accounting Standards Board (GASB) and the Financial Accounting Standards Board (FASB)."
- c. When conducting an audit of the Subgrantee's/Subrecipient's performance under this Agreement, the Division shall use Generally Accepted Government Auditing Standards ("GAGAS"). As defined by 2 C.F.R. § 200.50, GAGAS, "also known as the Yellow Book, means generally accepted government auditing standards issued by the Comptroller General of the United States, which are applicable to financial audits."
- d. If an audit shows that all or any portion of the funds disbursed were not spent in accordance with the conditions of this Agreement, the Subgrantee/Subrecipient shall be held liable for reimbursement to the Division of all funds not spent in accordance with these applicable regulations and Agreement provisions within thirty days after the Division has notified the Subgrantee/Subrecipient of such non-compliance.
- e. The Subgrantee/Subrecipient shall have all audits completed by an independent auditor, which is defined in section 215.97(2)(h), Florida Statutes, as "an independent certified public accountant licensed under chapter 473." The independent auditor shall state that the audit complied with the applicable provisions noted above. The audit must be received by the Division no later than nine months from the end of the Subgrantee's/Subrecipient's fiscal year.
- f. The Subgrantee/Subrecipient shall send copies of reporting packages for audits conducted in accordance with 2 C.F.R. Part 200, by or on behalf of the Subgrantee/Subrecipient, to the Division at the following address:

DEMSingle_Audit@em.myflorida.com

OR

Office of the Inspector General
2555 Shumard Oak Boulevard
Tallahassee, Florida 32399-2100

- g. The Subgrantee/Subrecipient shall send the Single Audit reporting package and Form SF-SAC to the Federal Audit Clearinghouse by submission online at:

<http://harvester.census.gov/fac/collect/ddeindex.html>

- h. The Subgrantee/Subrecipient shall send any management letter issued by the auditor to the Division at the following address:

DEMSingle_Audit@em.myflorida.com

OR

Office of the Inspector General
2555 Shumard Oak Boulevard
Tallahassee, Florida 32399-2100

13) NONDISCRIMINATION BY CONTRACTORS.

- a. Pursuant to 44 C.F.R. §§ 7 and 16, and 44 C.F.R. § 206.11, the Subgrantee/Subrecipient must undertake an active program of nondiscrimination in its administration of disaster assistance under this Agreement. The Subgrantee/Subrecipient is also be subject to the requirements in the General Services Administrative Consolidated List of Debarred, Suspended and Ineligible Contractors, in accordance with 44 C.F.R. § 17.

14) MODIFICATION AND TIME FOR PERFORMANCE.

- a. Any amendments to, or modification of, this Agreement, including a modification extending the time for completion of a project, must be in writing, must be subject to the same terms and conditions as those set out in the initial Agreement, and takes effect only upon execution by both parties.
- b. Modifications to any Project Worksheet to be funded under this Agreement may be requested by the Subgrantee/Subrecipient through the Grantee/Recipient. The approval of any such modifications, however, is at the sole discretion of FEMA.
- c. Any approved modification to a Project Worksheet must be noted in a new Project Worksheet version for the project and in any amendment to this Agreement.
- d. The time allowed for the performance of eligible emergency work is six (6) months from the date of the presidential major disaster declaration, unless extended by the Grantee/Recipient or FEMA.
- e. The time allowed for the performance of eligible permanent work is eighteen (18) months from the date of the presidential major disaster declaration, unless extended by the Grantee/Recipient or FEMA.
- f. The time for project completion can only be extended once unless the failure of the Subgrantee/Subrecipient to close out the project is caused by events beyond its

control. Extensions cannot be granted for delays caused by lack of cost-share funding.

- g. If any extension request is denied by the Grantee/Recipient, or is not sought by the Subgrantee/Subrecipient, reimbursement is only available for eligible project costs incurred up to the latest approved extension for completed projects.
- h. Failure to complete a project is adequate cause for the termination of funding for that project and require reimbursement to the Grantee/Recipient of any and all project costs.

15) CONTRACTS WITH OTHERS.

- a. If the Subgrantee/Subrecipient contracts with any contractor or vendor for performance of any portion of the work required under this Agreement, the Subgrantee/Subrecipient must incorporate into its contract with such contractor or vendor an indemnification clause holding the Federal Government, its employees and/or their contractors, the Grantee/Recipient, its employees and/or their contractors, and the Subgrantee/Subrecipient and its employees and/or their contractors harmless from liability to third parties for claims asserted under such contract.
- b. The Subgrantee/Subrecipient must document in the Quarterly Report the subcontractor's progress in performing its work under this Agreement.
- c. For each subcontract, the Subgrantee/Subrecipient must provide a written statement to the Grantee/Recipient as to whether the subcontractor is a minority vendor as defined in section 288.703, Florida Statutes. Copies of all contracts and subcontracts must be uploaded into FloridaPA.org by the Subgrantee/Subrecipient.
- d. All contracts must conform to the uniform standards for procurement found in 2 C.F.R §§ 200.317-.326 and Appendix II.
 - i. Grace Period. Notwithstanding the preceding, a Non-Federal Entity (NFE), may choose to continue to comply with the former procurement standards applicable to FEMA awards found at 44 C.F.R. Part 13 (for states, local, and Indian tribal governments) or 2 C.F.R. Part 215 (for institutions of higher education, hospitals, and other nonprofit organizations) until the completion of two additional fiscal years after December 26, 2014. This is an elective grace period. Note that if an NFE elects to use the previous procurement standards, it must affirmatively document this decision in its internal procurement policies, including the date upon which its grace period (based upon the two additional fiscal years) will end, and that it understand and agrees it must transition to the new procurement standards.

16) LIABILITY.

- a. The Grantee/Recipient assumes no liability to third parties in connection with this Agreement. Unless the Subgrantee/Subrecipient is a governmental entity covered under section 768.28 (5), Florida Statutes, the Subgrantee/Subrecipient is solely responsible to any and all contractors, vendors, and other parties with whom it contracts in performing this Agreement. Further, unless the Subgrantee/

Subrecipient is a governmental entity within the meaning of the preceding sentence, the Subgrantee/Subrecipient, by entering into this Agreement, agrees to indemnify and hold the Grantee/Recipient harmless from any and all claims asserted by third parties in connection with the performance of this Agreement.

- b. For the purpose of this Agreement, the Grantee/Recipient and the Subgrantee/Subrecipient agree that neither one is an employee or agent of the other, but that each one stands as an independent contractor in relation to the other.
- c. Nothing in this Agreement is to be construed as a waiver by the Grantee/Recipient or the Subgrantee/Subrecipient of any legal immunity, nor is anything in this Agreement to be construed as consent by either of the parties to be sued by third parties in connection with any matter arising from the performance of this Agreement.
- d. The Subgrantee/Subrecipient represents that to the best of its knowledge any hazardous substances that may be present at its project site or sites are present in quantities within statutory and regulatory limitations, and do not require remedial action under any federal, State or local requirements concerning such substances.
- e. The Subgrantee/Subrecipient further represents that the presence of any such substance or any condition at the site caused by the presence of any such substance will be addressed in accordance with all applicable legal requirements.

17) REPORTS.

- a. The Subgrantee/Subrecipient must provide Quarterly Reports to the Grantee/Recipient on the Quarterly Report Form available in FloridaPA.org, a sample of which is attached hereto as Attachment "B" and incorporated herein by reference.
- b. The first Quarterly Report is due at such time as the Subgrantee/Subrecipient is notified so. All subsequent Quarterly Reports are due no later than fifteen (15) days after each calendar quarter through the 2nd Quarter after official closure by FEMA. Quarterly Reports must indicate the anticipated completion date (this is not the approved time extension date but the date the Subgrantee/Subrecipient actually expects the project work to be complete for each project), together with any other circumstances that may affect the completion date, the scope of work, the project costs, or any other factors that may affect compliance with this Agreement.
- c. Interim inspections must be scheduled by the Subgrantee/Subrecipient before the final inspection, and may be required by the Grantee/Recipient based on information supplied in the Quarterly Reports.
- d. The Grantee/Recipient may require additional reports as needed, in which case the Subgrantee/Subrecipient must provide any such additional reports as soon as practicable.
- e. With respect to a Request for Advance or Reimbursement, Summary of Documentation, and Quarterly Reports, the contact for the Grantee/Recipient will be the State Public Assistance Officer.
- f. If the reports required under this section are not completed with all required information and timely submitted, the Grantee/Recipient must withhold payments payable to the Subgrantee/Subrecipient from any funding agreement.

- g. If reimbursement has not been requested within 720 days of obligation, FEMA may de-obligate funding as an interim financial reconciliation. If this occurs, the delay in funding is not appealable and the Subgrantee/Subrecipient will be eligible for funding when the project is complete and the final inspection has been processed by FEMA.

18) MONITORING.

- a. The Subgrantee/Subrecipient must monitor its performance under this Agreement, as well as that of its subcontractors, agents, and consultants who are paid from funds provided under this Agreement, to ensure that performance under this Agreement is achieved, satisfactorily performed, and in compliance with applicable State and federal laws, rules, and regulations.
- b. In addition to reviews of audits conducted in accordance with 2 C.F.R. and OMB Circular A-133, as revised, and section 215.97, Florida Statutes, monitoring procedures may include, but are not limited to, on-site visits by the Grantee/Recipient or its agent, limited scope audits as defined by OMB Circular A-133, as revised, and/or other procedures deemed necessary by the Grantee/Recipient or FEMA. By entering into this Agreement, the Subgrantee/Subrecipient agrees to comply and cooperate with all monitoring procedures/processes deemed appropriate by the Grantee/ Recipient. In the event that the Grantee/Recipient determines that a limited scope audit of the Subgrantee/Subrecipient is appropriate, the Subgrantee/Subrecipient agrees to comply with any additional instructions provided by the Grantee/ Recipient regarding such audit.
- c. The Subgrantee/Subrecipient agrees to comply and cooperate with any inspections, reviews, investigations or audits deemed necessary by the Comptroller or Auditor General.
- d. The Grantee/Recipient will monitor the performance and financial management by the Subgrantee/Subrecipient throughout the contract term to ensure timely completion of all tasks.
- e. The Subgrantee/Subrecipient must update its contacts in FloridaPA.org each quarter and ensure requests for updates are submitted as required by Florida Statutes.

19) MANDATED CONDITIONS.

- a. The Subgrantee/Subrecipient understands and agrees that:
 - i. Invoices for fees or other compensation for services or expenses must be submitted in detail sufficient for a proper pre and post-audit.
 - ii. The Grantee/Recipient may unilaterally terminate this Agreement for refusal by the Subgrantee/Subrecipient or its contractors or subcontractors to allow public access to all documents, papers, letters or other material subject to the provisions of Chapter 119, Florida Statutes, that are made or received by the Subgrantee/Subrecipient or its contractors and subcontractors in connection with this Agreement.

- iii. No funds or other resources received from the Grantee/Recipient disbursed to it under this Agreement will be used directly or indirectly to influence legislation or any other official action by the Florida Legislature or any State agency.
- iv. Responsibility for compliance with this Agreement rests with the Subgrantee/Subrecipient, and further agrees that noncompliance with this Agreement is cause for the rescission, suspension, or termination of funding under this Agreement, and may affect eligibility for funding under past and future Subgrantee/Subrecipient Agreements.
- v. If otherwise allowed under this Agreement, all invoices for any travel expenses must be submitted in accordance with section 112.061, Florida Statutes.
- vi. The Grantee/Recipient will not knowingly award publicly-funded contracts to any contractor who knowingly employs unauthorized alien workers, in violation of the employment provisions contained in 8 U.S.C. § 1324a(e) [§ 74A(e) of the Immigration and Nationality Act ("INA")] and the Grantee/Recipient considers the employment of unauthorized aliens by any contractor a violation of § 274A(e) of the INA. Such violation by the Subgrantee/Subrecipient is grounds for unilateral cancellation of this Agreement by the Grantee/Recipient.
- vii. It will comply with the restriction that a person or affiliate who has been placed on the debarred/convicted vendor list following a conviction for a public entity crime or on the discriminatory vendor list will not be allowed to submit a bid on a contract to provide any goods or services to a public entity, will not be allowed to submit a bid on a contract with a public entity for the construction or repair of a public building or public work, will not be allowed to submit bids on leases of real property to a public entity, will not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with a public entity, and will not be allowed to transact business with any public entity in excess of Category Two for a period of thirty-six (36) months from the date of being placed on the debarred/convicted vendor list or on the discriminatory vendor list.
- viii. If applicable, it must comply with the Americans with Disabilities Act (Public Law 101-336, 42 U.S.C. Section 12101 et seq.), which prohibits discrimination by public and private entities on the basis of disability in the areas of employment, public accommodations, transportation, all State and local government services, and in telecommunications.

20) CERTIFICATIONS.

- a. The Subgrantee/Subrecipient certifies that:
 - i. It possesses the legal authority to receive the funds under this Agreement and that its governing body (if applicable) has authorized the execution and acceptance of this Agreement.
 - ii. The individual executing this Agreement on Subgrantee's/Subrecipient's behalf has the authority to legally execute this Agreement and bind the Subgrantee/Subrecipient to its terms.

- iii. With respect to any Subgrantee/Subrecipient other than a State agency or political subdivision of the State, which receives funds under this Agreement from the federal government, to the best of its knowledge and belief, that it and its principals:
 - 1. are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any federal department or agency;
 - 2. have not within the five-year period preceding entering into this Agreement had one or more public transactions (federal, State, or local) terminated for cause or default; and
 - 3. have not within the five-year period preceding entering into this proposal been convicted of or had a civil judgment rendered against them for:
 - a) the commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, State, or local) transaction or a contract under public transaction, or
 - b) violation of federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification, or destruction of records, making false statements, or receiving stolen property.
- b. The Subgrantee/Subrecipient certifies that to the best of its knowledge and belief:
 - i. No federal appropriated funds have been or will be paid, by or on behalf of the Subgrantee/Subrecipient, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, or the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan or cooperative agreement.
 - 1. Subgrantee/Subrecipient understands that if any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this federal contract, grant, loan or cooperative agreement, the Subgrantee/Subrecipient must complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
 - ii. All unmanufactured and manufactured articles, materials and supplies which are acquired for public use under this Agreement have been produced in the United States as required by 41 U.S.C. § 10a, unless it would not be in the public interest or unreasonable in cost.
- c. The Subgrantee/Subrecipient understands and agrees that the language of this certification must be included in the award documents for all sub awards at all tiers

(including subcontracts, sub grants, contracts under grants, loans, and cooperative agreements) and that all Subgrantees/Subrecipients must certify and disclose accordingly. The Subgrantee/Subrecipient further understands and agrees that this certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into.

- i. Subgrantee/Subrecipient further understands that submission of this certification is a prerequisite for making or entering into this transaction imposed by 31 U.S.C. § 1352. Any person who fails to file the required certification is subject to a civil penalty of not less than \$10,000⁰⁰ and not more than \$100,000⁰⁰ for each such failure.
- d. Where the Subgrantee/Subrecipient is unable to certify to any of the statements in this certification, the Subgrantee/Subrecipient understands it must submit to the Grantee/Recipient (by email or facsimile) the completed "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion" for each prospective subcontractor which the Subgrantee/Subrecipient intends to fund under this Agreement. (See Attachment "C".) Such form must be received by the Grantee/Recipient prior to the Subgrantee/Subrecipient entering into a contract with any prospective subcontractor.

21) TERM.

- a. This Agreement takes effect upon its execution by the last of the signatories and terminates upon approval of account closeout by FEMA, unless terminated earlier as specified elsewhere in this Agreement.
 - i. Notwithstanding the above, this Agreement survives account closeout for the purposes of State or federal audit purposes.
- b. The Subgrantee/Subrecipient agrees to commence work on the project(s) specified by this Agreement without delay.

22) DEFAULT, REMEDIES, AND TERMINATION.

- a. Upon the occurrence of any one or more of the following events the Grantee/Recipient may, at its option, terminate this Agreement and any funding under this Agreement, and all obligations of the Grantee/Recipient to disburse further funds under this Agreement terminate at the option of the Grantee/Recipient:
 - i. The determination that any representation by the Subgrantee/ Subrecipient in this Agreement is inaccurate or incomplete in any material respect, or that the Subgrantee/Subrecipient has breached any condition of this Agreement and has not cured such breach in a timely fashion, or that the Subgrantee/Subrecipient is unable or unwilling to meet its obligations under this Agreement;
 - ii. the Subgrantee/Subrecipient suffers any material adverse change in its financial condition while this Agreement is in effect, as compared to its financial condition as represented in any reports or other documents submitted to the Grantee/Recipient, if Subgrantee/Subrecipient has not cured the condition within thirty (30) days after notice in writing from the Grantee/Recipient;

- iii. any reports required by this Agreement have not been submitted to the Grantee/Recipient or have been submitted with inaccurate, incomplete, or inadequate information; or
 - iv. the monies necessary to fund this Agreement are unavailable due to any failure to appropriate or other action or inaction by the State Legislature, Florida Department of Financial Services, Congress, or Office of Management and Budget.
- b. Notwithstanding the preceding, the Grantee/Recipient may at its option continue to make payments or portions of payments after the occurrence of any one or more such events without waiving the right to exercise such remedies and without incurring liability for further payment.
- c. Upon the occurrence of any one or more of the foregoing events, the Grantee/Recipient may at its option give notice in writing to the Subgrantee/Subrecipient to cure its failure of performance if such failure can be cured. Upon the failure of the Subgrantee/Subrecipient to cure, the Grantee/Recipient may exercise any one or more of the following remedies:
 - i. terminate this Agreement upon not less than fifteen (15) days' notice of such termination after delivery by certified letter to the Subgrantee/Subrecipient at the address specified in Attachment "D" of this Agreement;
 - ii. commence an action in law or in equity for the judicial enforcement of this Agreement;
 - iii. withhold the disbursement of any payment or any portion of a payment otherwise due and payable to the Subgrantee/Subrecipient pursuant this Agreement; and
 - iv. take any other actions that may otherwise be available in law or in equity.
- d. Upon the rescission, suspension or termination of this Agreement, the Subgrantee/Subrecipient must refund to the Grantee/Recipient all funds disbursed to the Subgrantee/Subrecipient under this Agreement.
- e. Notwithstanding anything to the contrary elsewhere in this Agreement, the rescission, suspension or termination of this Agreement by the Grantee/Recipient does not relieve the Subgrantee/Subrecipient of liability to the Grantee/Recipient for the restitution of funds advanced to Subgrantee/Subrecipient under this Agreement, and the Grantee/Recipient may set off any such funds by withholding future disbursements otherwise payable to the Subgrantee/Subrecipient under this Agreement until such time as the exact amount of restitution due the Grantee/Recipient from the Subgrantee/Subrecipient is determined. In the event that FEMA should de-obligate funds formerly allowed under this Agreement, the Subgrantee/Subrecipient must immediately repay such funds to the Grantee/Recipient. Any de-obligation of funds or other determination by FEMA must be addressed in accordance with the regulations of that Agency.
- f. If the Subgrantee/Subrecipient violates this Agreement or any statute, rule or other legal requirement applicable to the performance of this Agreement, the Grantee/Recipient must withhold any disbursement otherwise due the Subgrantee/Subrecipient for the project with respect to which the violation has occurred until the violation is cured or has otherwise come to final resolution. If the

violation is not cured, the Grantee/Recipient may terminate this Agreement and invoke its remedies under the Agreement as per this section.

- i. The validity of this Agreement is subject to the truth and accuracy of all the information, representations, and materials submitted or provided by the Subgrantee/Subrecipient in this Agreement, in any subsequent submission or response to the Grantee/Recipient request, or in any submission or response to fulfill the requirements of this Agreement, and such information, representations, and materials are incorporated by reference. The lack of accuracy thereof or any material changes will, at the option of the Grantee/Recipient and with fifteen (15) days written notice to the Subgrantee/Subrecipient, cause the termination of this Agreement and the release of the Grantee/Recipient from all its obligations to the Subgrantee/Subrecipient.

23) ATTACHMENTS.

- a. All attachments to this Agreement are incorporated into this Agreement by reference as if set out fully in the text of the Agreement itself.
- b. In the event of inconsistencies between the language of this Agreement and the Attachments to it, the language of the Attachments are controlling, but only to the extent of such inconsistencies.
- c. All grant administrative and electronic forms not attached to this Agreement will be provided by the Grantee/Recipient as necessary or posted on the Grantee's/Recipient's website at www.FloridaPA.org.

24) HEADINGS.

- a. Headings used in this Agreement are provided for the convenience of the parties only and cannot be used to construe meaning or intent.

25) GOVERNING LAW.

- a. This contract is governed by, and must be construed in accordance with, the laws of the State of Florida, and all claims relating to or arising out of this Agreement, or the breach thereof, whether sounding in contract, tort, or otherwise, are likewise governed by the laws of Florida.
- b. Except as may be otherwise provided for by statute, any action or proceeding, whether brought by the Grantee/Recipient or the Subgrantee/Subrecipient, relating to or arising out of this contract must be brought in Leon County, Florida and venue will lie therein.

26) ATTORNEY FEES.

- a. Except as may be otherwise provided for by statute, in any action arising out of this Agreement each party shall bear its own attorney's fees and costs.

27) PUBLIC ASSISTANCE ALTERNATIVE PROCEDURES.

- a. Should the Subgrantee/Subrecipient desire to utilize the Public Assistance Alternative Procedures provisions of the Sandy Recovery Improvement Act (Division B of P.L. 113-2), execution of a Supplemental Funding Agreement covering specific aspects of the Alternative Procedures Package is required of the Subgrantee/Subrecipient prior to the payment of such funds by the State as the Grantee/Recipient.
- b. Payments processed under the Alternative Procedures provisions will be requested as an advance and are exempt from advance requirements covered by Section 216.181(16), Florida Statutes. They will, however, be treated as an advance for purposes of Requests for Reimbursement (RFRs) and satisfaction of the requirement that ninety percent (90%) of previously advanced funds must be accounted for prior to receiving a second advance.

28) DESIGNATION OF AGENT.

- a. The Subgrantee/Subrecipient must complete Attachment "D" by designating at least three agents to execute any Requests for Advance or Reimbursement, certifications, or other necessary documentation on behalf of the Subgrantee/Subrecipient.
- b. After execution of this Agreement, the authorized, primary, and secondary Agent may request changes to contacts via email to the State assigned team.
- c. In the event the Subgrantee/Subrecipient contacts have not been updated regularly and all three (3) Agents have separated from the Subgrantee's/Subrecipient's agency, a designation of authority form will be needed to change contacts. NOTE: This is very important because if contacts are not updated, notifications made from FloridaPA.org may not be received and could result in failure to meet time periods to appeal a Federal determination.

29) NOTICE AND CONTACT.

- a. All notices required to be made to the Grantee/Recipient under this Agreement must be in writing and must be delivered by email, by facsimile, by hand, or by certified letter to the Grantee/Recipient at the following addresses:

Evan Rosenberg, Bureau Chief
Division of Emergency Management
2555 Shumard Oak Boulevard
Tallahassee, FL 32399-2100
Email: evan.rosenberg@em.myflorida.com.

- b. All notices required to be made to the Subgrantee/Subrecipient under this Agreement must be in writing and must be delivered by email, by facsimile, by hand, or by certified letter to the Subgrantee/Subrecipient at the address indicated in Attachment "D" which the Subgrantee/Subrecipient must complete and submit with this Agreement.

30) FEDERALLY FUNDED SUBAWARD

- a. This Agreement and the Project Worksheet (FEMA Form 90-91) combine to form a Federally Funded Subaward and Grant Agreement.

- b. The parties agree that the Federally Funded Subaward and Grant Agreement formed as described above should comply with the requirements of Section 215.971, Florida Statutes.

**STATE OF FLORIDA
DIVISION OF EMERGENCY MANAGEMENT
HURRICANE MATTHEW DECLARATION
(FEMA-4283-DR-FL)**

Federally Funded Public Assistance State Agreement

IN WITNESS WHEREOF, the Grantee/Recipient and the Subgrantee/Subrecipient have executed this Agreement:

FOR THE GRANTEE/RECIPIENT:
DIVISION OF EMERGENCY MANAGEMENT

Governor's Authorized Representative

Date

FOR THE SUBGRANTEE/SUBRECIPIENT:

Printed Name and Title

Signature

Date

DUNS Number: 08-082-7082

Federal Employer Identification Number (FEIN): 59-6000412

or

State Agency FLAIR Number: _____

CFDA Number:	<u>97.036</u>
Federal Fund Number	<u>20 2 750001</u>
State Fund Number	<u>20 2 339047</u>

- Attachments:
- A) Statement of Assurances
 - B) Example of Public Assistance Quarterly Report
 - C) Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion
 - D) Designation of Authority with Instructions
 - E) DHS OIG Audit Issues & Acknowledgement
 - F) Justification for Advance Payment

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Statement of Assurances

- 1) The Subgrantee/Subrecipient hereby certifies compliance with all Federal statutes, regulations, policies, guidelines, and requirements, including but not limited to OMB Circulars No. A-21, A-87, A-110, A-122, and A-128; E.O. 12372; and Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, 2 C.F.R. Part 200; that govern the application, acceptance and use of Federal funds for this federally-assisted project.
- 2) Additionally, to the extent the following provisions apply to this Agreement, the Subgrantee/Subrecipient assures and certifies that:
 - a. It possesses legal authority to apply for the grant, and to finance and construct the proposed facilities; that a resolution, motion, or similar action has been duly adopted or passed as an official act of the Subgrantee's/Subrecipient's governing body, authorizing the filing of the application, including all understandings and assurances contained therein, and directing and authorizing the person identified as the official representative of the Subgrantee/Subrecipient to act in connection with the application and to provide such additional information as may be required.
 - b. To the best of its knowledge and belief the disaster relief work described on each Federal Emergency Management Agency (FEMA) Project Application for which Federal Financial assistance is requested is eligible in accordance with the criteria contained in 44 C.F.R. § 206, and applicable FEMA policy documents.
 - c. The emergency or disaster relief work therein described for which Federal Assistance is requested hereunder does not, or will not, duplicate benefits available for the same loss from another source.
- 3) The Subgrantee/Subrecipient further assures it will:
 - a. Have sufficient funds available to meet the non-Federal share of the cost for construction projects. Sufficient funds will be available when construction is completed to assure effective operation and maintenance of the facility for the purpose constructed, and if not it will request a waiver from the Governor to cover the cost.
 - b. Refrain from entering into a construction contract(s) for the project or undertake other activities until the conditions of the grant program(s) have been met, all contracts meet federal, State, and local regulations.
 - c. Provide and maintain competent and adequate architectural engineering supervision and inspection at the construction site to ensure that the completed work conforms with the approved plans and specifications, and will furnish progress reports and such other information as the Federal grantor agency may need.
 - d. Cause work on the project to be commenced within a reasonable time after receipt of notification from the approving Federal agency that funds have been approved and will see that work on the project will be done to completion with reasonable diligence.
 - e. Not dispose of or encumber its title or other interests in the site and facilities during the period of Federal interest or while the Government holds bonds, whichever is longer.
 - f. Provide without cost to the United States and the Grantee/Recipient all lands, easements and rights-of-way necessary for accomplishment of the approved work and will also hold and save the United States and the Grantee/Recipient free from damages due to the approved work or Federal funding.
 - g. Establish safeguards to prohibit employees from using their positions for a purpose that is or gives the appearance of being motivated by a desire for private gain for themselves or others, particularly those with whom they have family, business, or other ties.

- h. Assist the Federal grantor agency in its compliance with Section 106 of the National Historic Preservation Act of 1966 as amended, Executive Order 11593, and the Archeological and Historical Preservation Act of 1966 by:
 - i. consulting with the State Historic Preservation Officer on the conduct of investigations, as necessary, to identify properties listed in or eligible for inclusion in the National Register of Historic Places that are subject to adverse effects (see 36 C.F.R. Part 800.8) by the activity, and notifying the Federal grantor agency of the existence of any such properties; and
 - ii. by complying with all requirements established by the Federal grantor agency to avoid or mitigate adverse effects upon such properties.
- i. Give the sponsoring agency or the Comptroller General, through any authorized representative, access to and the right to examine all records, books, papers, or documents related to the grant.
- j. With respect to demolition activities:
 - i. create and make available documentation sufficient to demonstrate that the Subgrantee/Subrecipient and its demolition contractor have sufficient manpower and equipment to comply with the obligations as outlined in this Agreement;
 - ii. return the property to its natural state as though no improvements had been contained thereon;
 - iii. furnish documentation of all qualified personnel, licenses, and all equipment necessary to inspect buildings located in Subgrantee's/Subrecipient's jurisdiction to detect the presence of asbestos and lead in accordance with requirements of the U.S. Environmental Protection Agency, the Florida Department of Environmental Protection, and the appropriate County Health Department;
 - iv. provide documentation of the inspection results for each structure to indicate safety hazards present, health hazards present, and/or hazardous materials present;
 - v. provide supervision over contractors or employees employed by the Subgrantee/Subrecipient to remove asbestos and lead from demolished or otherwise applicable structures;
 - vi. leave the demolished site clean, level, and free of debris;
 - vii. notify the Grantee/Recipient promptly of any unusual existing condition which hampers the contractors work;
 - viii. obtain all required permits;
 - ix. provide addresses and marked maps for each site where water wells and septic tanks are to be closed, along with the number of wells and septic tanks located on each site, and provide documentation of such closures;
 - x. comply with mandatory standards and policies relating to energy efficiency which are contained in the State energy conservation plan issued in compliance with the Energy Policy and Conservation Act;
 - xi. comply with all applicable standards, orders, or requirements issued under Section 112 and 306 of the Clean Air Act, Section 508 of the Clean Water Act, Executive Order 11738, and the U.S. Environmental Protection Agency regulations. (This clause must be added to any subcontracts); and
 - xii. provide documentation of public notices for demolition activities.
- k. Require facilities to be designed to comply with the "American Standard Specifications for Making Buildings and Facilities Accessible to, and Usable by the Physically Handicapped," Number A117.1-1961, as modified. The Subgrantee/Subrecipient will be responsible for conducting inspections to ensure compliance with these specifications by the contractor.

- l. Provide an Equal Employment Opportunity Program, if required to maintain one, where the application is for \$500,000⁰⁰ or more.
- m. Return overpaid funds within the forty-five (45) day requirement, and if unable to pay within the required time period, begin working with the Grantee/Recipient in good faith to agree upon a repayment date.
- n. In the event a Federal or State court or Federal or State administrative agency makes a finding of discrimination after a due process hearing on the Grounds of race, color, religion, national origin, sex, or disability against a recipient of funds, forward a copy of the finding to the Office for Civil Rights, Office of Justice Programs.

4) The Subgrantee/Subrecipient agrees it will comply with the:

- a. Requirements of all provisions of the Uniform Relocation Assistance and Real Property Acquisitions Act of 1970 which provides for fair and equitable treatment of persons displaced as a result of Federal and federally-assisted programs.
- b. Provisions of Federal law found at 5 U.S.C. § 1501, et. seq. which limit certain political activities of employees of a State or local unit of government whose principal employment is in connection with an activity financed in whole or in part by Federal grants.
- c. Provisions of 18 U.S.C. §§ 594, 598, and 600-605 relating to elections, relief appropriations, and employment, contributions, and solicitations.
- d. Minimum wage and maximum hour's provisions of the Federal Fair Labor Standards Act.
- e. Contract Work Hours and Safety Standards Act of 1962, requiring that mechanics and laborers (including watchmen and guards) employed on federally assisted contracts be paid wages of not less than one and one-half times their basic wage rates for all hours worked in excess of forty hours in a work week.
- f. Federal Fair Labor Standards Act, requiring that covered employees be paid at least the minimum prescribed wage, and also that they be paid one and one-half times their basic wage rates for all hours worked in excess of the prescribed work-week.
- g. Anti-Kickback Act of 1986, which outlaws and prescribes penalties for "kick-backs" of wages in federally financed or assisted construction activities.
- h. Requirements imposed by the Federal sponsoring agency concerning special requirements of law, program requirements, and other administrative requirements. It further agrees to ensure that the facilities under its ownership, lease or supervision which are utilized in the accomplishment of the project are not listed on the Environmental Protection Agency's (EPA) list of Violating Facilities and that it will notify the Federal grantor agency of the receipt of any communication from the Director of the EPA Office of Federal Activities indicating that a facility to be used in the project is under consideration for listing by the EPA.
- i. Flood insurance purchase requirements of Section 102(a) of the Flood Disaster Protection Act of 1973, which requires that on and after March 2, 1975, the purchase of flood insurance in communities where such insurance is available, as a condition for the receipt of any Federal financial assistance for construction or acquisition purposes for use in any area that has been identified by the Secretary of the Department of Housing and Urban Development as an area having special flood hazards. The phrase "Federal financial assistance" includes any form of loan, grant, guaranty, insurance payment, rebate, subsidy, disaster assistance loan or grant, or any other form of direct or indirect Federal assistance.
- j. Insurance requirements of Section 314, PL 93-288, to obtain and maintain any other insurance as may be reasonable, adequate, and necessary to protect against further loss to any property which was replaced, restored, repaired, or constructed with this assistance. Note that FEMA provides a mechanism to modify this insurance requirement by filing a request for an insurance commissioner certification (ICC). The state's insurance commissioner cannot waive Federal insurance requirements but may certify the types and extent of insurance reasonable to protect against future loss to an insurable facility.

- k. Applicable provisions of Title I of the Omnibus Crime Control and Safe Streets Act of 1968, as amended, the Juvenile Justice and Delinquency Prevention Act, or the Victims of Crime Act, as appropriate; the provisions of the current edition of the Office of Justice Programs Financial and Administrative Guide for Grants, M7100.1; and all other applicable Federal laws, orders, circulars, or regulations, and assure the compliance of all its Subgrantees/ Subrecipients and contractors.
- l. Provisions of 28 C.F.R. applicable to grants and cooperative agreements including Part 18, Administrative Review Procedure; Part 20, Criminal Justice Information Systems; Part 22, Confidentiality of Identifiable Research and Statistical Information; Part 23, Criminal Intelligence Systems Operating Policies; Part 30, Intergovernmental Review of Department of Justice Programs and Activities; Part 42, Nondiscrimination/Equal Employment Opportunity Policies and Procedures; Part 61, Procedures for Implementing the National Environmental Policy Act; Part 63, Floodplain Management and Wetland Protection Procedures; and Federal laws or regulations applicable to Federal Assistance Programs.
- m. Lead-Based Paint Poison Prevention Act which prohibits the use of lead based paint in construction of rehabilitation or residential structures.
- n. Energy Policy and Conservation Act and the provisions of the State Energy Conservation Plan adopted pursuant thereto.
- o. Non-discrimination requirements of the Omnibus Crime Control and Safe Streets Act of 1968, as amended, or Victims of Crime Act (as appropriate); Section 504 of the Rehabilitation Act of 1973, as amended; Subtitle A, Title II of the Americans with Disabilities Act (ADA) (1990); Title IX of the Education Amendments of 1972; the Age Discrimination Act of 1975; Department of Justice Non-Discrimination Regulations; and Department of Justice regulations on disability discrimination, and assure the compliance of all its Subgrantees/Subrecipients and contractors.
- p. Provisions of Section 311, P.L. 93-288, and with the Civil Rights Act of 1964 (P.L. 83-352) which, in Title VI of the Act, provides that no person in the United States of America, Grantees/Recipients shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity for which the Subgrantee/Subrecipient receives Federal financial assistance and will immediately take any measures necessary to effectuate this agreement. If any real property or structure is provided or improved with the aid of Federal financial assistance extended to the Subgrantee/Subrecipient, this assurance shall obligate the Subgrantee/Subrecipient or in the case of any transfer of such property, any transferee, for the period during which the real property or structure is used for a purpose for which the Federal financial assistance is extended or for another purpose involving the provision of similar services or benefits.
- q. Provisions of Title IX of the Education Amendments of 1972, as amended which prohibits discrimination on the basis of gender.
- r. Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970, relating to nondiscrimination on the basis of alcohol abuse or alcoholism.
- s. Provisions of 523 and 527 of the Public Health Service Act of 1912 as amended, relating to confidentiality of alcohol and drug abuse patient records.
- t. Provisions of all appropriate environmental laws, including but not limited to:
 - i. The Clean Air Act of 1955, as amended;
 - ii. The Clean Water Act of 1977, as amended;
 - iii. The Endangered Species Act of 1973;
 - iv. The Intergovernmental Personnel Act of 1970;

- v. Environmental standards which may be prescribed pursuant to the National Environmental Policy Act of 1969;
- vi. The Wild and Scenic Rivers Act of 1968, related to protecting components or potential components of the national wild and scenic rivers system;
- vii. The Fish and Wildlife Coordination Act of 1958;
- viii. Environmental standards which may be prescribed pursuant to the Safe Drinking Water Act of 1974, regarding the protection of underground water sources;
- ix. The provisions of the Coastal Barrier Resources Act (P.L. 97-348) dated October 19, 1982 which prohibits the expenditure of newest Federal funds within the units of the Coastal Barrier Resources System.
- u. The provisions of all Executive Orders including but not limited to:
 - i. Executive Order 11246 as amended by Executive Orders 11375 and 12086, and the regulations issued pursuant thereto, which provide that no person shall be discriminated against on the basis of race, color, religion, sex or national origin in all phases of employment during the performance of federal or federally assisted construction contracts; affirmative action to insure fair treatment in employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff/termination, rates of pay or other forms of compensation; and election for training and apprenticeship.
 - ii. EO 11514 (NEPA).
 - iii. EO 11738 (violating facilities).
 - iv. EO 11988 (Floodplain Management).
 - v. EO 11990 (Wetlands).
 - vi. EO 12898 (Environmental Justice).

5) For Grantees/Recipients other than individuals, the provisions of the DRUG-FREE WORKPLACE as required by the Drug-Free Workplace Act of 1988.

This assurance is given in consideration of and for the purpose of obtaining Federal grants, loans, reimbursements, advances, contracts, property, discounts and/or other Federal financial assistance extended to the Subgrantee/Subrecipient by FEMA. The Subgrantee/Subrecipient understands that such Federal Financial assistance will be extended in reliance on the representations and agreements made in this Assurance and that both the United States and the Grantee/Recipient have the joint and several right to seek judicial enforcement of this assurance. This assurance is binding on the Subgrantee/Subrecipient, its successors, transferees, and assignees

FOR THE SUBGRANTEE/SUBRECIPIENT:

Signature

Printed Name and Title

Date

Public Assistance Quarterly Report

Available for Each Subgrantee/Subrecipient on www.FloridaPA.org

Quarterly Report

This form is to report the progress of projects on a quarterly basis. The quarter end dates are December 31, March 31, June 30, September 30 and this form is due within 15 days of each end date. Selecting a project from the "Select Project" list will populate the form below. Reporting has been completed on projects that are projected in the "Select Project" list.

Select Project:

Fill this list for projects that are not 100% complete.

Type: Category: ☐ New Project
 Eligible Obligated: \$44,154.00
 Work Deadline: Dec 31, 2007

General	This Quarter	Previous Quarter
Anticipated Total Amount:	\$47,154.00	\$47,154.00
Expended To Date:	\$44,440.00	\$44,440.00
Work Percent Complete:	100.0%	100.0%
Estimated Completion Date:	Aug 22, 2007	Aug 22, 2007

Projected Funds to be Requested for Reimbursement

Estimate for FY2012-01: July-Sep:	\$0.00	\$0.00
Estimate for FY2012-01: Oct-Dec:	\$0.00	\$0.00
Estimate for FY2012:	\$0.00	\$0.00
Estimate for FY2013:	\$0.00	\$0.00
Estimate for FY2014:	\$0.00	\$0.00
Estimate for FY2015:	\$0.00	\$0.00
Estimate for FY2016:	\$0.00	\$0.00

Status

Work Status:
 Work Complete - Closeout Not Yet Requested
 Work Complete - Closeout Not Yet Requested (100% and prior 100% quarter)

Cost Status:
 Choose a Cost
 Nothing Reported in previous quarter

Comments:
 Please provide any important information regarding the progress of this project.



Did you know...

- If the Estimated Completion Date is greater than the Work Deadline, a Request for Time Extension may be required. Submit Time Extension.
- If the project is 100% complete a Request for Project Closeout is required. Submit Project Closeout.

**Certification Regarding
Debarment, Suspension, Ineligibility,
and
Voluntary Exclusion**

Subcontractor Covered Transactions:

The prospective subcontractor of the Subgrantee/Subrecipient certifies, by submission of this document, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any federal department or agency.

(Where the Subgrantee's/Subrecipient's subcontractor is unable to certify to the above statement, the prospective subcontractor must attach an explanation to this form.)

SUBCONTRACTOR:

Name of Company

Street Address

City, State, Zip

Federal Employer Identification Number (FEIN)

By: _____
Signature Date

Printed Name

Subgrantee's/Subrecipient's Name

Attachment "C"

The **Designation of Authority Form** is submitted with each new disaster or emergency declaration to provide the authority for the Subgrantee's/Subrecipient's Primary Agent and Alternate Agent to access the FloridaPA.org system in order to enter notes, review notes and documents, and submit the documentation necessary to work the new event. The Designation of Authority Form is originally submitted as Attachment "D" to the PA Funding Agreement for each disaster or emergency declaration. Subsequently, the Primary or Alternate contact should review the agency contacts at least quarterly. The Authorized Representative can request a change in contacts via email to the state team; a note should be entered in FloridaPA.org if the list is correct. Contacts should be removed as soon as they separate, retire, or are reassigned by the Agency. A new form will only be needed if *all* authorized representatives have separated from your agency. Note that if a new Designation form is submitted, all Agency Representatives currently listed as contacts that are not included on the updated form will be deleted from FloridaPA.org as the contacts listed are replaced in the system, not supplemented. All users must log in on a monthly basis to keep their accounts from becoming locked.

Instructions for Completion

Complete the form in its entirety, listing the name and information for all representatives who will be working in the FloridaPA.org Grant Management System. Users will be notified via email when they have been granted access. The user must log in to the FloridaPA.org system within 12 hours of being notified or their account will lock them out. Each user must log in within a 60-day time period or their account will lock them out. In the event you try to log in and your account is locked, submit a ticket using the Access Request link on the home page.

The form is divided into twelve blocks; each block must be completed where appropriate.

Block 1: "Authorized Agent" – This should be the highest authority in your organization who is authorized to sign legal documents on behalf of your organization. (Only one Authorized Agent is allowed and this person will have full access/authority unless otherwise requested).

Block 2: "Primary Agent" – This is the person designated by your organization to receive all correspondence and is our main point of contact. This contact will be responsible for answering questions, uploading documents, and submitting reports/requests in FloridaPA.org. The Primary Agent is usually not the Authorized Agent but should be responsible for updating all internal stakeholders on all grant activities. (Only one Primary Agent is allowed and this contact will have full access).

Block 3: "Alternate Agent" – This is the person designated by your organization to be available when the Primary is not. (Only one Alternate Agent is allowed and this contact will have full access).

Block 4, 5, and 6: "Other" (Finance/Point of Contact, Risk Management-Insurance, and Environmental-Historical). Providing these contacts is essential in the coordination and communication required between state and local subject matter experts. We understand that the same agent may be identified in multiple blocks, however we ask that you enter the name and information again to ensure we are communicating with the correct individuals.

Block 7 – 12: "Other" (Read Only Access) – There is no limit on "Other" contacts but we ask that this be restricted to those that are going to actually need to log in and have a role in reviewing the information. This designation is only for situational awareness purposes as individuals with the "Other Read-Only" designation cannot take any action in FloridaPA.org.

**DESIGNATION OF AUTHORITY (AGENTS)
FEMA/GRANTEE PUBLIC ASSISTANCE PROGRAM
FLORIDA DIVISION OF EMERGENCY MANAGEMENT**

Sub-Grantee: City of Port Orange

Box 1: Authorized Agent (Full Access)

Agent's Name DON BURNETTE
Signature _____
Organization / Official Position CITY OF PORT ORANGE / MAYOR
Mailing Address 1000 CITY CENTER CIRCLE
City, State, Zip PORT ORANGE, FL 32129
Daytime Telephone 386-506-5501
E-mail Address DBURNETTE@PORT-ORANGE.ORG

Box 2: Primary Agent (Full Access)

Agent's Name Michael H. Johansson
Signature _____
Organization / Official Position CITY OF PORT ORANGE / CITY MANAGER
Mailing Address 1000 CITY CENTER CIRCLE
City, State, Zip PORT ORANGE, FL 32129
Daytime Telephone 386-506-5501
E-mail Address MJOHANSSON@PORT-ORANGE.ORG

Box 3: Alternate Agent (Full Access)

Agent's Name ALAN ROSEN
Signature _____
Organization / Official Position CITY OF PORT ORANGE / ASST. CITY MANAGER
Mailing Address 1000 CITY CENTER CIRCLE
City, State, Zip PORT ORANGE, FL 32129
Daytime Telephone 386-506-5501
E-mail Address ARROSEN@PORT-ORANGE.ORG

Box 4: Other-Finance/Point of Contact (Full Access)

Official's Name Tracey Riehm
Signature _____
Organization / Official Position PORT ORANGE / FINANCE DIRECTOR
Mailing Address 1000 CITY CENTER CIRCLE
City, State, Zip PORT ORANGE, FL 32129
Daytime Telephone 386-506-5710
E-mail Address TRIEHM@PORT-ORANGE.ORG

Box 5: Other-Risk Mgmt-Insurance (Full Access)

Agent's Name JAMIE MILLER
Signature _____
Organization / Official Position CITY OF PORT ORANGE / RISK MANAGER
Mailing Address 1000 CITY CENTER CIRCLE
City, State, Zip PORT ORANGE, FL 32129
Daytime Telephone 386-506
E-mail Address JMILLER@PORT-ORANGE.ORG

Box 6: Other-Environmental-Historical (Full Access)

Agent's Name MELISSA FRANGOULIS
Signature _____
Organization / Official Position CITY OF PORT ORANGE / GRANTS ACCOUNTANT
Mailing Address 1000 CITY CENTER CIRCLE
City, State, Zip PORT ORANGE, FL 32129
Daytime Telephone 386-506
E-mail Address MFRANGOULIS@PORT-ORANGE.ORG

The above Primary and Alternate Agents are hereby authorized to execute and file an Application for Public Assistance on behalf of the Sub-grantee for the purpose of obtaining certain Grantee and federal financial assistance under the Robert T. Stafford Disaster Relief & Emergency Assistance Act, (Public Law 93-288 as amended) or otherwise available. These agents are authorized to represent and act for the Sub-Grantee in all dealings with the State of Florida, Grantee, for all matters pertaining to such disaster assistance previously signed and executed by the Grantee and Sub-grantee. Additional contacts may be placed on page 2 of this document for read only access by the above Authorized Agents.

Sub-Grantee Authorized Agent Signature _____

Date _____

DESIGNATION OF AUTHORITY (AGENTS) FEMA/GRANTEE PUBLIC ASSISTANCE PROGRAM FLORIDA DIVISION OF EMERGENCY MANAGEMENT	
Sub-Grantee: _____ Date: _____	
Box 7: Other (Read Only Access)	Box 8: Other (Read Only Access)
Agent's Name	Agent's Name
Signature	Signature
Organization / Official Position	Organization / Official Position
Mailing Address	Mailing Address
City, State, Zip	City, State, Zip
Daytime Telephone	Daytime Telephone
E-mail Address	E-mail Address
Box 9: Other (Read Only Access)	Box 10: Other (Read Only Access)
Agent's Name	Official's Name
Signature	Signature
Organization / Official Position	Organization / Official Position
Mailing Address	Mailing Address
City, State, Zip	City, State, Zip
Daytime Telephone	Daytime Telephone
E-mail Address	E-mail Address
Box 11: Other (Read Only Access)	Box 12: Other (Read Only Access)
Agent's Name	Agent's Name
Signature	Signature
Organization / Official Position	Organization / Official Position
Mailing Address	Mailing Address
City, State, Zip	City, State, Zip
Daytime Telephone	Daytime Telephone
E-mail Address	E-mail Address
Sub-Grantee's Fiscal Year (FY) Start: Month: 10 Day: 01	
Sub-Grantee's Federal Employer's Identification Number (EIN) 59 - 6000412	
Sub-Grantee's Grantee Cognizant Agency for Single Audit Purposes: Florida Division of Emergency Management	
Sub-Grantee's: FIPS Number (If Known) - -	

NOTE: This form should be reviewed and necessary updates should be made each quarter to maintain efficient communication and continuity throughout staff turnover. Updates may be made by email to the state team assigned to your account. A new form will only be needed if all authorized representatives have separated from your agency. Be aware that submitting a new Designation of Authority affects the contacts that have been listed on previous Designation forms in that the information in FloridaPA.org will be updated and the contacts listed above will replace, not supplement, the contacts on the previous list.

REV. 10-04-16 DISCARD PREVIOUS VERSIONS

DHS OIG AUDIT ISSUES & ACKNOWLEDGEMENT

The Department of Homeland Security (DHS) Office of Inspector General (OIG) was tasked by Congress to audit all FEMA projects for fiscal year 2014. A synopsis of those findings are listed below:

There have been 32 separate instances where Grantees/Recipients or Subgrantees/Subrecipients did not follow the prescribed rules to the point that the OIG believed the below listed violations could have nullified the FEMA/State agreement.

1. Non Competitive contracting practices.
2. Failure to include required contract provisions.
3. Failure to employ the required procedures to ensure that small, minority, and women's owned firms were all given fair consideration.
4. Improper "cost-plus-a-percentage-of-cost" contracting practices.

The following information comes directly from DHS's OIG Audit Tips for Managing Disaster Related Project Costs; Report Number OIG-16-109-D dated July 1, 2016. The following may be reasons for the disallowance or total de-obligation of funding given under the FEMA/State agreement:

1. Use of improper contracting practices.
2. Unsupported costs.
3. Poor project accounting.
4. Duplication of benefits.
5. Excessive equipment charges (applicability may vary with hazard mitigation projects).
6. Excessive labor and fringe benefit charges.
7. Unrelated project costs.
8. Direct Administrative Costs.
9. Failure to meet the requirement to obtain and maintain insurance.

Key Points that *must* be followed when Administering FEMA Grants:

- Designate one person to coordinate the accumulation of records.
- Establish a separate and distinct account for recording revenue and expenditures, and a separate identifier for each specific FEMA project.
- Ensure that the final claim for each project is supported by amounts recorded in the accounting system.
- Ensure that each expenditure is recorded in the accounting books and references supporting sources of documentation (checks, invoices, etc.) that can be readily retrieved.
- Research insurance coverage and seek reimbursement for the maximum amount. Credit the appropriate FEMA project with that amount.
- Check with your Federal Grant Program Coordinator about availability of funding under other Federal programs (Federal Highways, Housing and Urban Development, etc.) and ensure that the final project claim does not include costs that another Federal agency funded or could have funded.
- Ensure that materials taken from existing inventories for use on FEMA projects are documented by inventory withdrawal and usage records.
- Ensure that expenditures claimed under the FEMA project are reasonable, necessary, directly benefit the project, and are authorized under the "Scope of Work."

I acknowledge that I have received a copy of, and have been briefed on, the above DHS OIG Audit Issues.

FOR	_____	BY	_____
	Subgrantee/Subrecipient		Signature
	_____		_____
	Date		Printed Name and Title

JUSTIFICATION FOR ADVANCE PAYMENT

RECIPIENT:

If you are requesting an advance, indicate same by checking the box below.

☐ ADVANCE REQUESTED

Advance payment of \$ _____ is requested.
Balance of payments will be made on a reimbursement basis. These funds are needed to pay staff, award benefits to clients, duplicate forms and purchase start-up supplies and equipment. We would not be able to operate the program without this advance.

If you are requesting an advance, complete the following chart and line item justification below.

ESTIMATED EXPENSES

BUDGET CATEGORY/LINE ITEMS (list applicable line items)	20__-20__ Anticipated Expenditures for First Three Months of Contract
<u>For example</u> ADMINISTRATIVE COSTS (Include Secondary Administration.)	
<u>For example</u> PROGRAM EXPENSES	
TOTAL EXPENSES	

LINE ITEM JUSTIFICATION (For each line item, provide a detailed justification explaining the need for the cash advance. The justification must include supporting documentation that clearly shows the advance will be expended within the first ninety (90) days of the contract term. Support documentation should include quotes for purchases, delivery timelines, salary and expense projections, etc. to provide the Division reasonable and necessary support that the advance will be expended within the first ninety (90) days of the contract term. Any advance funds not expended within the first ninety (90) days of the contract term must be returned to the Division Cashier, 2555 Shumard Oak Boulevard, Tallahassee, Florida 32399, within thirty (30) days of receipt, along with any interest earned on the advance)



CITY COUNCIL AGENDA ITEM

REQUESTED COUNCIL MEETING DATE 01/17/2017

Consent item: Yes

SUBJECT: (B8) City of New Smyrna Beach Police Range and Training Facility Agreements

DEPARTMENT: Police Services

GOAL:

RECOMMENDED MOTION: Approve the pistol range and training facility agreements with New Smyrna Beach Police Department.

SUMMARY: The Port Orange Police Department is requesting approval to enter into the attached agreements permitting Port Orange Police Officers use of the New Smyrna Beach Police Department's shooting range and training facilities. These agreements may be cancelled by either party upon a thirty (30) day written notice and will terminate on December 31, 2017. The City of New Smyrna Beach is requesting a \$300.00 annual contribution to assist with maintenance costs for use of the above mentioned facilities.

Project No.: Funding Account No.: 001-3200-521.34-14

ATTACHMENTS:

1.	NSB Pistol Range Agreement	.pdf
2.	NSB Training Facility Agreement	.pdf

Debbie Grabowski
Thomas Grimaldi
Tracey Riehm
Margaret Roberts
M. Jake Johansson
Robin Fenwick

Created/Initiated - 12/27/2016
Approved - 12/27/2016
Approved - 12/28/2016
Approved - 01/05/2017
Approved - 01/05/2017
Final Approval - 01/05/2017

**PISTOL RANGE AGREEMENT
CITY OF NEW SMYRNA BEACH**

THIS AGREEMENT made and entered into this _____ day of _____ 2017, between the City of New Smyrna Beach, a municipal corporation of the State of Florida, hereinafter referred to as “New Smyrna Beach”, and City of Port Orange, a municipal corporation of the State of Florida, hereinafter referred to as “Permittee”.

WITNESSETH

WHEREAS, in order that Permittee and its agents or employees may maintain a level of performance in its use of firearms commensurate with their obligations and responsibilities as law enforcement or military officers, and in consideration of the mutual promises hereinafter contained in this Agreement, this Agreement is entered into to enable Permittee to use the New Smyrna Beach Police Department Pistol Range.

NOW, THEREFORE, the parties hereto agree as follows:

1. The above recitations are true and correct.
2. New Smyrna Beach hereby agrees to permit the agents or employees of Permittee to use the New Smyrna Beach Police Department Pistol Range at such time(s) as are mutually agreed upon between the parties in accordance with individual departmental schedules. During this period of pistol range use by the agents or employees of Permittee, said agents or employees will be under the control and direction of the New Smyrna Beach Police Department Range Officer in addition to being subject to any and all rules and regulations for the use of the range which may be provided for in the New Smyrna Beach Police Department’s Policies and Procedures or Rules and Regulations, which shall be provided to the Permittee Training Instructor upon request.
3. Permittee agrees to provide ammunition for its agents or employees which conforms to any and all specifications set by the New Smyrna Beach Police Department Range Officer and to utilize only weapons which conform to any and all specifications set by said Range Officer.
4. Permittee further agrees to provide a qualified instructor/range officer to provide training for and immediate supervision of its agents or employees utilizing the New Smyrna Beach Police Department’s Pistol Range during such times as said range is used by Permittee.
5. Permittee shall indemnify and save harmless New Smyrna Beach, its agents and employees, from and against all claims, suits, actions, damages or causes of action arising during the term of this Agreement for any personal injury, loss of life or damage to property sustained by reason or as a result of its use of the premises, and against any orders, judgments or decrees which may be entered thereto, and from and against all costs, attorney fees, expenses and liabilities incurred in or by reason of the defense of any claim, suit or action, and the investigation thereof. Notwithstanding the foregoing, both parties acknowledge that the indemnification between municipalities is limited by Section 768.28(19), Florida Statutes; and agree that nothing in this Agreement shall be deemed to affect the rights, privileges and immunities of either party set forth in Section 768.28, Florida

Statutes.

6. Permittee shall not assign this Agreement, or any portion thereof, to any other person without the consent of New Smyrna Beach in writing, nor shall it permit any officer, agent or employee or any other party to use said premises without a written request and written consent from New Smyrna Beach.

7. New Smyrna Beach shall not be responsible for any damages incurred by Permittee as a result of said range being temporarily inoperable for any reason.

8. This Agreement is and shall be considered to be the only Agreement concerning the pistol range between the parties hereto. All negotiations and all agreements of said parties are included herein. There is a separate Agreement for use of the Training Facility.

9. The term of this Agreement shall commence on the 1st day of January, 2017, provided that this Agreement may be canceled by either party upon furnishing at least thirty (30) days written notice of cancellation upon the other party. This Agreement shall automatically terminate one (1) year from the above date.

IN WITNESS WHEREOF, the parties hereto have set their hands and seals the day and year first above written.

THE CITY OF NEW SMYRNA BEACH, a
municipal corporation of the State of Florida

WITNESSES:

BY:

Mayor

Attest:

City Clerk

CITY OF PORT ORANGE, FLORIDA

a chartered municipal corporation

WITNESSES:

BY:

MAYOR DONALD O. BURNETTE

Attest:

Robin L. Fenwick, CMC, City Clerk

**CITY OF NEW SMYRNA BEACH
TRAINING FACILITY AGREEMENT**

THIS AGREEMENT made and entered into this _____ day of _____ 2017, between the City of New Smyrna Beach, a municipal corporation of the State of Florida, hereinafter referred to as “New Smyrna Beach”, and City of Port Orange, a municipal corporation of the State of Florida, hereinafter referred to as “Permittee”.

WITNESSETH

WHEREAS, in order that Permittee and its agents or employees may maintain a level of physical performance commensurate with their obligations and responsibilities as law enforcement or military personnel, and in consideration of the mutual promises hereinafter contained in this Agreement, this Agreement is entered into to enable Permittee to use the New Smyrna Beach Police Department Training Facility.

NOW, THEREFORE, the parties hereto agree as follows:

1. The above recitations are true and correct.
2. New Smyrna Beach hereby agrees to permit the agents or employees of Permittee to use the New Smyrna Beach Police Department Training Facility at such time(s) as are mutually agreed upon between the parties in accordance with individual departmental schedules. During this period of training facility use by the agents or employees of Permittee, said agents or employees will be under the control and direction of a training officer in addition to being subject to any and all rules and regulations for the use of the training facility which may be provided for in the New Smyrna Beach Police Department’s Policies and Procedures or Rules and Regulations, as amended from time to time and provided in writing to the Permittee Training Instructor upon request.
3. Permittee agrees to provide a qualified instructor to provide training for and immediate supervision of its agents or employees utilizing the New Smyrna Beach Police Department Training Facility during such time(s) as said training facility is used by Permittee.
4. Permittee shall indemnify and save harmless New Smyrna Beach, its agents and employees, from and against all claims, suits, actions, damages or causes of action arising during the term of this Agreement for any personal injury, loss of life or damage to property sustained by reason or as a result of its use of the premises, and against all orders, judgments or decrees which may be entered thereto, and from and against all costs, attorney fees, expenses and liabilities incurred in or by reason of the defense of any claim, suit or action, and the investigation thereof. Notwithstanding the foregoing, both parties acknowledge that indemnification between municipalities is limited by Section 768.28(19), Florida Statutes; and agree that nothing in this section or Agreement shall be deemed to affect the rights, privileges and immunities of either party set forth within Section 768.28, Florida Statutes.
5. New Smyrna Beach shall not be responsible for any damages incurred by Permittee as a result of said training facility being temporarily inoperable for any reason.

6. This Agreement is and shall be considered to be the only Agreement concerning the training facility between the parties hereto. All negotiations and all agreements of said parties relating to the Training Facility are included herein. There is a separate Agreement for use of the New Smyrna Beach Police Department Pistol Range.

7. The term of this Agreement shall commence on the 1st day of January, 2017, provided that this Agreement may be canceled by either party upon furnishing at least thirty (30) days written notice of cancellation upon the other party. This Agreement shall automatically terminate one (1) year from the above date.

IN WITNESS WHEREOF, the parties hereto have set their hands and seals the day and year first above written.

THE CITY OF NEW SMYRNA BEACH, a
municipal corporation of the State of Florida

WITNESSES:

BY:

Mayor

Attest:

City Clerk

CITY OF PORT ORANGE, FLORIDA

a chartered municipal corporation

WITNESSES:

BY:

MAYOR DONALD O. BURNETTE

Attest:

Robin L. Fenwick, CMC, City Clerk



CITY COUNCIL AGENDA ITEM

REQUESTED COUNCIL MEETING DATE 01/17/2017

Consent item: No

SUBJECT: (C9) Port Orange Property Development, Inc. Joint Annual Meeting of the Members, Directors and Design Review Board

DEPARTMENT: City Attorney

GOAL:

RECOMMENDED MOTION: See Joint Meeting Guide attached.

SUMMARY: Vice Chairman Stiltner will conduct the Joint Meeting.
Please see attached notice, agenda and outline for joint annual meeting.

Project No.: Funding Account No.:

ATTACHMENTS:

1.	Port Orange Property Development, Inc.	Port Orange Property Development, Inc..pdf
2.	Meeting Minutes - January 5, 2016	PO PDI 1-5-16 minutes.pdf

Robin Fenwick
Shannon Balmer
Margaret Roberts
M. Jake Johansson
Robin Fenwick

Created/Initiated - 12/21/2016
Approved - 01/05/2017
Approved - 01/05/2017
Approved - 01/05/2017
Final Approval - 01/05/2017



**NOTICE OF JOINT ANNUAL MEETING
Of Members, Directors and Design Review Board Of
PORT ORANGE PROPERTY DEVELOPMENT, INC.,
a Florida Not-for-Profit Corporation.
1000 City Center Circle, Port Orange, Florida**

TO: All Members, Directors, and Design Review Board

Pursuant to the provisions of Article 3.02, Members of the Corporation, and Article 4.03, Board of Directors, of the Bylaws of **PORT ORANGE PROPERTY DEVELOPMENT, INC.**, a Florida Not-for-Profit Corporation

YOU ARE HEREBY NOTIFIED

that the joint annual meeting of the Members and of the Board of Directors shall be held on **Tuesday, January 17, 2017, at 6:30 p.m.**, or as soon thereafter as the respective meeting may be called to order, in the City Council Chambers, City Hall, 1000 City Center Circle, Port Orange, Florida, for the following purposes:

Agenda for Meeting of Members:

1. Roll Call (all members of council)
2. Acceptance of Meeting Notice
3. Approval of Minutes of January 5, 2016 for meeting of the Members and Directors
4. Approval of Minutes of January 5, 2016 for meeting of the Design Review Board
5. Election of the Board of Directors;

Current Board of Directors

_____ (vacant effective December 6, 2016)

Donald Burnette
Drew Bastian
Bob Ford
Scott Stiltner

Board of Directors to be elected

Chase Tramont
Donald Burnette
Drew Bastian
Bob Ford
Scott Stiltner

6. Such other business as may be brought before the Members of the corporation.

Immediately following the meeting of the members, the Board of Directors shall consider and take action on the following items:

Agenda for Meeting of Board of Directors:

7. **Election of officers:**

Current Officers

_____, Chairman (vacant effective December 6, 2016)
Scott Stiltner, Vice-Chairman
Drew Bastian, President
Donald Burnette, Vice President
Bob Ford, Secretary
Tracey Riehm, Treasurer

Nominations for election of officers:

Chairman: _____
Vice-Chairman: _____
President: _____
Vice President: _____
Secretary: _____
Treasurer: Tracey Riehm

8. Such other business as may be brought before the Board of Directors.

Immediately following the meeting of the Members and the Board of Directors, the Design Review Board shall consider and take action on the following items:

Agenda for Meeting of the Design Review Board:

9. **Election of officers:**

Current Officers

_____, Chairman (vacant effective December 6, 2016)
Drew Bastian, Vice-Chairman

Nominations for election of officers:

Chairman: _____

Vice-Chairman: _____

10. Such other business as may be brought before the Design Review Board.

DATED: January 5, 2107.

/s/ Robin Fenwick for
Bob Ford, Secretary

Copy to: Donald Burnette, Mayor
Drew Bastian, Vice Mayor
Bob Ford, Councilman
Scott Stiltner, Councilman
Chase Tramont, Councilman
M. H. Johansson City Manager
Tracey Riehm, Finance Director
Margaret T. Roberts, City Attorney

January 17, 2017

Voice vote

C. Do I have a nomination for President?

President: _____

Voice vote

D. Do I have a nomination for Vice President?

Vice President: _____

Voice vote

E. Do I have a nomination for Secretary?

Secretary: _____

Voice vote

**F. Do I have a motion to re-elect the Treasurer currently serving?
Second? Voice vote**

8. Any further business to be brought before the Board of Directors? There being none, we will move on to the business of the Design Review Board.

9. Election of Chairman and Vice Chairman of the Design Review Board:

A. Do I have a nomination to elect the Chairman for the one year term?

_____ as Chairman

Voice vote

B. Do I have a nomination to elect the Vice Chairman for the one year term?

_____ as Vice Chairman

Voice vote

10. Is there any further business of the Design Review Board? There being none, this annual meeting of the Members, Directors and the Design Review Board is adjourned.

PORT ORANGE PROPERTY DEVELOPMENT, INC.
MEETING MINUTES
COUNCIL CHAMBERS – CITY HALL 1000 CITY CENTER CIRCLE
JANUARY 5, 2016

THE JOINT ANNUAL MEETING OF PORT ORANGE PROPERTY DEVELOPMENT, INC., was called to order by Chairman Allen Green at 7:27 p.m.

<u>Roll Call:</u>	Present:	Bob Ford
		Don Burnette
		Drew Bastian
		Scott Stiltner
		Allen Green

Also Present: Jake Johansson, City Manager
Margaret T. Roberts, City Attorney
Robin Fenwick, City Clerk

Proof of Notice of Meeting

Motion was made by Don Burnette to accept the notice of the meeting, and Seconded by Bob Ford. Motion carried unanimously by voice vote.

Approval of Minutes

Motion was made by Don Burnette to approve the Minutes of December 2, 2014 and July 7, 2015 as presented, and Seconded by Drew Bastian. Motion carried unanimously by voice vote.

Election of Officers

Current Officers:

Allen Green, Chairman
Scott Stiltner, Vice Chairman
Drew Bastian, President
Donald Burnette, Vice President
Bob Ford, Secretary
Tracey Riehm, Treasurer

Motion was made by Don Burnette to re-elect the current Officers to a one-year term, and Seconded by Bob Ford. Motion carried unanimously by voice vote.

Appointment of Executive Director

Motion was made by Don Burnette to appoint M.H. Johansson to serve as Executive Director, and Seconded by Drew Bastian. Motion carried unanimously by voice vote.

There being no further business the meeting adjourned at 7:43 p.m.

Drew Bastian, President

Bob Ford, Secretary



CITY COUNCIL AGENDA ITEM

REQUESTED COUNCIL MEETING DATE 01/17/2017

Consent item: No

SUBJECT: (C10) City Center Corporate Park Property Owner's Association, Inc. Joint Annual Meeting of Members and Directors

DEPARTMENT: City Attorney

GOAL:

RECOMMENDED MOTION: See attached Joint Meeting Guide.

SUMMARY: Vice Chairman, Bob Ford will conduct the joint meeting.
Please see attached notice, agenda, and outline for the joint annual meeting.

Project No.: Funding Account No.:

ATTACHMENTS:

1.	City Center Corporate Park	City Center Corporate Park.pdf
2.	Meeting Minutes - January 5, 2016	CITY CTR CORP PARK POA ANNUAL MTG MINS 1-5-16.pdf

Robin Fenwick
Shannon Balmer
Margaret Roberts
M. Jake Johansson
Robin Fenwick

Created/Initiated - 12/21/2016
Approved - 01/05/2017
Approved - 01/05/2017
Approved - 01/05/2017
Final Approval - 01/05/2017



**NOTICE OF JOINT ANNUAL MEETING
Of Members and Directors of
CITY CENTER CORPORATE PARK PROPERTY
OWNERS ASSOCIATION, INC.,
a Florida Not-for-Profit Corporation
1000 City Center Circle, Port Orange, Florida**

TO: All Members and Directors

Pursuant to the provisions of Article 3.01, Members of the Corporation, and Article 7.02, Board of Directors, of the Bylaws of **CITY CENTER CORPORATE PARK PROPERTY OWNERS ASSOCIATION, INC.**, a Florida Not-for-Profit Corporation

YOU ARE HEREBY NOTIFIED

that the annual meeting of the Members and of the Board of Directors shall be held on **Tuesday, January 17, 2017 at 6:30 p.m.**, or as soon thereafter as the respective meeting may be called to order, in the City Council Chambers, City Hall, 1000 City Center Circle, Port Orange, Florida, for the following purposes:

Agenda for Meeting of Members:

- A. Roll Call (all members of Council)
- B. Proof of Notice of Meeting
- C. Approve Minutes of January 5, 2016
- D. Election of the Board of Directors for the One Year Term:

Current Board of Directors:

_____ (vacant effective December 6, 2016)

Drew Bastian
Donald Burnette
Bob Ford
Scott Stiltner

Board of Directors to be elected:

Drew Bastian
Donald Burnette
Bob Ford
Scott Stiltner
Chase Tramont

- E. Such other business as may be brought before the Members of the corporation.

Immediately following the meeting of the members, the Board of Directors shall consider and take action on the following items:

Agenda for Board of Directors Meeting:

- F. Election of Officers – one vacancy

B. Such other business as may be brought before the Board of Directors.

DATED: January 5, 2017

/s/ Robin Fenwick for
Donald Burnette, Secretary

Copy to: Donald Burnette, Mayor
Drew Bastian, Vice-Mayor
Bob Ford, Councilman
Scott Stiltner, Councilman
Chase Tramont, Councilman
M. H. Johansson, City Manager
Tracey Riehm, Finance Director
Margaret T. Roberts, City Attorney

**JOINT ANNUAL MEETING OF MEMBERS AND DIRECTORS OF
CITY CENTER CORPORATE PARK
PROPERTY OWNERS ASSOCIATION, INC.**

January 17, 2017

I call the Annual Joint Meeting of the CITY CENTER CORPORATE PARK PROPERTY OWNERS ASSOCIATION, INC., to Order.

A. Roll Call (all members of council): Donald Burnette, Drew Bastien, Bob Ford, Scott Stiltner, and Chase Tramont

B. Do I have a motion to accept the notice of meeting?
Second? Voice vote

C. Do I have a motion to approve the Minutes of the January 5, 2016, meeting?
Second? Voice vote

D. Election of Board of Directors for the One Year Term: Don Burnette, Bob Ford, Drew Bastian, Scott Stiltner and Chase Tramont

Second? Voice vote

E. Is there any other business to bring before the Members of the corporation?
There being none, we will move on to the business of the Board of Directors.

F. Election of Officers: I wish to report the receipt of the resignation of former Mayor Allen Green, effective December 6, 2016. The Board of Directors must elect a new Chairman to serve out the remainder of Director Green's current four-year term.

F.1. Election of Chairman of the Board of Directors: Do I have a nomination to fill the vacant seat of the Chairman for the remainder of the 3 year term expiring January 2019.

Voice vote.

G. Is there any other business to bring before the Board of Directors of the corporation? There being none, this meeting is adjourned.

JOINT ANNUAL MEETING MINUTES OF
THE CITY CENTER CORPORATE PARK PROPERTY
OWNERS ASSOCIATION
COUNCIL CHAMBERS – CITY HALL
1000 CITY CENTER CIRCLE
JANUARY 5, 2016

THE JOINT ANNUAL MEETING OF THE CITY CENTER CORPORATE PARK PROPERTY OWNERS ASSOCIATION, was called to order by Allen Green at 7:32 p.m.

<u>Roll Call:</u>	Present:	Bob Ford Donald Burnette Drew Bastian Scott Stiltner Allen Green
	Also Present:	Jake Johansson, City Manager Margaret Roberts, City Attorney Robin Fenwick, City Clerk

Notice of Meeting

Motion to accept the notice of the meeting was made by Member Burnette, and Seconded by Member Bastian. Motion carried unanimously by voice vote.

Approval of the Minutes of December 2, 2014

Motion to approve the Minutes of the December 2, 2014 meeting was made by Member Burnette, and Seconded by Member Stiltner. Motion carried unanimously by roll call vote.

Election of the members of the Board of Directors

Motion to re-elect the Board of Directors: Allen Green, Drew Bastian, Don Burnette, Bob Ford, and Scott Stiltner was made by Member Burnette, and Seconded by Member Bastian. Motion carried unanimously by voice vote.

There was no further business of the Members.

Agenda for Board of Directors Meeting:

Appointment of Registered Agent

Motion to appoint Tracey Riehm as Registered Agent and to update the annual report accordingly was made by Member Bastian, and Seconded by Member Burnette. Motion carried unanimously by voice vote.

There being no further business the meeting was adjourned.

ADJOURNMENT: 7:34 p.m.

Drew Bastian, President

Donald Burnette, Secretary

**The Golf Club at Cypress Head
Course Cash Flow Report
November 30, 2016**

	<u>November</u>	<u>YTD</u>
EBITDA	\$1,226.75	(\$24,546.59)
Management Fee Expense	(5,712.85)	(11,425.70)
Depreciation & Amortization	(151.61)	(305.22)
Net Income	(4,637.71)	(36,277.51)
Working Capital Changes		
Inventory	(2,542.39)	(4,635.20)
Receivables	1,617.97	89,893.77
Payables	17,150.17	(16,342.76)
Due to from the City	110.63	622.82
Prepays	2,689.57	827.25
Accrued Liabilities	(15,548.37)	(41,403.04)
Other Liabilities	(16,409.47)	(68,671.95)
Depreciation & Amortization	151.61	305.22
Operating Cash Flow	(17,417.99)	(75,681.40)
Investing Cash Flows	<u> </u>	<u> </u>
Financing Cash Flow	<u> </u>	<u> </u>
Net Cash Flows	<u>(17,417.99)</u>	<u>(75,681.40)</u>
Beginning Cash	118,737.69	177,001.10
Net Cash Flows	<u>(17,417.99)</u>	<u>(75,681.40)</u>
Ending Cash	<u>101,319.70</u>	<u>101,319.70</u>

The Golf Club at Cypress Head
Comparative Income Statement
For the Two Months Ending November 30, 2016

	MTD	YTD	Audited	Percent	MTD	YTD	Annual	Percent
	Prior Year	Prior Year	Prior Year	of Total	Actual	Actual	Budget	of Total
REVENUES								
Green Fees & Cart Fees	109,210	114,236	1,077,267	11%	101,042	175,172	1,116,089	16%
Merchandise	6,529	7,062	54,320	13%	6,734	10,764	57,514	19%
Other Pro Shop	507	527	14,505	4%	539	929	11,540	8%
Range	2,905	3,056	34,150	9%	3,051	5,576	34,679	16%
Food and Beverage	0	0	137		0	0	0	
Membership Initiation Fees	(250)	0	0		0	0	0	
Other Operating Revenues	3,715	3,911	37,806	10%	3,561	6,293	39,852	16%
TOTAL REVENUE	122,615	128,792	1,218,185	11%	114,927	198,734	1,259,674	16%
COST OF SALES								
Merchandise	5,762	6,077	36,189	17%	3,872	6,306	40,260	16%
TOTAL COGS	5,762	6,077	36,189	17%	3,872	6,306	40,260	16%
COGS - Merchandise %	88.3%	86.1%	66.6%	129.2%	57.5%	58.6%	70.0%	83.7%
PAYROLL								
Course and Grounds	26,092	60,148	339,558	18%	29,674	58,730	351,366	17%
Carts, Range, Starters, Etc.	8,483	10,048	81,091	12%	7,242	13,790	92,546	15%
Pro Shop	6,644	10,347	53,209	19%	3,981	8,156	55,398	15%
General and Administrative	9,376	19,799	127,363	16%	10,439	21,412	129,158	17%
Marketing	3,577	7,946	48,834	16%	4,085	8,165	49,603	16%
TOTAL PAYROLL	54,172	108,288	650,054	17%	55,421	110,253	678,071	16%
OPERATING EXPENSES								
Course and Grounds	12,877	36,213	247,630	15%	18,785	40,337	212,591	19%
Carts, Range, Starters, Etc.	6,681	14,505	80,708	18%	7,950	14,373	85,302	17%
Pro Shop	574	574	10,107	6%	150	(275)	9,015	-3%
Food and Beverage	0	185	322	57%	0	0	0	
General and Administrative	23,268	35,843	197,823	18%	25,720	48,042	205,607	23%
Marketing	8,190	14,891	34,250	43%	1,803	4,245	33,063	13%
TOTAL OPERATING EXPENSES	51,589	102,210	570,840	18%	54,407	106,722	545,578	20%
TOTAL EXPENSES	111,524	216,576	1,257,084	17%	113,700	223,281	1,263,909	18%
OTHER INCOME (EXPENSE)								
MANAGEMENT FEES	(5,713)	(13,082)	(70,211)	19%	(5,713)	(11,426)	(69,924)	16%
Depreciation & Amortization	(381)	(762)	(11,147)	7%	(152)	(305)	(4,572)	7%
TOTAL OTHER INCOME (EXPENSE)	(6,094)	(13,844)	(81,358)	17%	(5,864)	(11,731)	(74,496)	16%
NET INCOME	4,998	(101,628)	(120,257)	85%	(4,638)	(36,278)	(78,731)	46%
Paid Rounds	3,456	3,703	34,878	11%	3,299	5,800	38,696	15%
Annual Pass Rounds	820	842	8,657	10%	761	1,410	5,051	28%
Other Rounds	215	216	2,437	9%	236	425	2,812	15%
Total Rounds	4,491	4,761	45,972	10%	4,296	7,635	46,559	16%
Revenue/Paid Rounds	35	35	35	100%	35	34	33	105%
Revenue/Total Rounds	27	27	26	102%	27	26	27	96%

The Golf Club at Cypress Head
For the Two Months Ending November 30, 2016

	<u>11/30/16</u>	<u>09/30/16</u>	<u>11/30/15</u>
ASSETS			
CURRENT ASSETS:			
Cash			
Cash - Operating	0	0	171,618
Cash - Depository	99,970	176,360	0
Cash - Manual Checks	850	850	850
Cash - Housebank & Other	500	(209)	(22,467)
Total Cash	<u>101,320</u>	<u>177,001</u>	<u>150,000</u>
Accounts Receivable			
A/R Member	2,700	92,593	9,055
Total Accounts Recievable	<u>2,700</u>	<u>92,593</u>	<u>9,055</u>
Other Current Assets			
Inventory - Merchandise	20,869	16,234	18,622
Prepaid Insurance	10,573	10,248	10,516
Prepaid Exp - Other	5,887	7,038	14,986
Total Other Current Assets	<u>37,328</u>	<u>33,520</u>	<u>44,124</u>
TOTAL CURRENT ASSETS	<u>141,347</u>	<u>303,115</u>	<u>203,179</u>
PROPERTY, PLANT AND EQUIPMENT:			
Buildings & Improvements	30,598	30,598	54,143
Furniture and Fixtures	0	0	9,045
Machinery & Equipment	5,550	5,550	16,000
Property Plant and Equipment	36,148	36,148	79,187
Accumulated Depreciation	(24,542)	(24,236)	(56,891)
TOTAL PROPERTY, PLANT AND EQUIPMENT	<u>11,606</u>	<u>11,911</u>	<u>22,296</u>
OTHER ASSETS:			
Deposits (in ST section of chart)	0	0	2,500
TOTAL OTHER ASSETS	<u>0</u>	<u>0</u>	<u>2,500</u>
TOTAL ASSETS	<u><u>152,954</u></u>	<u><u>315,026</u></u>	<u><u>227,975</u></u>

The Golf Club at Cypress Head
For the Two Months Ending November 30, 2016

	<u>11/30/16</u>	<u>09/30/16</u>	<u>11/30/15</u>
LIABILITIES AND STOCKHOLDERS' EQUITY			
CURRENT LIABILITIES:			
Accts Pay - Trade	58,769	75,111	26,563
Accts Pay - Other	(109,766)	(110,389)	28,256
Accrued Expenses	2,564	7,783	0
Accrued Payroll	10,994	25,945	11,114
Accrued Taxes	(1,993)	13,903	12,291
Accrued Interest	0	5,337	0
Deferred Revenue	228,665	297,337	251,379
TOTAL CURRENT LIABILITIES	<u>189,232</u>	<u>315,027</u>	<u>329,603</u>
 TOTAL LIABILITIES	 <u>189,232</u>	 <u>315,027</u>	 <u>329,603</u>
 STOCKHOLDER'S EQUITY			
Retained Earnings	<u>(36,279)</u>	<u>(1)</u>	<u>(101,628)</u>
Net Retained Earnings	<u>(36,279)</u>	<u>(1)</u>	<u>(101,628)</u>
Stockholders Equity	<u>(36,279)</u>	<u>(1)</u>	<u>(101,628)</u>
TOTAL STOCKHOLDER'S EQUITY	<u>(36,279)</u>	<u>(1)</u>	<u>(101,628)</u>
 TOTAL LIABILITIES AND STOCKHOLDER'S EQUITY	 <u><u>152,954</u></u>	 <u><u>315,026</u></u>	 <u><u>227,975</u></u>

[illegible]

The Golf Club at Cypress Head
Summary of All Units
For the Two Months Ending November 30, 2016

MTD Actual	MTD Budget	% of Budget	MTD Prior Year	% of PY	YTD Actual	YTD Budget	% of Budget	YTD Prior Year	% of PY	Annual Budget	
REVENUES											
60,239	58,197	104%	63,197	95%	103,263	103,674	100%	66,823	155%	646,060	653,001
40,803	46,013	89%	46,012	89%	71,909	80,825	89%	47,413	152%	470,029	485,202
0	0	0%	(250)	0%	0	0	0%	0	0%	0	0
0	0	0%	0	0%	0	0	0%	0	0%	0	(137)
20	60	33%	60	33%	40	80	50%	80	50%	4,567	4,849
379	210	181%	210	181%	579	460	126%	210	276%	3,931	7,304
0	0	0%	0	0%	0	0	0%	0	0%	0	74
140	237	59%	237	59%	310	437	71%	237	131%	3,042	2,680
6,734	5,529	122%	6,529	103%	10,764	9,561	113%	7,062	152%	57,514	58,159
3,051	2,505	122%	2,905	105%	5,576	4,957	112%	3,056	182%	34,679	36,670
0	0	0%	0	0%	0	0	0%	0	0%	0	137
3,561	3,397	105%	3,715	96%	6,293	6,593	95%	3,911	161%	39,852	40,188
114,927	116,148	99%	122,615	94%	198,734	206,587	96%	128,792	154%	1,259,674	1,288,127
COST OF GOODS SOLD											
3,872	3,870	100%	5,762	67%	6,306	6,693	94%	6,077	104%	40,260	36,418
3,872	3,870	100%	5,762	67%	6,306	6,693	94%	6,077	104%	40,260	36,418
111,055	112,278	99%	116,853	95%	192,429	199,894	96%	122,715	157%	1,219,414	1,251,709
57.50%	69.99%	82.14%	88.26%	65.15%	58.58%	70.00%	83.68%	86.06%	68.07%	70.00%	753.06%
PAYROLL											
20,075	19,078	105%	17,221	117%	40,987	38,156	107%	35,939	114%	228,936	236,714
25,396	26,499	96%	28,926	88%	49,514	53,881	92%	54,598	91%	318,603	297,443
45,472	45,577	100%	46,147	99%	90,501	92,037	98%	90,537	100%	547,539	534,156
3,411	3,487	98%	3,370	101%	6,838	7,042	97%	6,707	102%	41,893	40,173
255	237	108%	647	38%	605	481	126%	931	65%	4,953	5,415
772	947	82%	919	84%	1,993	1,913	104%	1,718	116%	11,719	11,537
5,511	5,817	95%	3,089	178%	10,318	11,635	89%	8,395	123%	71,967	60,737
9,949	10,488	95%	8,025	124%	19,753	21,071	94%	17,751	111%	130,532	117,863
55,421	56,065	99%	54,172	102%	110,253	113,108	97%	108,288	102%	678,071	652,020
OPERATING EXPENSES											
352	0	0%	428	82%	456	0	0%	736	62%	0	1,077
2,395	405	591%	135	1778%	2,395	1,702	141%	732	327%	3,886	3,883
3,888	3,000	130%	1,463	266%	6,091	6,000	102%	4,504	135%	25,094	40,403
0	0	0%	0	0%	0	174	0%	74	0%	399	1,531
1,179	1,000	118%	0	0%	1,235	2,125	58%	1,125	110%	13,026	11,447
0	0	0%	968	0%	1,071	806	133%	1,273	84%	4,045	5,021
504	60	841%	60	846%	3,088	3,090	100%	2,590	119%	15,068	21,018
1,715	1,689	102%	289	593%	3,755	3,319	113%	1,219	308%	15,077	17,485
307	201	153%	131	235%	359	526	68%	255	141%	4,136	4,180
49	100	49%	0	0%	49	200	24%	0	0%	1,038	190
198	721	27%	771	26%	302	1,106	27%	1,106	27%	4,366	3,896
1,455	0	0%	0	0%	1,455	1,730	84%	1,530	95%	3,330	2,475
0	100	0%	0	0%	207	202	102%	22	924%	1,284	1,442
0	0	0%	0	0%	0	10	0%	10	0%	460	13
999	0	0%	846	118%	999	1,000	100%	2,692	37%	9,011	9,388
0	0	0%	0	0%	4,400	4,069	108%	3,469	127%	4,069	4,400
0	150	0%	0	0%	365	150	243%	0	0%	407	868
0	0	0%	0	0%	0	400	0%	0	0%	833	41
0	378	0%	0	0%	0	736	0%	0	0%	4,322	2,583
0	574	0%	574	0%	(425)	574	-74%	574	-74%	1,174	(320)
321	91	353%	91	355%	733	182	402%	181	405%	1,425	2,970
0	0	0%	0	0%	0	0	0%	0	0%	890	0
0	100	0%	0	0%	0	200	0%	0	0%	1,855	1,325
190	165	115%	165	115%	381	275	139%	275	138%	6,912	3,238
0	0	0%	0	0%	0	130	0%	130	0%	130	0
0	0	0%	25	0%	0	0	0%	25	0%	0	110
150	0	0%	0	0%	150	0	0%	0	0%	4,475	5,074
0	0	0%	0	0%	0	0	0%	0	0%	100	0
52	4	1302%	4	1302%	52	1,481	4%	481	11%	6,392	4,756
0	75	0%	0	0%	0	150	0%	0	0%	965	1,151
0	0	0%	0	0%	0	0	0%	0	0%	230	0
848	1,256	68%	1,506	56%	5,023	3,366	149%	3,945	127%	22,585	32,487
225	494	46%	494	46%	225	1,148	20%	648	35%	3,208	2,930
5,356	5,356	100%	5,356	100%	10,711	10,712	100%	10,712	100%	64,272	64,267
4,886	4,886	100%	4,512	108%	9,773	9,772	100%	9,024	108%	58,632	54,888
168	168	100%	168	100%	336	336	100%	336	100%	1,974	2,063
1,026	1,152	89%	1,152	89%	2,021	2,030	100%	2,030	100%	13,383	12,465
3,840	3,935	98%	3,935	98%	7,531	5,939	127%	5,939	127%	41,871	50,796
238	263	91%	263	90%	750	505	149%	505	148%	2,449	2,809

The Golf Club at Cypress Head
Summary of All Units
For the Two Months Ending November 30, 2016

MTD	MTD	% of	MTD	% of		YTD	YTD	% of	YTD	% of	Annual	
Actual	Budget	Budget	Prior Year	PY		Actual	Budget	Budget	Prior Year	PY	Budget	
244	370	66%	370	66%	Utilities - Water	480	693	69%	692	69%	2,897	2,965
791	4,208	19%	4,008	20%	Advertising & Promotion	3,233	2,508	129%	2,259	143%	16,247	20,206
443	151	293%	151	294%	Bank Charges	916	316	290%	315	291%	1,382	3,872
81	0	0%	138	59%	Cash Short/(Over)	965	0	0%	84	1142%	0	1,156
150	200	75%	125	120%	Cell Phone	450	475	95%	400	113%	2,475	2,225
3,561	3,397	105%	3,715	96%	City Surcharge R & R	6,293	6,593	95%	3,911	161%	39,852	40,188
0	35	0%	35	0%	Copier/Photocopies	60	35	171%	35	171%	671	787
2,633	4,337	61%	4,337	61%	Credit Card Discounts	5,839	6,718	87%	5,718	102%	27,744	23,623
0	0	0%	0	0%	Donations	(267)	0	0%	0	0%	0	97
0	0	0%	0	0%	Dues & Subscriptions	0	150	0%	150	0%	1,109	459
0	0	0%	0	0%	Education & Training	0	0	0%	0	0%	200	0
0	100	0%	0	0%	Employee Relations	322	213	151%	513	63%	2,122	2,155
116	0	0%	0	0%	Employee Testing	116	102	114%	102	114%	244	565
3,858	3,871	100%	3,796	102%	Insurance Expense	7,717	7,667	101%	7,592	102%	46,377	45,836
0	0	0%	0	0%	Member Relations	38	131	29%	131	29%	649	38
14	0	0%	0	0%	Messenger Service - Fedex	104	83	126%	83	125%	403	452
900	1,897	47%	3,498	26%	Miscellaneous	864	4,022	21%	12,622	7%	13,291	1,569
9,000	4,600	196%	4,600	196%	O/S - Accounting	12,000	6,200	194%	6,200	194%	12,000	17,800
0	0	0%	0	0%	O/S - Legal	0	0	0%	0	0%	80	0
0	0	0%	0	0%	O/S - Other	0	0	0%	325	0%	9,218	16,913
748	197	380%	197	380%	Payroll Processing Fee	1,589	425	374%	424	374%	3,535	7,851
6	0	0%	0	0%	Postage/Shipping	61	39	157%	39	157%	634	158
(60)	(30)	200%	(30)	200%	Tax/Licenses/Fees	(90)	(30)	300%	(30)	300%	(100)	(315)
0	0	0%	0	0%	Theft Loss	0	0	0%	106	0%	0	0
48	33	144%	33	145%	Travel - Meals	84	62	136%	61	137%	683	1,916
1,533	1,866	82%	2,382	64%	Travel - Other	2,461	3,118	79%	3,434	72%	16,423	10,352
0	0	0%	900	0%	Website Expenses	0	0	0%	900	0%	4,000	2,100
0	200	0%	0	0%	Employee Meals	0	200	0%	0	0%	669	25
54,407	51,755	105%	51,589	105%	TOTAL OPERATING EXPENSES	106,722	103,865	103%	102,210	104%	545,578	575,351
1,227	4,458	28%	11,091	11%	EBITDA	(24,547)	(17,079)	144%	(87,783)	28%	(4,235)	24,338
5,713	5,827	98%	5,713	100%	Management Fee	11,426	11,654	98%	13,082	87%	69,924	68,554
5,713	5,827	98%	5,713	100%	Management Fees	11,426	11,654	98%	13,082	87%	69,924	68,554
37	98	38%	98	38%	Deprec - Mach & Equip	74	196	38%	195	38%	1,176	1,806
115	283	41%	283	40%	Deprec - Buildings	231	566	41%	567	41%	3,396	8,885
152	381	40%	381	40%	S/T DEPR. & AMORT	305	762	40%	762	40%	4,572	10,690
(4,638)	(1,750)	265%	4,998	-93%	NET INCOME	(36,278)	(29,495)	123%	(101,628)	36%	(78,731)	(54,907)

The Golf Club at Cypress Head
Course & Grounds
For the Two Months Ending November 30, 2016

MTD Actual	MTD Budget	% of Budget	MTD Prior Year	% of PY		YTD Actual	YTD Budget	% of Budget	YTD Prior Year	% of PY	Annual Budget	
REVENUES												
60,239	58,197	104%	63,197	95%	Green Fees	103,263	103,674	100%	66,823	155%	646,060	653,001
3,561	3,397	105%	3,715	96%	City Surcharge R & R	6,293	6,593	95%	3,911	161%	39,852	40,188
63,800	61,594	104%	66,912	95%	Total Revenues	109,556	110,267	99%	70,734	155%	685,912	693,189
63,800	61,594	104%	66,912	95%	GROSS MARGIN	109,556	110,267	99%	70,734	155%	685,912	693,189
PAYROLL												
8,782	7,802	113%	6,550	134%	Gross Payroll - Salaried	17,992	15,604	115%	13,675	132%	93,624	96,984
15,269	15,230	100%	15,472	99%	Gross Payroll - Hourly	29,831	30,968	96%	36,363	82%	186,129	176,004
24,052	23,032	104%	22,022	109%	S/T Wages	47,823	46,572	103%	50,038	96%	279,753	274,988
1,688	1,762	96%	1,486	114%	Payroll Tax - FICA	3,416	3,563	96%	3,502	98%	21,402	19,572
139	47	296%	234	59%	Payroll Tax - UC	359	95	378%	463	78%	2,040	2,686
393	479	82%	459	86%	Payroll Tax - WC	967	969	100%	964	100%	5,990	5,621
3,402	3,408	100%	1,891	180%	Benefits	6,164	6,817	90%	5,181	119%	42,181	35,272
5,622	5,696	99%	4,070	138%	S/T Adders	10,907	11,444	95%	10,110	108%	71,613	63,151
29,674	28,728	103%	26,092	114%	TOTAL PAYROLL	58,730	58,016	101%	60,148	98%	351,366	338,140
OPERATING EXPENSES												
2,395	405	591%	135	1778%	Course Accessories	2,395	1,702	141%	732	327%	3,886	3,883
3,888	3,000	130%	1,463	266%	Fertilizer	6,091	6,000	102%	4,504	135%	25,094	40,403
0	0	0%	0	0%	Flowers/Decor	0	174	0%	74	0%	399	1,531
1,179	1,000	118%	0	0%	Fuel	1,235	2,125	58%	1,125	110%	13,026	11,447
0	0	0%	968	0%	Fungicides	1,071	806	133%	1,273	84%	4,045	5,021
504	60	841%	60	846%	Herbicides	3,088	3,090	100%	2,590	119%	15,068	21,018
1,715	1,689	102%	289	593%	Insecticides	3,755	3,319	113%	1,219	308%	15,077	17,485
999	0	0%	846	118%	Sand/Topdress	999	1,000	100%	2,692	37%	9,011	9,388
0	0	0%	0	0%	Seeds/Trees	4,400	4,069	108%	3,469	127%	4,069	4,400
0	150	0%	0	0%	Small Tools	365	150	243%	0	0%	407	888
0	0	0%	0	0%	Staff/Volunteer Uniforms	0	400	0%	0	0%	833	41
52	4	1302%	4	1302%	Irrigation	52	1,481	4%	481	11%	6,392	4,756
848	856	99%	1,181	72%	Repair & Maint - Equipment	3,097	2,782	111%	3,432	90%	20,663	26,730
0	0	0%	0	0%	Repair & Maint - Building	0	500	0%	0	0%	1,207	270
4,886	4,886	100%	4,512	108%	Equipment Lease	9,773	9,772	100%	9,024	108%	58,632	54,868
240	255	94%	255	94%	Utilities - Electric	478	536	89%	536	89%	2,703	2,469
1,619	2,082	78%	2,082	78%	Utilities - Other	2,745	3,139	87%	3,139	87%	16,748	21,730
99	113	88%	113	88%	Utilities - Telephone/Fax	199	205	97%	205	97%	1,072	1,203
244	370	66%	370	66%	Utilities - Water	480	693	69%	692	69%	2,897	2,965
0	0	0%	0	0%	Employee Relations	0	0	0%	0	0%	200	542
116	0	0%	0	0%	Employee Testing	116	102	114%	102	114%	244	565
0	0	0%	0	0%	O/S - Other	0	0	0%	325	0%	9,218	16,913
0	100	0%	600	0%	Travel - Other	0	200	0%	600	0%	1,700	1,200
18,785	14,970	125%	12,877	146%	TOTAL OPERATING EXPENSES	40,337	42,245	95%	36,213	111%	212,591	251,754
15,341	17,896	86%	27,943	55%	EBITDA	10,489	10,006	105%	(25,627)	-41%	121,955	103,295
15,341	17,896	86%	27,943	55%	NET INCOME	10,489	10,006	105%	(25,627)	-41%	121,955	103,295

The Golf Club at Cypress Head
Carts
For the Two Months Ending November 30, 2016

MTD Actual	MTD Budget	% of Budget	MTD Prior Year	% of PY		YTD Actual	YTD Budget	% of Budget	YTD Prior Year	% of PY	Annual Budget	
40,803	46,013	89%	46,012	89%	REVENUES	71,909	80,825	89%	47,413	152%	470,029	485,202
40,803	46,013	89%	46,012	89%	Cart Fee	71,909	80,825	89%	47,413	152%	470,029	485,202
40,803	46,013	89%	46,012	89%	Total Revenues	71,909	80,825	89%	47,413	152%	470,029	485,202
					GROSS MARGIN	71,909	80,825	89%	47,413	152%	470,029	485,202
6,522	7,176	91%	7,514	87%	PAYROLL	12,318	14,591	84%	8,923	138%	82,679	75,535
6,522	7,176	91%	7,514	87%	Gross Payroll - Hourly	12,318	14,591	84%	8,923	138%	82,679	75,535
523	549	95%	608	86%	S/T Wages	993	1,116	89%	718	138%	6,323	5,937
86	149	58%	284	30%	Payroll Tax - FICA	187	303	62%	309	60%	1,688	1,601
104	149	70%	109	95%	Payroll Tax - UC	284	303	94%	124	228%	1,767	1,614
6	8	76%	(33)	-19%	Payroll Tax - WC	7	16	46%	(26)	-28%	89	145
720	855	84%	969	74%	Benefits	1,471	1,738	85%	1,125	131%	9,867	9,298
					S/T Adders	1,471	1,738	85%	1,125	131%	9,867	9,298
7,242	8,031	90%	8,483	85%	TOTAL PAYROLL	13,790	16,329	84%	10,048	137%	92,546	84,833
352	0	0%	428	82%	OPERATING EXPENSES	456	0	0%	736	62%	0	1,077
0	228	0%	0	0%	Cart Supplies	0	436	0%	0	0%	2,521	0
0	100	0%	0	0%	Supplies	0	200	0%	0	0%	1,855	1,325
5,356	5,356	100%	5,356	100%	Cart Repairs	10,711	10,712	100%	10,712	100%	64,272	64,267
787	897	88%	897	88%	Cart Lease	1,543	1,494	103%	1,494	103%	10,680	9,977
6,495	6,581	99%	6,681	97%	Utilities - Electric	12,711	12,842	99%	12,942	98%	79,328	76,646
27,066	31,401	86%	30,848	88%	TOTAL OPERATING EXPENSES	45,408	51,654	88%	24,423	186%	298,155	323,723
27,066	31,401	86%	30,848	88%	EBITDA	45,408	51,654	88%	24,423	186%	298,155	323,723
					NET INCOME	45,408	51,654	88%	24,423	186%	298,155	323,723

The Golf Club at Cypress Head
Range
For the Two Months Ending November 30, 2016

MTD Actual	MTD Budget	% of Budget	MTD Prior Year	% of PY		YTD Actual	YTD Budget	% of Budget	YTD Prior Year	% of PY	Annual Budget	
3,051	2,505	122%	2,905	105%	REVENUES							
3,051	2,505	122%	2,905	105%	Range	5,576	4,957	112%	3,056	182%	34,679	36,670
3,051	2,505	122%	2,905	105%	Total Revenues	5,576	4,957	112%	3,056	182%	34,679	36,670
3,051	2,505	122%	2,905	105%	GROSS MARGIN	5,576	4,957	112%	3,056	182%	34,679	36,670
					OPERATING EXPENSES							
1,455	0	0%	0	0%	Range Balls	1,455	1,730	84%	1,530	95%	3,330	2,475
0	100	0%	0	0%	Range Equipment	207	202	102%	22	924%	1,284	1,442
0	0	0%	0	0%	Range Expenses	0	10	0%	10	0%	460	13
0	75	0%	0	0%	Repair & Maint - Equipment	0	150	0%	0	0%	900	0
1,455	175	831%	0	0%	TOTAL OPERATING EXPENSES	1,662	2,092	79%	1,562	106%	5,974	3,930
1,596	2,330	69%	2,905	55%	EBITDA	3,914	2,865	137%	1,494	262%	28,705	32,740
1,596	2,330	69%	2,905	55%	NET INCOME	3,914	2,865	137%	1,494	262%	28,705	32,740

The Golf Club at Cypress Head
F & B Cafe
For the Two Months Ending November 30, 2016

MTD Actual	MTD Budget	% of Budget	MTD Prior Year	% of PY		YTD Actual	YTD Budget	% of Budget	YTD Prior Year	% of PY	Annual Budget	
0	0	0%	0	0%	REVENUES							
0	0	0%	0	0%	Food & Beverage	0	0	0%	0	0%	0	137
0	0	0%	0	0%	Total Revenues	0	0	0%	0	0%	0	137
0	0	0%	0	0%	GROSS MARGIN	0	0	0%	0	0%	0	137
0	0	0%	0	0%	OPERATING EXPENSES							
0	0	0%	0	0%	Repair & Maint - Equipment	0	0	0%	79	0%	0	0
0	0	0%	0	0%	Cash Short/(Over)	0	0	0%	0	0%	0	137
0	0	0%	0	0%	Theft Loss	0	0	0%	106	0%	0	0
0	0	0%	0	0%	TOTAL OPERATING EXPENSES	0	0	0%	185	0%	0	137
0	0	0%	0	0%	EBITDA	0	0	0%	(185)	0%	0	0
0	0	0%	0	0%	NET INCOME	0	0	0%	(185)	0%	0	0

The Golf Club at Cypress Head
Golf Shop
For the Two Months Ending November 30, 2016

MTD Actual	MTD Budget	% of Budget	MTD Prior Year	% of PY		YTD Actual	YTD Budget	% of Budget	YTD Prior Year	% of PY	Annual Budget	
REVENUES												
0	0	0%	0	0%	Merchandise	0	0	0%	0	0%	0	(137)
20	60	33%	60	33%	Handicap Fee	40	80	50%	80	50%	4,567	4,849
379	210	181%	210	181%	Lessons	579	460	126%	210	276%	3,931	7,304
0	0	0%	0	0%	Other Pro Shop Revenue	0	0	0%	0	0%	0	74
140	237	59%	237	59%	Rental Clubs	310	437	71%	237	131%	3,042	2,680
6,734	5,529	122%	6,529	103%	Retail	10,764	9,561	113%	7,062	152%	57,514	58,159
7,273	6,036	120%	7,036	103%	Total Revenues	11,693	10,538	111%	7,588	154%	69,054	72,929
COST OF GOODS SOLD												
3,872	3,870	100%	5,762	67%	COGS - Merchandise	6,306	6,693	94%	6,077	104%	40,260	36,418
3,872	3,870	100%	5,762	67%	Total COGS	6,306	6,693	94%	6,077	104%	40,260	36,418
3,401	2,166	157%	1,273	267%	GROSS MARGIN	5,387	3,845	140%	1,511	356%	28,794	36,511
57.50%	69.99%	82.14%	88.26%	65.15%	COGS - Merchandise %	58.58%	70.00%	83.68%	86.06%	68.07%	70.00%	753.06%
PAYROLL												
3,605	4,093	88%	5,940	61%	Gross Payroll - Hourly	7,364	8,322	88%	9,312	79%	49,795	45,904
3,605	4,093	88%	5,940	61%	S/T Wages	7,364	8,322	88%	9,312	79%	49,795	45,904
286	313	91%	468	61%	Payroll Tax - FICA	584	637	92%	731	80%	3,812	3,551
30	36	82%	128	23%	Payroll Tax - UC	59	73	81%	160	37%	728	621
61	85	71%	108	56%	Payroll Tax - WC	149	173	86%	144	103%	1,063	941
376	434	87%	704	53%	S/T Adders	792	883	90%	1,035	76%	5,603	5,114
3,981	4,527	88%	6,644	60%	TOTAL PAYROLL	8,156	9,205	89%	10,347	79%	55,398	51,018
OPERATING EXPENSES												
0	50	0%	0	0%	Office Supplies	0	100	0%	0	0%	600	739
0	150	0%	0	0%	Supplies	0	300	0%	0	0%	1,801	2,583
0	574	0%	574	0%	Tournament Expense	(425)	574	-74%	574	-74%	1,174	(320)
150	0	0%	0	0%	Handicap Expense	150	0	0%	0	0%	4,475	5,074
0	75	0%	0	0%	Lesson Expense	0	150	0%	0	0%	965	1,151
0	0	0%	0	0%	Repair & Maint - Building	0	0	0%	0	0%	0	31
150	849	18%	574	26%	TOTAL OPERATING EXPENSES	(275)	1,124	-24%	574	-48%	9,015	9,258
(730)	(3,210)	23%	(5,944)	12%	EBITDA	(2,494)	(6,484)	38%	(9,410)	27%	(35,619)	(23,765)
(730)	(3,210)	23%	(5,944)	12%	NET INCOME	(2,494)	(6,484)	38%	(9,410)	27%	(35,619)	(23,765)

The Golf Club at Cypress Head
G & A
For the Two Months Ending November 30, 2016

MTD Actual	MTD Budget	% of Budget	MTD Prior Year	% of PY		YTD Actual	YTD Budget	% of Budget	YTD Prior Year	% of PY	Annual Budget	
REVENUES												
0	0	0%	(250)	0%	Initiation Fees	0	0	0%	0	0%	0	0
0	0	0%	(250)	0%	Total Revenues	0	0	0%	0	0%	0	0
0	0	0%	(250)	0%	GROSS MARGIN	0	0	0%	0	0%	0	0
PAYROLL												
7,928	7,905	100%	7,645	104%	Gross Payroll - Salaried	16,277	15,810	103%	15,605	104%	94,860	97,273
7,928	7,905	100%	7,645	104%	S/T Wages	16,277	15,810	103%	15,605	104%	94,860	97,273
672	605	111%	603	111%	Payroll Tax - FICA	1,362	1,210	113%	1,284	106%	7,260	8,202
0	0	0%	0	0%	Payroll Tax - UC	0	0	0%	0	0%	291	344
160	164	98%	184	87%	Payroll Tax - WC	460	328	140%	368	125%	2,031	2,551
1,680	1,993	84%	944	178%	Benefits	3,314	3,986	83%	2,542	130%	24,716	20,606
2,511	2,762	91%	1,732	145%	S/T Adders	5,136	5,524	93%	4,194	122%	34,298	31,703
10,439	10,667	98%	9,376	111%	TOTAL PAYROLL	21,412	21,334	100%	19,799	108%	129,158	128,976
OPERATING EXPENSES												
307	201	153%	131	235%	Janitorial Supplies	359	526	68%	255	141%	4,136	4,180
49	100	49%	0	0%	Laundry/Uniforms	49	200	24%	0	0%	1,038	190
198	671	29%	771	26%	Office Supplies	302	1,006	30%	1,106	27%	3,766	3,157
321	91	353%	91	355%	Alarm System	733	182	402%	181	405%	1,425	2,970
0	0	0%	0	0%	Carpet Cleaning	0	0	0%	0	0%	890	0
190	165	115%	165	115%	Computer Service	381	275	139%	275	138%	6,912	3,238
0	0	0%	0	0%	Contract Cleaning	0	130	0%	130	0%	130	0
0	0	0%	25	0%	Guest Relations	0	0	0%	25	0%	0	110
0	0	0%	0	0%	Indoor Plant Maint	0	0	0%	0	0%	100	0
0	0	0%	0	0%	Pest Control	0	0	0%	0	0%	230	0
0	325	0%	325	0%	Repair & Maint - Equipment	1,927	434	444%	434	443%	1,022	3,758
225	494	46%	494	46%	Repair & Maint - Building	225	648	35%	648	35%	2,001	2,629
168	168	100%	168	100%	Off-Site Storage	336	336	100%	336	100%	1,974	2,053
2,221	1,853	120%	1,853	120%	Utilities - Other	4,786	2,800	171%	2,800	171%	25,123	29,065
139	150	93%	150	93%	Utilities - Telephone/Fax	551	300	184%	300	184%	1,377	1,606
443	151	293%	151	294%	Bank Charges	916	316	290%	315	291%	1,362	3,872
81	0	0%	138	59%	Cash Short/(Over)	965	0	0%	84	1142%	0	1,019
150	200	75%	125	120%	Cell Phone	450	475	95%	400	113%	2,475	2,225
3,561	3,397	105%	3,715	96%	City Surcharge R & R	6,293	6,593	95%	3,911	161%	39,852	40,188
0	35	0%	35	0%	Copier/Photocopies	60	35	171%	35	171%	671	787
2,633	4,337	61%	4,337	61%	Credit Card Discounts	5,839	6,718	87%	5,718	102%	27,744	23,623
0	0	0%	0	0%	Donations	(267)	0	0%	0	0%	0	97
0	0	0%	0	0%	Dues & Subscriptions	0	150	0%	150	0%	1,109	459
0	0	0%	0	0%	Education & Training	0	0	0%	0	0%	200	0
0	100	0%	0	0%	Employee Relations	322	213	151%	513	63%	1,922	1,614
3,858	3,871	100%	3,796	102%	Insurance Expense	7,717	7,667	101%	7,592	102%	46,377	45,836
0	0	0%	0	0%	Member Relations	38	131	29%	131	29%	649	38
14	0	0%	0	0%	Messenger Service - Fedex	104	83	126%	83	125%	403	452
0	232	0%	332	0%	Miscellaneous	(36)	906	-4%	1,006	-4%	1,675	669
9,000	4,600	196%	4,600	196%	O/S - Accounting	12,000	6,200	194%	6,200	194%	12,000	17,800
0	0	0%	0	0%	O/S - Legal	0	0	0%	0	0%	80	0
748	197	380%	197	380%	Payroll Processing Fee	1,589	425	374%	424	374%	3,535	7,851
6	0	0%	0	0%	Postage/Shipping	61	39	157%	39	157%	634	158
(60)	(30)	200%	(30)	200%	Tax/Licenses/Fees	(90)	(30)	300%	(30)	300%	(100)	(315)
48	33	145%	33	145%	Travel - Meals	62	84	74%	61	137%	683	1,916
1,420	1,666	85%	1,666	85%	Travel - Other	2,349	2,718	86%	2,719	86%	13,523	8,753
0	200	0%	0	0%	Employee Meals	0	200	0%	0	0%	669	25
25,720	23,207	111%	23,268	111%	TOTAL OPERATING EXPENSES	48,042	39,738	121%	35,843	134%	205,607	210,022
(36,159)	(33,874)	107%	(32,894)	110%	EBITDA	(69,454)	(61,072)	114%	(55,642)	125%	(334,765)	(338,998)
5,713	5,827	98%	5,713	100%	Management Fee	11,426	11,654	98%	13,082	87%	69,924	68,554
5,713	5,827	98%	5,713	100%	Management Fees	11,426	11,654	98%	13,082	87%	69,924	68,554
37	98	38%	98	38%	Deprec - Mach & Equip	74	196	38%	195	38%	1,176	1,806
115	283	41%	283	41%	Deprec - Buildings	231	566	41%	567	41%	3,396	8,885
152	381	40%	381	40%	S/T DEPR. & AMORT	305	762	40%	762	40%	4,572	10,690
(42,023)	(40,082)	105%	(38,988)	108%	NET INCOME	(81,185)	(73,488)	110%	(69,487)	117%	(409,261)	(418,242)

The Golf Club at Cypress Head
Marketing
For the Two Months Ending November 30, 2016

MTD Actual	MTD Budget	% of Budget	MTD Prior Year	% of PY		YTD Actual	YTD Budget	% of Budget	YTD Prior Year	% of PY	Annual Budget	
					PAYROLL							
3,365	3,371	100%	3,026	111%	Gross Payroll - Salaried	6,719	6,742	100%	6,658	101%	40,452	40,456
3,365	3,371	100%	3,026	111%	S/T Wages	6,719	6,742	100%	6,658	101%	40,452	40,456
242	258	94%	206	117%	Payroll Tax - FICA	482	516	93%	472	102%	3,096	2,911
0	5	0%	0	0%	Payroll Tax - UC	0	10	0%	0	0%	206	163
55	70	79%	59	94%	Payroll Tax - WC	133	140	95%	118	113%	868	810
423	408	104%	287	148%	Benefits	832	816	102%	698	119%	4,981	4,714
720	741	97%	551	131%	S/T Adders	1,447	1,482	98%	1,288	112%	9,151	8,597
4,085	4,112	99%	3,577	114%	TOTAL PAYROLL	8,165	8,224	99%	7,946	103%	49,603	49,053
					OPERATING EXPENSES							
791	4,208	19%	4,008	20%	Advertising & Promotion	3,233	2,508	129%	2,259	143%	16,247	20,206
900	1,665	54%	3,165	28%	Miscellaneous	900	3,116	29%	11,616	8%	11,616	900
112	100	112%	116	97%	Travel - Other	112	200	56%	116	97%	1,200	399
0	0	0%	900	0%	Website Expenses	0	0	0%	900	0%	4,000	2,100
1,803	5,973	30%	8,190	22%	TOTAL OPERATING EXPENSES	4,245	5,824	73%	14,891	29%	33,063	23,605
(5,888)	(10,085)	58%	(11,767)	50%	EBITDA	(12,410)	(14,048)	88%	(22,836)	54%	(82,666)	(72,658)
(5,888)	(10,085)	58%	(11,767)	50%	NET INCOME	(12,410)	(14,048)	88%	(22,836)	54%	(82,666)	(72,658)

The Golf Club at Cypress Head
For the Two Months Ending November 30, 2016

MTD Actual	MTD Budget	% of Budget	MTD Prior Year	% of PY		YTD Actual	YTD Budget	% of Budget	YTD Prior Year	% of PY	Annual Budget	
REVENUES												
101,042	104,210	97%	109,210	93%	Green Fees & Cart Fees	175,172	184,499	95%	114,236	153%	1,116,089	1,138,203
6,734	5,529	122%	6,529	103%	Merchandise	10,764	9,561	113%	7,062	152%	57,514	58,022
539	507	106%	507	106%	Other Pro Shop	929	977	95%	527	176%	11,540	14,907
3,051	2,505	122%	2,905	105%	Range	5,576	4,957	112%	3,056	182%	34,679	36,670
0	0	0%	0	0%	Food and Beverage	0	0	0%	0	0%	0	137
0	0	0%	(250)	0%	Membership Initiation Fees	0	0	0%	0	0%	0	0
3,561	3,397	105%	3,715	96%	Other Operating Revenues	6,293	6,593	95%	3,911	161%	39,852	40,188
114,927	116,148	99%	122,615	94%	TOTAL REVENUE	198,734	206,587	96%	128,792	154%	1,259,674	1,288,127
COST OF SALES												
3,872	3,870	100%	5,762	67%	Merchandise	6,306	6,693	94%	6,077	104%	40,260	36,418
3,872	3,870	100%	5,762	67%	TOTAL COGS	6,306	6,693	94%	6,077	104%	40,260	36,418
57.5%	70.0%	82.1%	88.3%	65.1%	COGS - Merchandise %	58.6%	70.0%	83.7%	86.1%	68.1%	70.0%	753.1%
PAYROLL												
29,674	28,728	103%	26,092	114%	Course and Grounds	58,730	58,016	101%	60,148	98%	351,366	338,140
7,242	8,031	90%	8,483	85%	Carts, Range, Starters, Etc.	13,790	16,329	84%	10,048	137%	92,546	84,833
3,961	4,527	88%	6,644	60%	Pro Shop	8,156	9,205	89%	10,347	79%	55,398	51,018
10,439	10,667	98%	9,376	111%	General and Administrative	21,412	21,334	100%	19,799	108%	129,158	128,976
4,085	4,112	99%	3,577	114%	Marketing	8,165	8,224	99%	7,946	103%	49,603	49,053
55,421	56,065	99%	54,172	102%	TOTAL PAYROLL	110,253	113,108	97%	108,288	102%	678,071	652,020
OPERATING EXPENSES												
18,785	14,970	125%	12,877	146%	Course and Grounds	40,337	42,245	95%	36,213	111%	212,591	251,754
7,950	6,756	118%	6,681	119%	Carts, Range, Starters, Etc.	14,373	14,934	96%	14,505	99%	85,302	80,576
150	849	18%	574	26%	Pro Shop	(275)	1,124	-24%	574	-48%	9,015	9,258
0	0	0%	0	0%	Food and Beverage	0	0	0%	185	0%	0	137
25,720	23,207	111%	23,268	111%	General and Administrative	48,042	39,738	121%	35,843	134%	205,607	210,022
1,803	5,973	30%	8,190	22%	Marketing	4,245	5,824	73%	14,891	29%	33,063	23,605
54,407	51,755	105%	51,589	105%	TOTAL OPERATING EXPENSES	106,722	103,865	103%	102,210	104%	545,578	575,351
113,700	111,690	102%	111,524	102%	TOTAL EXPENSES	223,281	223,666	100%	216,576	103%	1,263,909	1,263,789
1,227	4,458	28%	11,091	11%	EBITDA	(24,547)	(17,079)	144%	(87,783)	28%	(4,235)	24,338

The Golf Club at Cypress Head
For the Two Months Ending November 30, 2016

MTD Actual	MTD Budget	% of Budget	MTD Prior Year	% of PY		YTD Actual	YTD Budget	% of Budget	YTD Prior Year	% of PY	Annual Budget	
1,227	4,458	28%	11,091	11%	EBITDA	(24,547)	(17,079)	144%	(87,783)	28%	(4,235)	24,338
(5,713)	(5,827)	98%	(5,713)	100%	MANAGEMENT FEES	(11,426)	(11,654)	98%	(13,082)	87%	(69,924)	(68,554)
(152)	(381)	40%	(381)	40%	OTHER INCOME (EXPENSE)	(305)	(762)	40%	(762)	40%	(4,572)	(10,690)
(152)	(381)	40%	(381)	40%	Depreciation & Amortization	(305)	(762)	40%	(762)	40%	(4,572)	(10,690)
(4,638)	(1,750)	265%	4,998	-93%	TOTAL OTHER INCOME (EXPENSE)	(36,278)	(29,495)	123%	(101,628)	36%	(78,731)	(54,907)
					NET INCOME							
3,299	3,156	105%	3,456	95%	Paid Rounds	5,800	5,803	100%	3,703	157%	38,696	36,975
761	520	146%	820	93%	Annual Pass Rounds	1,410	942	150%	842	167%	5,051	9,225
236	215	110%	215	110%	Other Rounds	425	396	107%	216	197%	2,812	2,646
4,296	3,891	110%	4,491	96%	Total Rounds	7,635	7,141	107%	4,761	160%	46,559	48,846
35	37	95%	35	98%	Revenue/Paid Rounds	34	36	96%	35	99%	33	417
27	30	90%	27	98%	Revenue/Total Rounds	26	29	90%	27	96%	27	314

The Golf Club at Cypress Head

General Ledger

Ranges: From: To:

Date: 11/1/2016

Account: First Last

Sorted By: Account

Include: Posting, Unit

Print Currency In: Functional (Z-US\$)

Inactive	Account	Description	Beginning Balance	Debit	Credit	Net Change	Ending Balance
	10020-5950-900	Cash - Course Depository NEW	\$117,387.69	\$113,504.32	\$130,922.31	(\$17,417.99)	\$99,969.70
	10100-5950-900	Cash - Course Other	\$850.00	\$0.00	\$0.00	\$0.00	\$850.00
	10120-5950-900	Cash - New Payroll	\$0.00	\$44,977.59	\$44,977.59	\$0.00	\$0.00
	10180-5950-900	Cash - Pro Shop Bank	\$500.00	\$0.00	\$0.00	\$0.00	\$500.00
	11160-5950-900	A/R Member	\$4,317.66	\$11,972.05	\$13,590.02	(\$1,617.97)	\$2,699.69
	12000-5950-900	Inventory - Merchandise	\$18,326.31	\$10,149.21	\$7,606.82	\$2,542.39	\$20,868.70
	13020-5950-900	Prepaid Insurance	\$6,390.10	\$8,041.00	\$3,858.39	\$4,182.61	\$10,572.71
	13040-5950-900	Prepaid Exp - Other	\$12,758.74	\$0.00	\$6,872.18	(\$6,872.18)	\$5,886.56
	20100-5950-900	Machinery & Equipment	\$5,550.40	\$0.00	\$0.00	\$0.00	\$5,550.40
	20160-5950-900	Buildings and Improvements	\$30,597.54	\$0.00	\$0.00	\$0.00	\$30,597.54
	22040-5950-900	Accum. Deprec - Mach & Equip	(\$3,089.09)	\$0.00	\$36.87	(\$36.87)	(\$3,125.96)
	22080-5950-900	Accum. Deprec - Buildings	(\$21,300.97)	\$0.00	\$114.74	(\$114.74)	(\$21,415.71)
	30000-5950-900	Accts Pay - Trade	(\$41,618.53)	\$103,633.88	\$120,784.05	(\$17,150.17)	(\$58,768.70)
	30040-5950-900	Accts Pay - Other	\$109,876.81	\$10,379.19	\$10,489.82	(\$110.63)	\$109,766.18
	31000-5950-900	Accrued Expenses	(\$8,994.92)	\$18,154.33	\$11,723.58	\$6,430.75	(\$2,564.17)
	31020-5950-900	Accrued Payroll	(\$7,848.03)	\$1,693.45	\$4,797.21	(\$3,103.76)	(\$10,951.79)
	31080-5950-900	Accrued Tips Payable	(\$39.00)	\$468.00	\$471.00	(\$3.00)	(\$42.00)
	31220-5950-900	Accrued Sales Tax	(\$7,499.40)	\$15,871.64	\$6,379.37	\$9,492.27	\$1,992.87
	31400-5950-900	Accrued City Surcharge	(\$2,732.11)	\$6,292.83	\$3,560.72	\$2,732.11	\$0.00
	32000-5950-900	Deferred Rev - Rainchecks	(\$2,454.10)	\$336.49	\$163.17	\$173.32	(\$2,280.78)
	32020-5950-900	Deferred Rev - Outing Deposits	(\$839.05)	\$379.05	\$0.00	\$379.05	(\$460.00)
	32040-5950-900	Deferred Rev - Legacy GF Passes	(\$52,242.04)	\$4,964.15	\$2,363.58	\$2,600.57	(\$49,641.47)
	32050-5950-900	Deferred Revenue - Cypress GF Passes	(\$51,665.17)	\$4,696.83	\$0.00	\$4,696.83	(\$46,968.34)
	32060-5950-900	Deferred Rev - Gift Certificates	(\$4,639.14)	\$0.00	\$0.00	\$0.00	(\$4,639.14)
	32070-5950-900	Deferred Rev - Gift Cards	(\$18,017.25)	\$359.54	\$1,109.99	(\$750.45)	(\$18,767.70)
	32100-5950-900	Deferred Rev - Credit Books	(\$15,089.32)	\$834.60	\$627.00	\$207.60	(\$14,881.72)
	32120-5950-900	Deferred Rev - Trail Fee Pass	(\$99,044.74)	\$9,004.07	\$0.00	\$9,004.07	(\$90,040.67)
	32220-5950-900	Deferred Rev - Founders Pass	(\$1,083.31)	\$98.48	\$0.00	\$98.48	(\$984.83)
	49020-5950-900	Retained Earnings - Current	\$1.12	\$0.00	\$0.00	\$0.00	\$1.12
	50000-5950-100	Green Fees - Annual Pass	(\$9,544.59)	\$0.00	\$9,759.46	(\$9,759.46)	(\$19,304.05)
	50040-5950-100	Green Fees - Member	(\$30,747.24)	\$0.00	\$46,919.28	(\$46,919.28)	(\$77,666.52)
	50070-5950-100	Green Fees - (surcharge)	(\$2,732.11)	\$3,560.72	\$7,121.44	(\$3,560.72)	(\$6,292.83)
	50500-5950-200	Cart Fee 18	(\$22,102.36)	\$0.00	\$31,798.48	(\$31,798.48)	(\$53,900.84)
	50520-5950-200	Cart Fee - Annual Trail	(\$9,004.07)	\$0.00	\$9,004.07	(\$9,004.07)	(\$18,008.14)
	52090-5950-600	Handicap Fee	(\$20.00)	\$0.00	\$20.00	(\$20.00)	(\$40.00)
	52150-5950-600	Lessons	(\$200.00)	\$0.00	\$379.05	(\$379.05)	(\$579.05)
	52280-5950-600	Rental Clubs	(\$170.00)	\$0.00	\$140.00	(\$140.00)	(\$310.00)
	52310-5950-600	Retail	(\$4,030.11)	\$0.00	\$6,733.75	(\$6,733.75)	(\$10,763.86)
	53050-5950-220	Range Pass Revenue	(\$2,524.84)	\$0.00	\$3,051.24	(\$3,051.24)	(\$5,576.08)
	56120-5950-100	City Surcharge R & R	(\$2,732.11)	\$0.00	\$3,560.72	(\$3,560.72)	(\$6,292.83)
	60000-5950-600	COGS - Merchandise - Accessories	\$2,433.95	\$7,558.15	\$3,686.47	\$3,871.68	\$6,305.63
	70000-5950-100	Gross Payroll - Salaried	\$9,209.07	\$9,075.18	\$292.75	\$8,782.43	\$17,991.50
	70000-5950-900	Gross Payroll - Salaried	\$8,348.95	\$10,150.78	\$2,222.89	\$7,927.89	\$16,276.84
	70000-5950-950	Gross Payroll - Salaried	\$3,353.46	\$3,465.97	\$100.88	\$3,365.09	\$6,718.55
	70010-5950-100	Gross Payroll - Hourly	\$14,561.73	\$15,781.01	\$511.67	\$15,269.34	\$29,831.07
	70010-5950-200	Gross Payroll - Hourly	\$5,796.15	\$6,731.22	\$209.10	\$6,522.12	\$12,318.27
	70010-5950-600	Gross Payroll - Hourly	\$3,759.32	\$3,722.34	\$117.38	\$3,604.96	\$7,364.28
	70010-5950-900	Gross Payroll - Hourly	\$0.00	\$9.50	\$9.50	\$0.00	\$0.00
	71000-5950-100	Payroll Tax - FICA	\$1,728.13	\$1,745.38	\$57.21	\$1,688.17	\$3,416.30
	71000-5950-200	Payroll Tax - FICA	\$470.10	\$539.64	\$16.33	\$523.31	\$993.41
	71000-5950-600	Payroll Tax - FICA	\$298.47	\$295.02	\$9.28	\$285.74	\$584.21
	71000-5950-900	Payroll Tax - FICA	\$689.95	\$694.57	\$22.60	\$671.97	\$1,361.92
	71000-5950-950	Payroll Tax - FICA	\$240.15	\$248.75	\$7.19	\$241.56	\$481.71
	71010-5950-100	Payroll Tax - UC	\$220.31	\$139.16	\$0.00	\$139.16	\$359.47
	71010-5950-200	Payroll Tax - UC	\$100.72	\$85.96	\$0.00	\$85.96	\$186.68
	71010-5950-600	Payroll Tax - UC	\$29.14	\$29.66	\$0.00	\$29.66	\$58.80
	71020-5950-100	Payroll Tax - WC	\$574.73	\$392.56	\$0.00	\$392.56	\$967.29

TRIAL BALANCE SUMMARY FOR 2016

The Golf Club at Cypress Head

Inactive	Account	Description	Beginning Balance	Debit	Credit	Net Change	Ending Balance
	71020-5950-200	Payroll Tax - WC	\$179.62	\$104.23	\$0.00	\$104.23	\$283.85
	71020-5950-600	Payroll Tax - WC	\$88.16	\$60.70	\$0.00	\$60.70	\$148.86
	71020-5950-900	Payroll Tax - WC	\$299.90	\$159.92	\$0.00	\$159.92	\$459.82
	71020-5950-950	Payroll Tax - WC	\$77.65	\$55.03	\$0.00	\$55.03	\$132.68
	71030-5950-100	Benefits	\$2,761.70	\$7,384.02	\$3,981.55	\$3,402.47	\$6,164.17
	71030-5950-200	Benefits	\$1.31	\$154.78	\$148.72	\$6.06	\$7.37
	71030-5950-900	Benefits	\$1,634.27	\$4,166.80	\$2,487.29	\$1,679.51	\$3,313.78
	71030-5950-950	Benefits	\$409.35	\$771.40	\$348.30	\$423.10	\$832.45
	80110-5950-200	Cart Supplies	\$104.23	\$352.19	\$0.00	\$352.19	\$456.42
	80170-5950-100	Course Accessories	\$0.00	\$3,871.37	\$1,476.00	\$2,395.37	\$2,395.37
	80230-5950-100	Fertilizer	\$2,202.50	\$4,000.24	\$112.00	\$3,888.24	\$6,090.74
	80270-5950-100	Fuel	\$56.69	\$1,178.55	\$0.00	\$1,178.55	\$1,235.24
	80280-5950-100	Fungicides	\$1,071.00	\$0.00	\$0.00	\$0.00	\$1,071.00
	80320-5950-100	Herbicides	\$2,583.15	\$3,514.56	\$3,010.11	\$504.45	\$3,087.60
	80370-5950-100	Insecticides	\$2,040.36	\$1,714.89	\$0.00	\$1,714.89	\$3,755.25
	80380-5950-900	Janitorial Supplies	\$51.46	\$307.23	\$0.00	\$307.23	\$358.69
	80420-5950-900	Laundry/Uniforms	\$0.00	\$48.67	\$0.00	\$48.67	\$48.67
	80520-5950-900	Office Supplies	\$104.41	\$197.59	\$0.00	\$197.59	\$302.00
	80610-5950-220	Range Balls	\$0.00	\$1,455.00	\$0.00	\$1,455.00	\$1,455.00
	80620-5950-220	Range Equipment	\$206.59	\$0.00	\$0.00	\$0.00	\$206.59
	80690-5950-100	Sand/Topdress	\$0.00	\$999.17	\$0.00	\$999.17	\$999.17
	80710-5950-100	Seeds/Trees	\$4,400.00	\$8,800.00	\$8,800.00	\$0.00	\$4,400.00
	80730-5950-100	Small Tools	\$364.73	\$0.00	\$0.00	\$0.00	\$364.73
	80810-5950-600	Tournament Expense	(\$424.97)	\$308.50	\$308.50	\$0.00	(\$424.97)
	81010-5950-900	Alarm System	\$411.25	\$321.25	\$0.00	\$321.25	\$732.50
	81130-5950-900	Computer Service	\$190.50	\$190.46	\$0.00	\$190.46	\$380.96
	81220-5950-600	Handicap Expense	\$0.00	\$150.00	\$0.00	\$150.00	\$150.00
	81250-5950-100	Irrigation	\$0.00	\$52.07	\$0.00	\$52.07	\$52.07
	81350-5950-100	Repair & Maint - Equipment	\$2,248.45	\$874.15	\$26.00	\$848.15	\$3,096.60
	81350-5950-900	Repair & Maint - Equipment	\$1,926.68	\$0.00	\$0.00	\$0.00	\$1,926.68
	81360-5950-900	Repair & Maint - Building	\$0.00	\$225.00	\$0.00	\$225.00	\$225.00
	82000-5950-200	Cart Lease	\$5,355.67	\$5,355.67	\$0.00	\$5,355.67	\$10,711.34
	82020-5950-100	Equipment Lease	\$4,886.25	\$4,886.25	\$0.00	\$4,886.25	\$9,772.50
	82060-5950-900	Off-Site Storage	\$168.00	\$168.00	\$0.00	\$168.00	\$336.00
	83000-5950-100	Utilities - Electric	\$238.06	\$239.50	\$0.00	\$239.50	\$477.56
	83000-5950-200	Utilities - Electric	\$756.41	\$786.95	\$0.00	\$786.95	\$1,543.36
	83020-5950-100	Utilities - Other	\$1,126.08	\$1,619.06	\$0.00	\$1,619.06	\$2,745.14
	83020-5950-900	Utilities - Other	\$2,565.49	\$2,344.57	\$123.95	\$2,220.62	\$4,786.11
	83030-5950-100	Utilities - Telephone/Fax	\$99.35	\$99.37	\$0.00	\$99.37	\$198.72
	83030-5950-900	Utilities - Telephone/Fax	\$412.47	\$274.00	\$135.00	\$139.00	\$551.47
	83050-5950-100	Utilities - Water	\$235.89	\$243.77	\$0.00	\$243.77	\$479.66
	84030-5950-950	Adv/Promo - Local/Regional Print	\$700.00	\$0.00	\$0.00	\$0.00	\$700.00
	84040-5950-950	Adv/Promo - Mktg/Bus Dev	\$1,741.92	\$790.78	\$0.00	\$790.78	\$2,532.70
	85020-5950-900	Bank Charges	\$473.06	\$1,883.46	\$1,440.44	\$443.02	\$916.08
	85050-5950-900	Cash Short/(Over)	\$883.55	\$403.31	\$322.30	\$81.01	\$964.56
	85060-5950-900	Cell Phone	\$300.00	\$150.00	\$0.00	\$150.00	\$450.00
	85070-5950-900	City Surcharge R & R	\$2,732.11	\$3,560.72	\$0.00	\$3,560.72	\$6,292.83
	85110-5950-900	Copier/Photocopies	\$59.94	\$0.00	\$0.00	\$0.00	\$59.94
	85120-5950-900	Credit Card Discounts	\$3,206.04	\$2,632.73	\$0.00	\$2,632.73	\$5,838.77
	85140-5950-900	Donations	(\$266.95)	\$0.00	\$0.00	\$0.00	(\$266.95)
	85190-5950-900	Employee Relations	\$322.12	\$0.00	\$0.00	\$0.00	\$322.12
	85200-5950-100	Employee Testing	\$0.00	\$116.00	\$0.00	\$116.00	\$116.00
	85280-5950-900	Insurance Expense	\$3,858.39	\$3,858.39	\$0.00	\$3,858.39	\$7,716.78
	85320-5950-900	Member Relations	\$37.50	\$0.00	\$0.00	\$0.00	\$37.50
	85330-5950-900	Messenger Service - Fedex	\$90.63	\$13.55	\$0.00	\$13.55	\$104.18
	85340-5950-900	Miscellaneous	(\$35.64)	\$0.00	\$0.00	\$0.00	(\$35.64)
	85340-5950-950	Miscellaneous	\$0.00	\$900.00	\$0.00	\$900.00	\$900.00
	85390-5950-900	O/S - Accounting	\$3,000.00	\$9,000.00	\$0.00	\$9,000.00	\$12,000.00
	85480-5950-900	Payroll Processing Fee	\$840.51	\$2,662.13	\$1,914.00	\$748.13	\$1,588.64
	85490-5950-900	Postage/Shipping	\$54.93	\$6.45	\$0.00	\$6.45	\$61.38
	85610-5950-900	Tax/Licenses/Fees	(\$30.00)	\$0.00	\$60.00	(\$60.00)	(\$90.00)
	85710-5950-900	Travel - Meals	\$36.95	\$47.52	\$0.00	\$47.52	\$84.47
	85720-5950-900	Travel - Other	\$928.72	\$1,420.31	\$0.00	\$1,420.31	\$2,349.03

TRIAL BALANCE SUMMARY FOR 2016
The Golf Club at Cypress Head

Inactive	Account	Description	Beginning Balance	Debit	Credit	Net Change	Ending Balance	
	85720-5950-950	Travel - Other	\$0.00	\$112.32	\$0.00	\$112.32	\$112.32	
	90000-5950-900	Management Fee	\$5,712.85	\$5,712.85	\$0.00	\$5,712.85	\$11,425.70	
	98020-5950-900	Deprec - Mach & Equip	\$36.87	\$36.87	\$0.00	\$36.87	\$73.74	
	98040-5950-900	Deprec - Buildings	\$116.74	\$114.74	\$0.00	\$114.74	\$231.48	
	RCMWD-5950-100	Rounds - Complimentary - Weekday	10,275.00	128.00	0.00	128.00	10,403.00	
	REMWD-5950-100	Rounds - Employee - Weekday	16,620.00	108.00	0.00	108.00	16,728.00	
	RMBWD-5950-100	Rounds - Member - Weekday	57,353.00	761.00	0.00	761.00	58,114.00	
	RPKWD-5950-100	Rounds - Peak - Weekday	304,642.00	3,299.00	0.00	3,299.00	307,941.00	
	RPKWE-5950-100	Rounds - Peak - Weekend	5,071.00	0.00	0.00	0.00	5,071.00	
			<u>Accounts</u>	<u>Beginning Balance</u>	<u>Debit</u>	<u>Credit</u>	<u>Net Change</u>	<u>Ending Balance</u>
Grand Totals:			129	\$0.00	\$520,893.31	\$520,893.31	\$0.00	\$0.00



December 19th, 2016

Robin Fenwick
City of Port Orange
100 City Center Circle
Port Orange, FL 32129

Dear Ms. Fenwick,

The following is the financial and operational summary report for November 2016 at Cypress Head Golf Club.

FINANCIAL SUMMARY FOR MONTH ENDING November 2016								
	Current				Year to Date			
	Actual	Budget	Variance vs. Budget		Actual	Budget	Prior Year	Variance vs. Budget
Revenue								
Green Fees	\$ 60,239	\$ 58,197	\$ 2,042		\$ 103,263	\$ 103,674	\$ 66,823	\$ (411)
Cart Fees	\$ 40,803	\$ 46,013	\$ (5,210)		\$ 71,909	\$ 80,825	\$ 47,413	\$ (8,916)
Range	\$ 3,051	\$ 2,505	\$ 546		\$ 5,576	\$ 4,957	\$ 3,056	\$ 619
Pro- Shop Revenues	\$ 7,273	\$ 6,036	\$ 1,237		\$ 11,693	\$ 10,538	\$ 7,589	\$ 1,155
City Surcharge R/R	\$ 3,561	\$ 3,397	\$ 164		\$ 6,293	\$ 6,593	\$ 3,911	\$ (300)
Total Revenue	\$ 114,927	\$ 116,148	\$ (1,221)		\$ 198,734	\$ 206,587	\$ 128,792	\$ (7,853)
Cost of Sales	\$ 3,872	\$ 3,870	\$ 2		\$ 6,306	\$ 6,693	\$ 6,077	\$ (387)
Merchandise	\$ 3,872	\$ 3,870	\$ 2	57%	\$ 6,306	\$ 6,693	\$ 6,077	\$ (387)
Gross Margin	\$ 111,055	\$ 112,278	\$ (1,223)		\$ 192,428	\$ 199,894	\$ 122,715	\$ (7,466)
Total Payroll	\$ 55,421	\$ 56,065	\$ (644)		\$ 110,253	\$ 113,108	\$ 108,288	\$ (2,855)
Total Operating Expenses	\$ 54,407	\$ 51,755	\$ 2,652		\$ 106,722	\$ 103,865	\$ 102,210	\$ 2,857
Net Operating Income	\$ 1,227	\$ 4,458	\$ (3,231)		\$ (24,547)	\$ (17,079)	\$ (87,783)	\$ (7,468)
Other Expenses	\$ 5,865	\$ 6,208	\$ (343)		\$ 11,731	\$ 12,416	\$ 13,844	\$ (685)
Management Fee	\$ 5,713	\$ 5,827	\$ (114)		\$ 11,426	\$ 11,654	\$ 13,082	\$ (228)
Interest Expense	\$ -		\$ -					\$ -
Depreciation	\$ 152	\$ 381	\$ 545		\$ 305	\$ 762	\$ 762	\$ (457)
Net Cash From Ops	\$ (4,638)	\$ (1,750)	\$ (2,888)		\$ (36,278)	\$ (29,495)	\$ (101,627)	\$ (6,783)
Rounds								
Total Rounds	4,296	3,891	405		7,635	7,141	4,761	494
Avg. Green Fee/Cart Fee	\$23.52	\$26.78	\$ (3.26)		\$22.94	\$25.84	\$23.99	\$ (2.89)
Avg. Merchandise/round	\$1.69	\$1.55	\$ 0.14		\$1.53	\$1.48	\$1.59	\$ 0.06

Overview:

- Overall revenues for November finished at \$114,927 versus a budgeted amount of \$116,148. The range revenue was over the budgeted amount by \$546.00 for the month. The pro shop and merchandise sales also exceeded budget by \$1,237.00 as well.
- Total payroll for the month was under budget by \$644.00 even with the extra hours required to do clean-up for the debris left behind from the hurricane. The entire team continues to work well together removing downed trees and tons of branches and debris.
- We are currently waiting for insurance estimates regarding losses for the property, tree removal, loss of income from days closed and extra labor hours for Hurricane debris removal.
- Our operating expenses were slightly over budget due to the cost of sand, fertilizer, new flagpoles and flags for the greens and the timing of a payment for the invoice on the accounting audit.
- The month of November is the second month in our fiscal year with the revenues being behind budget mostly due to losses as a result of course closure in October. Total payroll YTD is under budget by \$2,855.00 with total expenses being over budget by \$2,857.00.

R&R Projects pending:

- There were no R & R projects outlined for the month of November.

Tee Sheet Activity:

- We had 4,296 total rounds for the month with 3,299 paid rounds as well as 761 Annual and Cypress Pass member rounds. The total rounds for the month included 3,412 eighteen hole rounds and 752 nine hole rounds.
- The Golf staff continues to monitor daily tee sheet activity and they are trained to recognize underutilization of the tee sheet and offer promotional prices through the website to increase the number of potential players.

November 2016 and YTD rounds mix:

Type	Actual	Budget	Month- P.Y.	Y.T.D	P.Y-Y.T.D
Paid	3299	3156	3456	5800	3703
Annual	761	520	820	1410	842
Other rounds	236	215	215	425	216
Total Rounds	4296	3891	4491	7635	4761

Departmental Summaries:**Course & Grounds/Range**

- Our entire team of maintenance and golf staff employees continue to work together to help clean up the damage sustained by Hurricane Matthew in October. We unfortunately have lost many large trees that were uprooted as well as hundreds of tree limbs that continue to be removed for safety as well as for the health of the trees.
- Jason Chennault, our superintendent, continues to monitor all areas of the agronomic plan and is following a schedule for golf course maintenance for the upcoming season.

- The range continues to be a benefit to all players improving their skills and we have begun illuminating the range on Friday and Saturday evenings to allow for more extended usage of the facility. This helps to enhance the overall experience for all golfers using the practice area.

Golf Shop/Carts

- New merchandise continues to arrive weekly in preparation for the upcoming winter season. During the month of November we hosted sales for Black Friday and Cyber Monday. The golf shop merchandise is regularly updated to enhance the professional nature of the golf shop and help promote merchandise sales. Vendors include Footjoy, Titleist, Callaway, Bridgestone, Page & Tuttle, Nancy Lopez, Bermuda Sands, Ahead headwear and St Andrews products. We continue to hold weekly specials promoting different manufacturers to compete with the large box stores locally. There was \$1,365.00 in gift card sales purchased for the month as well as over \$6,733.00 in pro-shop sales.
- We continue to follow all regular maintenance procedures regarding the cart fleet which includes registering monthly totals for battery amperage and mileage as well as proper watering of all batteries to protect all warranties associated with the new fleet. In addition to the monthly process our carts are inspected daily for any damage which may have occurred during normal play. We continue to be committed to providing quality carts for the enjoyment of all our players.
- The staff at Cypress Head Golf Course continues to offer lesson packages for beginners as well as advanced players. We are currently planning our Holiday Junior golf clinic schedule for the month of December.
- Our Men's and Ladies organizations continue to play on a weekly basis and the number of players is increasing as more of our northern friends return to their homes here in Port Orange and Volusia County. These groups have been well attended and they continue to enjoy the camaraderie of playing here at Cypress Head.

Marketing and Sales:

- Ms. Reggie Hunter, our Director of Sales & Marketing, was appointed to the Port Orange South Daytona Chamber of Commerce Board of Directors. She is actively involved with the community and is focusing on booking new clients for tournament events in 2017. She continues to book many of the groups who visited us last year for return business and rounds.
- During the month of November we hosted several tournaments including a 144 player tournament as well as multiple outing events from out of town visitors. These events help to increase the awareness that Cypress Head is the location where all groups should host their tournaments and charity fundraisers.
- We are continuing our involvement with Daytona CVB, Golf Pac, and Tee-Times USA along with other National wholesaler and Golf Now to maximize utilization of our tee sheet.
- We continue to maintain our database of emails with over 9,900 unique e-mail addresses. The golf staff continues to register player profiles including residency, phone numbers and proper classifications of all players. This process will allow us an opportunity to offer promotions to our database to experience all that Cypress Head has to offer.
- Ms. Hunter continues to cultivate her relationships in the community by her continued involvement in the POSD Chamber, POSD Ambassadors program, Daytona Beach Chamber, SEV Chamber and the POSD Rotary club.
- The Cypress Passes continue to be offered for sale and this is a pass that allows the player unlimited greens fees throughout the season. The pass holder is still responsible for applicable cart fees and surcharge. We sold several more passes during November and we currently have 28 Cypress pass holders at this time. We are expecting more sales during the coming months as more of our northern friends return to their homes in Port Orange for the season.

Mindshare Reviews and Comments:

Report run: 12/19/2016 8:04 AM MST
Data current as of: 12/19/2016 8:04 AM MST

REPORT CRITERIA

Date of Survey	11/1/16 - 11/30/16
Select level:	Cypress Head

Number of Surveys: 50

#	Zip Code	Date Golfed	Date of Survey	Tee Time	Overall Rating	Service Rating	Course Rating	Food Rating	Recommend Rating	NPS	Overall Rating w/o F&B	Comments	
Totals					9.1	9.4	8.7	8.1	9.3	80.0	9.1		
Cypress Head					9.1	9.4	8.7	8.1	9.3	80.0	9.1		
Golf					9.1	9.4	8.7	8.1	9.3	80.0	9.1		

- There were over 700 questionnaires mailed out to players during the month with an overall rating for the golf course receiving a 9.1. We also received a recommended rating of 9.3 and our service rating is at 9.4.
- We continue to assist all players by helping them to enjoy their experience here at Cypress Head. There were some reviews that had constructive ideas to help us improve in some areas which we will evaluate as a team. The comments returned by the players in this avenue are useful tools in helping our maintenance and golf staff team improve. We also review all negative comments and they are discussed by our team and if required we will contact the individual to help us better understand their concerns. Players also have access to a suggestion box which is located at the clubhouse near the Men's and Ladies bulletin boards.

Corporate Support:

- Kemper Sports Center for Excellence – Ongoing resource.



Summary:

- Hurricane recovery efforts continued throughout the month. Course cleanup for debris and tree removal is still ongoing at this time. The insurance adjustors have visited the property and we are awaiting their determination regarding any compensation for the Hurricane losses.
- The Cypress Passes will continue to be offered for sale throughout the holidays. There will also be multiple marketing promotions offered during the upcoming month designed to increase merchandise sales during the Christmas season.
- Our entire team from golf staff, outside services and maintenance are preparing for the upcoming winter season. We are excited about the 2016-2017 season as we continue to offer the best in class customer service and course conditions.

Respectfully Submitted,

Bob Duquette, PGA

General Manager
The Golf Club at Cypress Head.



CITY COUNCIL AGENDA ITEM

REQUESTED COUNCIL MEETING DATE 01/17/2017

Consent item: No

SUBJECT: (H14) First Reading - Ordinance No. 2017-2 – Master Development Agreement and Conceptual Development Plan/PC-A Workplace Zoning District/Thompson Pump and Manufacturing Company, Inc.

DEPARTMENT: Community Development

GOAL: 4 - Economic Development

RECOMMENDED MOTION: Move to approve Ordinance No. 2017-2, approving the Thompson Pump and Manufacturing Company, Inc. Master Development Agreement and Conceptual Development Plan.

SUMMARY: Planning Commission Action (12/15/16): Recommended approval of the Master Development Agreement and Conceptual Development Plan including the requested deviations from the Land Development Code (LDC).

The subject property is located on the east side of Williamson Boulevard, south of Hockney Court (Figure 1) and zoned PC-A Workplace District. Currently, the subject property is owned by the City of Port Orange. Thompson Pump has a contract with the City to close on the purchase of the +/- 15-acre property in March 2017. As the contract purchaser, Thompson Pump has prepared a Master Development Agreement (MDA) and Conceptual Development Plan (CDP) that would apply to the subject property.

If approved, the MDA and the CDP will provide the regulatory framework for the development of the +/- 15-acre site as an office headquarter/manufacturing campus for Thompson Pump with a combined square footage of +/- 140,000.

The staff report is attached with more information including a description of the contract purchaser's requested deviations.

Project No.: Funding Account No.:

ATTACHMENTS:

1.	Ordinance 2017-2	Ord. 2017-2.pdf
2.	Staff Report	Thompson Pump Staff Report CC1-17.pdf

Tim Burman
Wayne Clark

Created/Initiated - 12/21/2016
Approved - 12/27/2016

Margaret Roberts
M. Jake Johansson
Robin Fenwick

Approved - 01/05/2017
Approved - 01/06/2017
Final Approval - 01/06/2017

ORDINANCE NO. 2017-2

AN ORDINANCE OF THE CITY OF PORT ORANGE, VOLUSIA COUNTY, FLORIDA, APPROVING THE MASTER DEVELOPMENT AGREEMENT AND CONCEPTUAL DEVELOPMENT PLAN PC-A WORKPLACE ZONING DISTRICT FOR THOMPSON PUMP AND MANUFACTURING COMPANY, INC., FOR +/- 15 ACRES GENERALLY LOCATED ON THE EAST SIDE OF WILLIAMSON BOULEVARD, SOUTH OF HOCKNEY COURT; PROVIDING FOR CONFLICTING ORDINANCES, SEVERABILITY, AND AN EFFECTIVE DATE.

WHEREAS, the City and Developer desire to enter into the Master Development Agreement ("MDA") and Conceptual Development Plan ("CDP"); (hereinafter referred to as the "Agreement"); and

WHEREAS, the Developer submitted a request to the Planning Commission to approve the Agreement; and

WHEREAS, a public hearing was held following public notice as prescribed by ordinance; and

WHEREAS, the Planning Commission has considered and forwarded a recommendation to the City Council regarding the proposed Agreement; and

WHEREAS, the City Council has approved by a majority vote of the members present the approval of the Agreement.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PORT ORANGE, VOLUSIA COUNTY, FLORIDA:

Section 1. The City Council of the City of Port Orange does hereby approve the Agreement (attached hereto as **Exhibit "1"**).

Section 2. The Mayor and City Clerk are hereby authorized to execute said Agreement.

Section 3. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed to the extent of such conflict.

Section 4. If any provision of this ordinance or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of this ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are declared severable.

Section 5. This ordinance shall become effective immediately upon adoption.

MAYOR DONALD O. BURNETTE

ATTEST:

Robin L. Fenwick, CMC, City Clerk

Passed on first reading on the day of _____, 2017

Passed and adopted on second and final reading on the day of
_____, 2017

Reviewed and Approved: _____
Shannon K. Balmer, Assistant City Attorney

Exhibit "1"

THE THOMPSON PUMP AND MANUFACTURING COMPANY, INC. MASTER DEVELOPMENT AGREEMENT

This THOMPSON PUMP AND MANUFACTURING COMPANY, INC Master Development Agreement is hereby entered into by and between the City of Port Orange, a Florida municipal corporation, having a mailing address of 1000 City Center Circle, Port Orange, Florida 32129 (hereinafter "City"); and Thompson Pump & Manufacturing Company, Inc. (hereinafter "Developer"), hereby agree and covenant, and bind their successors and assigns as follows:

1. PURPOSE OF AGREEMENT:

The purpose of this Master Development Agreement is to provide a comprehensive development plan for the subject property as defined below. This Master Development Agreement is approved pursuant to Chapter 17, Section 29(e)(3) of the Land Development Code, unless amended herein.

2. THE PROPERTY:

The property that is subject to this Master Development Agreement (hereinafter "Agreement") consists of approximately 15.45 acres of real property located on Williamson Boulevard, within the municipal limits of the City of Port Orange and further described on Exhibit "A", which is attached hereto and by reference made a part hereof (the "Property"). The Property is under unified ownership of the City of Port Orange, and is under contract with the Developer, both of whom are signatories to this Agreement.

3. CONFORMANCE WITH COMPREHENSIVE PLAN:

The City has determined that the Property is suitable in size, location and character for the uses proposed, that the uses proposed meet the needs of the City, and that the uses proposed are consistent with the City's comprehensive plan as of the date of adoption of this Agreement enacting the zoning provided herein.

4. DEVELOPMENT:

A. The Property shall generally be developed as a phased industrial development project according to the Agreement and as depicted on the Conceptual Development Plan (CDP) prepared by Kimley-Horn and dated November 22, 2016, which is attached hereto and incorporated herein as Exhibit "B" and as more particularly described herein. The development of the Property will require the approval of a site plan and/or subdivision plat and plans application, which shall be reviewed in accordance with this Agreement and the Land Development Code.

- B. Developer does not plan to subdivide the property. However, should subdivision be considered in the future, the Developer shall comply with the requirements of the Land Development Code in place at the time of such subdivision.
- C. As part of the first phase of development, Developer shall install a 4th traffic signal head on the existing traffic light at the intersection of Town West Boulevard and Williamson Boulevard prior to issuance of the first certificate of occupancy (C/O). Developer shall be responsible for any re-timing of the signals along Williamson Boulevard, if necessary. Developer shall coordinate installation of said traffic signal head with Volusia County as required, including seeking county assistance with design and installation.

5. DEVELOPMENT AGREEMENT AND CONCEPTUAL DEVELOPMENT PLAN:

- A. Development of the Property shall be controlled by the terms and conditions of this Agreement and the CDP, which depicts the planned layout of improvements to the Property. To the extent actual buildings and other improvements are shown on the CDP, they are shown only for illustrative purposes. Developers shall be permitted to relocate or reconfigure buildings, other improvements and uses so long as the changes are otherwise consistent with this Agreement. The CDP depicts possible layouts for the Property. Either of the respective layouts, or one not currently presented, may ultimately be developed on the Property, so long as the chosen layout complies with this Agreement and the development parameters found herein, and subject to review and approval of all necessary site plans and related permits. Collectively, this Agreement and the CDP for the Property may be referred to as the "Plan". In case of conflict between any textual provision of this Agreement and the CDP, the textual provision of this Agreement shall control. If the Agreement is silent regarding a subject or requirement, such silence shall not be construed as a conflict with the CDP. Except as otherwise provided in this Agreement, in the event of a conflict between the terms and provisions of the Plan and the City's ordinances, the terms and provisions of the Plan shall control. If the Plan fails to address a subject or code requirements, the requirements of the applicable City ordinance(s) as defined by the City's Land Development Code ("LDC"), shall control.
- B. In the event modifications to comply with the LDC are required, and modifications to the CDP are not in conflict with the textual provisions of this Agreement and LDC requirements not superseded by this Agreement, the modifications shall be deemed "minor" and may be approved without formal amendment of this Agreement. All other modification shall be deemed "major" and shall require formal amendment of this Agreement. Minor modifications shall require the written approval by the Administrative Official, who is defined in the LDC. If the Developer is not satisfied with the suggested resolution or the decision of the City Administrative Official categorizing the modifications as minor or major, the Developer may appeal the decision to the Planning Commission. Appeals from the Planning Commission may be made to the City Council.

6. PHASING:

- B. Development of the Property is intended to occur in multiple phases, as the market dictates and at the sole discretion of Developer. Each proposed phase shall be required to install all necessary infrastructure, including all necessary easements and dedications, to stand alone, with the support of previous built phases. Each phase shall be built to be consistent with applicable City standards and this Agreement. Permits for development of phases or sub-phases shall be submitted for approval through the City's Final Site Plan and/or Subdivision Plat and Plan process.

7. PERMITTED USES:

Permitted uses shall be those allowed herein and in the City of Port Orange's Planned Community – Agricultural (PC-A) Workplace (Office/Industrial) Zoning District, as may be amended from time to time, and those consistent with the use limitations placed upon the property through a deed restriction, set forth in the Warranty Deed recorded in the Official Records Book 5934, Page 2532, and as amended in Official Records Book ____, Page ____, all in Public Records of Volusia County, Florida. Specifically, the list of uses attached hereto and incorporated herein as Exhibit "C" shall be permitted and if any additional uses are added by the City to the PC-A Workplace (Office/Industrial) Zoning District, those uses shall also be permitted.

- 8. DIMENSIONAL REQUIREMENTS:** The Property shall be subject to the following dimensional requirements: Dimensional Requirements shall be those allowed in the City of Port Orange's Planned Community – Agricultural (PC-A) Workplace (Office/Industrial) Zoning District, as may be amended from time to time, unless modified herein:

Maximum Building Coverage per Individual Lot: 50%

Maximum Impervious Coverage per Individual Lot: 80%

Minimum Open Space per Individual Lot: 20%

Minimum Lot Width – 150'

Minimum Lot Area – 20,000 SF

Minimum Building Setbacks

Front– Required Right-of-Way Landscape Buffer

Side – 20'

Rear - 25'

Hockney Court – 20'

S. Williamson Boulevard – 50'

Maximum Building Height: 60'

9. LANDSCAPE BUFFER/OPAQUE SCREENING/WALKLIGHTS:

- A. All landscape buffers, foundation landscaping, vehicular use/parking landscaping, supplemental landscaping, and tree preservation, shall be developed in compliance with the Land Development Code (LDC). as may be amended from time to time, unless modified herein:

- i. Ten percent of the area designed for vehicular use (driveways, access drives, and parking spaces) shall be devoted to the creation of interior landscaping. The base area of the vehicular use area shall be measured along the outer edge and include all parking spaces, access drives, landscaped islands at the corners of and within parking areas, and other areas for vehicular use as determined by staff. See CDP for example of area required to have interior landscaping. Paved areas (greater than 30') between buildings or between a building and parking spaces dedicated to industrial uses as determined by staff shall not be included in the base area.
- ii. Foundation plantings required by the LDC can be transferred to areas on the property to provide additional screening from a public street or adjacent property.
- iii. To the extent that internal landscaping is shown on Exhibit "B", attached hereto and incorporated herein, it is shown only for illustrative purposes. Developer shall be able to reconfigure landscaping so long as the changes are otherwise consistent with the LDC and the provisions of this Agreement.

B. The development shall be exempt from Chapter 17, Section 29(h)(2) of the Land Development Code regarding the installation of walk lights within the Williamson Boulevard right-of-way.

10. ARCHITECTURAL/DESIGN STANDARDS:

All buildings and accessory structures on the Property shall be developed in compliance with the requirements of the LDC.

11. PARKING LOT:

- A. The development shall be exempt from Chapter 17, Section 29(e)(2)(b)(4) of the Land Development Code regarding the placement of parking spaces on the subject property.
- B. Minimum required parking spaces and bicycle spaces, parking lot design, parking space dimensions, access drive width and design shall be developed in compliance with the Land Development Code (LDC) as may be amended from time to time.

12. PUBLIC UTILITIES AND STORMWATER MANAGEMENT:

- A. Public utilities shall be designed to meet the City's specifications and requirements of the LDC and City Standard Construction Details.
- B. Stormwater management shall comply with the LDC, City Standard Construction Details and the rules and regulations of the St. John's River Water Management District concerning storm water drainage. The Developer shall provide all required easements to the City over the proposed retention area and related stormwater structures.
- C. Research Pond shall not be included as contributing to the required stormwater management features but may, as determined by the Developer, hold stormwater from time to time.

13. SIGNAGE:

Except as otherwise set forth in the CDP or this Agreement, the signage for the Property shall be in compliance with the terms set forth in the LDC.

14. MAINTENANCE OF COMMON OPEN SPACE AND COMMON FACILITIES:

- A. The Property is incorporated in the Port Orange Business Park Property Owner Association and as such, is subject to the Declaration of Covenants, Conditions, Restrictions, Reservations and Easements for the same, recorded in the Official Records Book 6370, Page 50 in Public Records of Volusia County, Florida, as may be amended from time to time.
- B. If the Property is subdivided, the Developer shall form and incorporate a Property Owner Association (the "POA") or enter into an agreement to govern the continued operation and maintenance of common areas, and common facilities on the Property, including but not limited to all access drives, sidewalks, common open space, stormwater, utilities, etc. Prior to approval of a subdivision plat the POA Covenants and Restrictions or agreement shall be reviewed and approved by City.
- C. If the Property is not subdivided, the Developer shall maintain the Property according to the LDC.

15. ENVIRONMENTAL CONSIDERATIONS:

The Developer shall comply with all rules, statutes, laws and regulations pertaining to protected wildlife species, including but not limited to the rules and permitting requirements of the Florida Fish and Wildlife Commission. Compliance with the City Land Development Code may necessitate modification of the CDP.

16. EFFECTIVE DATE AND EXPIRATION:

- A. This Agreement shall be effective upon recording by the City at the Developer's expense in the public records of Volusia County, Florida. The Second Reading of the Ordinance for MDA shall not take place until the Developer has provided an executed copy of the MDA to the City Attorney's Office addressing all issues discussed prior to the scheduled Second Reading. If there are no additional requirements, corrections or conditions attached by the City Council at the Second Reading, the Agreement shall be signed by the Mayor and City Clerk and recorded.
- B. The Initial phase of development of the Property shall commence within three (3) years from the effective date unless extended by mutual agreement of the parties. Failure to comply with the established schedule shall cause the Agreement to lapse. The term "Development" shall have the meaning as set forth in the LDC.

17. AMENDMENTS

- A. Amendments to this Agreement shall not be effective unless in writing and signed by all record title property owners of the land for which the amendment is to be applied, and the City.
- B. Before amending this Agreement, the City shall conduct one or more public hearings. At the City's option, one of the public hearings may be held by the Planning Commission.
 - 1. Notice of intent to consider an amendment to this Agreement shall be published by the City, at the Developer's cost, in a newspaper of general circulation and readership in Volusia County, Florida.
 - 2. If applicable, notice of intent to consider an amendment shall comply with the requirements of Section 166.041(3)(c), Florida Statutes, as amended from time to time.
 - 3. The notices required above shall specify the location of the Property, the location of that portion of the Property subject to the proposed amendment, the nature of the proposed amendment, and the following information to the extent applicable:
 - a. Changes permitted, conditional, and/or prohibited uses proposed.
 - b. Changes in building intensities and/or height proposed.
 - 5. All notices shall specify a place where a copy of the proposed amendment can be obtained.

18. CONFORMANCE WITH LAWS

The Developer agrees:

- 1. To develop the Property according to all regulations of the City to the extent those regulations are not inconsistent with the Plan for the Property.
- 2. To be bound by all City codes and ordinances that are not in conflict with the provisions of this Agreement.

19. ENFORCEABILITY

If any provision of this Agreement is held by a court of competent jurisdiction to be invalid or otherwise unenforceable, such holding shall not affect the validity or enforceability of any other provision of this Agreement unless the holding so states.

20. PRIOR AGREEMENTS:

This Agreement represents the complete understanding by and between the parties with respect to the development and continued use of the subject Property. Any and all prior agreements between the parties with respect to any subject comprehended by this Agreement is hereby voided and suspended by this Agreement. Any amendment to this Agreement shall be in writing and signed by the City and the Developer(s).

21. POLICE POWER

Nothing contained in this Agreement shall be construed as a waiver of or contract with respect to the regulatory and permitting authority of the City as it now or hereafter exists under applicable laws, rules and regulations. Further, nothing contained in this Agreement

shall be construed as a waiver of the attempted waiver by the City of its sovereign immunity under the Constitution and laws of the State of Florida.

IN WITNESS, WHEREOF, the parties have executed this Master Development Agreement by and through their duly authorized representatives, on the respective dates below.

WITNESSES:

**CITY OF PORT ORANGE, a Florida
Municipal Corporation**

Printed name

Printed name

Printed name

Printed name

By: _____
Donald O. Burnette, Mayor
1000 City Center Circle
Port Orange, Florida 32129

Attest _____
Robin L. Fenwick, CMC, City Clerk
1000 City Center Circle
Port Orange, Florida 32129

STATE OF FLORIDA
COUNTY OF VOLUSIA

The foregoing instrument was acknowledged before me this ____ day of _____, 2017, by Donald O. Burnette, Mayor of the CITY OF PORT ORANGE, FLORIDA, a Florida Municipal Corporation, on behalf of the City. They are personally known to me and did not take an oath.

Notary Public

(Seal)

STATE OF FLORIDA
COUNTY OF VOLUSIA

The foregoing instrument was acknowledged before me this ____ day of _____, 2016,
by Robin L. Fenwick, City Clerk, of the CITY OF PORT ORANGE, FLORIDA, a Florida Municipal
Corporation, on behalf of the City. She is personally known to me and did not take an oath.

Notary Public

(Seal)

Witnesses:

DEVELOPER

By: _____

Date: _____

Printed Name

By: _____

Date: _____

STATE OF FLORIDA
COUNTY OF VOLUSIA

The foregoing instrument was acknowledged before me this ____ day of _____,
2016, by..... He/she is personally known to me and did not take an oath.

Type, Print or Stamp Name

My Commission Expires: _____

EXHIBIT "A" – LEGAL DESCRIPTION

Legal Description for 3rd Party Tract

A PORTION OF SECTION 13, TOWNSHIP 16 SOUTH, RANGE 32 EAST, AND SECTION 18, TOWNSHIP 16 SOUTH, RANGE 33 EAST, VOLUSIA COUNTY, FLORIDA; BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE SOUTHWEST CORNER OF THE SOUTHEAST 1/4 OF SAID SECTION 18, THENCE S89°57'22"E ALONG THE SOUTH LINE THEREOF, 886.76 FEET TO THE EASTERLY RIGHT OF WAY LINE OF WILLIAMSON BOULEVARD AND THE BEGINNING OF A NON TANGENT CURVE CONCAVE SOUTHWEST, HAVING A RADIUS OF 2965.00 FEET, A CENTRAL ANGLE OF 15°03'12" AND A CHORD BEARING OF N47°17'27"W; THENCE NORTHWESTERLY ALONG SAID EASTERLY RIGHT OF WAY LINE AND THE ARC OF SAID CURVE, 779.00 FEET; THENCE N54°49'03"W ALONG SAID RIGHT OF WAY LINE, 4266.66 FEET TO THE POINT OF BEGINNING; THENCE CONTINUE ALONG SAID RIGHT OF WAY LINE, N54°49'03"W, 260.76 FEET TO THE BEGINNING OF A CURVE, CONCAVE NORTHEASTERLY, HAVING A RADIUS OF 1,809.86 FEET AND A CENTRAL ANGLE OF 20°02'30"; THENCE NORTHWESTERLY ALONG THE ARC OF SAID CURVE, 633.08 FEET TO THE BEGINNING OF A NON TANGENT CURVE CONCAVE SOUTHEASTERLY, HAVING A RADIUS OF 32.00 FEET, A CENTRAL ANGLE OF 21°55'50" AND A CHORD BEARING OF N47°19'58"E; THENCE DEPARTING SAID EASTERLY RIGHT OF WAY LINE, NORTHEASTERLY ALONG THE ARC OF SAID CURVE, 12.25 FEET TO THE SOUTHERLY RIGHT OF WAY LINE OF HOCKNEY COURT; THENCE ALONG SAID SOUTHERLY RIGHT OF WAY LINE, N58°17'53"E, 104.29 FEET TO THE BEGINNING OF A CURVE, CONCAVE NORTHWESTERLY, HAVING A RADIUS OF 171.00 FEET AND A CENTRAL ANGLE OF 14°55'53"; THENCE NORTHEASTERLY ALONG THE ARC OF SAID CURVE, 44.56 FEET; THENCE N43°22'00"E, 35.73 FEET TO THE BEGINNING OF A CURVE CONCAVE SOUTHEASTERLY, HAVING A RADIUS OF 248.00 FEET AND A CENTRAL ANGLE OF 13°12'21"; THENCE NORTHEASTERLY ALONG THE ARC OF SAID CURVE, 57.16 FEET TO A POINT OF REVERSE CURVE, CONCAVE NORTHWESTERLY, HAVING A RADIUS OF 535.00 FEET AND A CENTRAL ANGLE OF 21°57'55"; THENCE NORTHEASTERLY ALONG THE ARC OF SAID CURVE, 205.10 FEET; THENCE N34°36'26"E, 175.85 FEET TO THE NORTHWESTERLY CORNER OF THAT PARCEL DESCRIBED IN OFFICIAL RECORDS BOOK 6370, PAGE 114 OF THE PUBLIC RECORDS OF VOLUSIA COUNTY, FLORIDA; THENCE DEPARTING SAID SOUTHERLY RIGHT OF WAY LINE AND ALONG THE WESTERLY LINE OF THE AFOREMENTIONED PARCEL, S55°23'33"E, 983.80 FEET TO THE SOUTHWESTERLY CORNER OF SAID PARCEL; THENCE DEPARTING SAID WESTERLY LINE AND CONTINUING ALONG THE NORTHERLY LINE OF A ST. JOHNS RIVER WATER MANAGEMENT DISTRICT CONSERVATION EASEMENT AS RECORDED IN O.R. BOOK 6221, PAGE 983, SAID PUBLIC RECORDS OF VOLUSIA COUNTY, FLORIDA, THE FOLLOWING SEVEN (7) CALLS: S84°36'06"W, 9.34 FEET; THENCE S16°28'11"W, 86.90 FEET; THENCE S01°50'54"W, 87.63 FEET; THENCE S65°11'31"W, 54.75 FEET; THENCE S24°57'24"W, 93.67 FEET; THENCE S09°14'16"E, 61.11 FEET; THENCE S71°43'17"W, 58.75 FEET TO THE NORTHEASTERLY CORNER OF THAT CERTAIN PARCEL DESCRIBED IN OFFICIAL RECORDS BOOK 5939, PAGE 0062, SAID PUBLIC RECORDS OF VOLUSIA COUNTY, FLORIDA; THENCE DEPARTING SAID NORTHERLY LINE OF A ST. JOHNS RIVER WATER MANAGEMENT DISTRICT CONSERVATION EASEMENT AND CONTINUING ALONG THE NORTHERLY LINE OF THE AFOREMENTIONED PARCEL DESCRIBED IN OFFICIAL RECORDS BOOK 5939, PAGE 0062, N55°23'34"W, 282.36 FEET TO THE NORTHWESTERLY CORNER OF SAID PARCEL; THENCE ALONG THE WESTERLY LINE OF SAID PARCEL, S34°36'26"W, 342.08 FEET TO SAID EASTERLY RIGHT OF WAY LINE OF WILLIAMSON BOULEVARD AND THE POINT OF BEGINNING.

CONTAINING 672,925 sq. ft. OR 15.45 acres, MORE OR LESS

EXHIBIT "B" – CDP

A map of Maryland with its county boundaries outlined. A line points from the text 'PROJECT LOCATION' to a specific area in the eastern part of the state, near the border with Virginia and Delaware.

FOR

THOMPSON PUMP MDA

CITY OF PORT ORANGE, FLORIDA

NOVEMBER 2016

TAX PARCEL: 13-16-32-09-00-0010



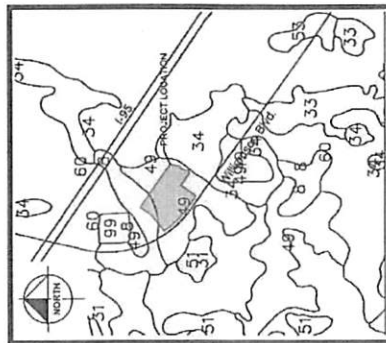
PROJECT TEAM

OWNER
CITY OF PORT ORANGE
1000 CITY CENTER CIRCLE
PORT ORANGE, FL 32129
PHONE: (386) 506-5500

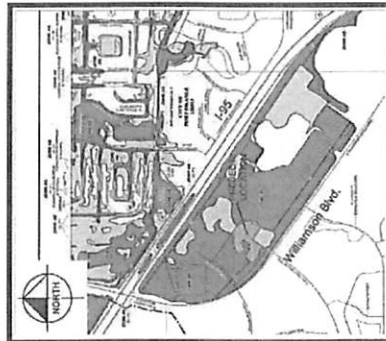
CONTRACT PURCHASER/DEVELOPER
THOMPSON PUMP & MFG. CO. INC.
4620 CITY CENTER DRIVE
PORT ORANGE, FL 32129
CONTACT: CHRIS THOMPSON
PHONE: (386) 527-0595

SURVEYOR
SLUGER & ASSOCIATES, INC.
3921 SOUTH NOVA ROAD
PORT ORANGE, FL 32127
CONTACT: JOE ZAPERT
PHONE: (386) 761-5385

ENGINEER
KIMLEY-HORN AND ASSOCIATES
3660 MAGUIRE BLVD., SUITE 200
ORLANDO, FL 32803
CONTACT: JONATHAN A. MARTIN, P.E.
PHONE: (407) 898-1511



SOILS MAP
CLIMATE SCALE 1"=1,000'

[illegible]

FLOOD ZONE
APPROXIMATE SCALE 1"=1,000'

LEGEND
 ZONE A2 = Area Road development
 ZONE X = Areas designated to be suitable for 200-year floodplain

SOURCE
 FEMA Flood 181300001 (dated February 18, 2014)



ZONING MAP
APPROXIMATE SCALE 1"

LEGEND



VICINITY MAP
APPROXIMATE SCALE 1:250,000

LEGAL DESCRIPTION

of section 14, Chapter 19, Public Laws 85-624, 85-625, 85-626, 85-627, 85-628, 85-629, 85-630, 85-631, 85-632, 85-633, 85-634, 85-635, 85-636, 85-637, 85-638, 85-639, 85-640, 85-641, 85-642, 85-643, 85-644, 85-645, 85-646, 85-647, 85-648, 85-649, 85-650, 85-651, 85-652, 85-653, 85-654, 85-655, 85-656, 85-657, 85-658, 85-659, 85-660, 85-661, 85-662, 85-663, 85-664, 85-665, 85-666, 85-667, 85-668, 85-669, 85-670, 85-671, 85-672, 85-673, 85-674, 85-675, 85-676, 85-677, 85-678, 85-679, 85-680, 85-681, 85-682, 85-683, 85-684, 85-685, 85-686, 85-687, 85-688, 85-689, 85-690, 85-691, 85-692, 85-693, 85-694, 85-695, 85-696, 85-697, 85-698, 85-699, 85-700, 85-701, 85-702, 85-703, 85-704, 85-705, 85-706, 85-707, 85-708, 85-709, 85-710, 85-711, 85-712, 85-713, 85-714, 85-715, 85-716, 85-717, 85-718, 85-719, 85-720, 85-721, 85-722, 85-723, 85-724, 85-725, 85-726, 85-727, 85-728, 85-729, 85-730, 85-731, 85-732, 85-733, 85-734, 85-735, 85-736, 85-737, 85-738, 85-739, 85-740, 85-741, 85-742, 85-743, 85-744, 85-745, 85-746, 85-747, 85-748, 85-749, 85-750, 85-751, 85-752, 85-753, 85-754, 85-755, 85-756, 85-757, 85-758, 85-759, 85-760, 85-761, 85-762, 85-763, 85-764, 85-765, 85-766, 85-767, 85-768, 85-769, 85-770, 85-771, 85-772, 85-773, 85-774, 85-775, 85-776, 85-777, 85-778, 85-779, 85-780, 85-781, 85-782, 85-783, 85-784, 85-785, 85-786, 85-787, 85-788, 85-789, 85-790, 85-791, 85-792, 85-793, 85-794, 85-795, 85-796, 85-797, 85-798, 85-799, 85-800, 85-801, 85-802, 85-803, 85-804, 85-805, 85-806, 85-807, 85-808, 85-809, 85-810, 85-811, 85-812, 85-813, 85-814, 85-815, 85-816, 85-817, 85-818, 85-819, 85-820, 85-821, 85-822, 85-823, 85-824, 85-825, 85-826, 85-827, 85-828, 85-829, 85-830, 85-831, 85-832, 85-833, 85-834, 85-835, 85-836, 85-837, 85-838, 85-839, 85-840, 85-841, 85-842, 85-843, 85-844, 85-845, 85-846, 85-847, 85-848, 85-849, 85-850, 85-851, 85-852, 85-853, 85-854, 85-855, 85-856, 85-857, 85-858, 85-859, 85-860, 85-861, 85-862, 85-863, 85-864, 85-865, 85-866, 85-867, 85-868, 85-869, 85-870, 85-871, 85-872, 85-873, 85-874, 85-875, 85-876, 85-877, 85-878, 85-879, 85-880, 85-881, 85-882, 85-883, 85-884, 85-885, 85-886, 85-887, 85-888, 85-889, 85-890, 85-891, 85-892, 85-893, 85-894, 85-895, 85-896, 85-897, 85-898, 85-899, 85-900, 85-901, 85-902, 85-903, 85-904, 85-905, 85-906, 85-907, 85-908, 85-909, 85-910, 85-911, 85-912, 85-913, 85-914, 85-915, 85-916, 85-917, 85-918, 85-919, 85-920, 85-921, 85-922, 85-923, 85-924, 85-925, 85-926, 85-927, 85-928, 85-929, 85-930, 85-931, 85-932, 85-933, 85-934, 85-935, 85-936, 85-937, 85-938, 85-939, 85-940, 85-941, 85-942, 85-943, 85-944, 85-945, 85-946, 85-947, 85-948, 85-949, 85-950, 85-951, 85-952, 85-953, 85-954, 85-955, 85-956, 85-957, 85-958, 85-959, 85-960, 85-961, 85-962, 85-963, 85-964, 85-965, 85-966, 85-967, 85-968, 85-969, 85-970, 85-971, 85-972, 85-973, 85-974, 85-975, 85-976, 85-977, 85-978, 85-979, 85-980, 85-981, 85-982, 85-983, 85-984, 85-985, 85-986, 85-987, 85-988, 85-989, 85-990, 85-991, 85-992, 85-993, 85-994, 85-995, 85-996, 85-997, 85-998, 85-999, 86-1, 86-2, 86-3, 86-4, 86-5, 86-6, 86-7, 86-8, 86-9, 86-10, 86-11, 86-12, 86-13, 86-14, 86-15, 86-16, 86-17, 86-18, 86-19, 86-20, 86-21, 86-22, 86-23, 86-24, 86-25, 86-26, 86-27, 86-28, 86-29, 86-30, 86-31, 86-32, 86-33, 86-34, 86-35, 86-36, 86-37, 86-38, 86-39, 86-40, 86-41, 86-42, 86-43, 86-44, 86-45, 86-46, 86-47, 86-48, 86-49, 86-50, 86-51, 86-52, 86-53, 86-54, 86-55, 86-56, 86-57, 86-58, 86-59, 86-60, 86-61, 86-62, 86-63, 86-64, 86-65, 86-66, 86-67, 86-68, 86-69, 86-70, 86-71, 86-72, 86-73, 86-74, 86-75, 86-76, 86-77, 86-78, 86-79, 86-80, 86-81, 86-82, 86-83, 86-84, 86-85, 86-86, 86-87, 86-88, 86-89, 86-90, 86-91, 86-92, 86-93, 86-94, 86-95, 86-96, 86-97, 86-98, 86-99, 87-1, 87-2, 87-3, 87-4, 87-5, 87-6, 87-7, 87-8, 87-9, 87-10, 87-11, 87-12, 87-13, 87-14, 87-15, 87-16, 87-17, 87-18, 87-19, 87-20, 87-21, 87-22, 87-23, 87-24, 87-25, 87-26, 87-27, 87-28, 87-29, 87-30, 87-31, 87-32, 87-33, 87-34, 87-35, 87-36, 87-37, 87-38, 87-39, 87-40, 87-41, 87-42, 87-43, 87-44, 87-45, 87-46, 87-47, 87-48, 87-49, 87-50, 87-51, 87-52, 87-53, 87-54, 87-55, 87-56, 87-57

SHEET INDEX

SP-00	COVER SHEET
SP-01	CONCEPTUAL DEVELOPMENT PLAN-ALT "A"
SP-02	CONCEPTUAL DEVELOPMENT PLAN-ALT "B"

JONATHAN A. MARTIN, P.E.
R. P.O. BOX 24003

PREPARED BY
Kimley»Horn

© 2018 QUALITY-HOME AND ASSOCIATES, INC.
1850 Magenta Boulevard, Suite 200, Orlando, FL 32803
Phone: (407) 898-1311 Fax: (407) 898-4761

EXHIBIT "C" – LIST OF USES

Section 23: - Commercial industrial (CI) district.

- (a) *Purpose and intent.* The commercial industrial (CI) district is intended to provide development of those less intense storage, repair, industrial service and limited manufacturing uses that have fewer potential impacts on surrounding properties, yet are logically segregated from general commercial areas for aesthetic and economic reasons.
- (b) *Permitted uses.*
- (1) Adult/vocational education.
 - (2) Antennas.
 - (3) Appliance/electronic repair shops.
 - (4) Boat repair, engine.
 - (5) Business services.
 - (6) Camouflaged and monopole communication towers.
 - (7) Commercial/industrial equipment and supplies.
 - (8) Commercial/industrial services.
 - (9) Commercial/industrial warehouses.
 - (10) Construction contractor's yard and storage.
 - (11) Fleet-based services.
 - (12) Greenhouses and nurseries (wholesale and retail).
 - (13) Laboratory, research and development.
 - (14) Laundry and dry cleaning plants.
 - (15) Maintenance contractors.
 - (16) Manufacturing: craftsman shops.
 - (17) Manufacturing: fabrication.
 - (18) Manufacturing: limited.
 - (19) Mini-warehouses.
 - (20) Motor vehicle and boat storage facilities.
 - (21) Motor vehicle repair facilities.
 - (22) Motor vehicle service stations.
 - (23) Motor vehicle towing and impoundment.
 - (24) Offices.

- (25) Taxidermy.
- (26) Transportation services.
- (27) Truck/trailer/automobile rental.
- (28) Wholesalers and distributors.

(c) *Permitted uses with special development requirements (chapter 18, section 4).*

- (1) Brewery (subsection 3.7).
- (2) Kennels (subsection 8).
- (3) Health/exercise club (subsection 6).

(d) *Special exception uses (chapter 18, section 3).*

- (1) Guyed and lattice communication towers.
- (2) Medical marijuana cultivation (subsection 9.7).
- (3) Medical marijuana processing facility (subsection 9.7).
- (4) Used motor vehicle parts yards (subsection 23).

Section 24: - Light industrial (LI) district.

(a) *Purpose and intent.* The light industrial (LI) district is intended to provide development for limited industrial operations engaged in the fabricating, repair, or storage of manufactured goods, where no objectionable by-products of the activity (such as odors, smoke, dust, refuse, electromagnetic interference, noise in excess of that customary to loading, unloading, and handling of goods and materials) are noticeable beyond the lot on which the facility is located. No hazardous materials may be utilized by the industrial operations permitted in this district.

(b) *Permitted uses.*

- (1) Airport and related activities.
- (2) Antennas.
- (3) Boat repair, body.
- (4) Boat repair, engine.
- (5) Camouflaged, guyed, lattice and monopole communication towers.
- (6) Commercial/industrial warehouse.
- (7) Construction contractor's yard and storage.
- (8) Crematoriums.

- (9) Equipment, electric motor and engine repair.**¹
- (10) Greenhouses and nurseries (wholesale only).
- (11) Laboratory, research and development.
- (12) Laundry and dry cleaning plants.
- (13) Manufacturing, craftsman shops.
- (14) Manufacturing, limited.
- (15) Manufacturing, fabrication.
- (16) Manufacturing, processing, including painting.
- (17) Motor vehicle repair facilities.
- (18) Motor vehicle towing and impoundment.
- (19) Offices.
- (20) Rental of Equipment on the subject property manufactured or serviced by the industrial site on the subject property.**
- (21) Storage of materials used in manufacturing processes.**
- (22) Testing / Demonstration ponds for water pumps, including outdoor testing and demonstration of equipment.**
- (23) Trucking terminals.
- (c) *Permitted uses with special development requirements (chapter 18, section 4).*
 - (1) Brewery (subsection 3.7).
 - (2) Health/exercise club (subsection 6).
- (d) *Special exception uses (chapter 18, section 3).*
 - (1) Marina, commercial/industrial (subsection 9.5).
 - (2) Medical marijuana cultivation (subsection 9.7).
 - (3) Medical marijuana processing facility (subsection 9.7).
 - (4) Truck stops (subsection 21).

¹ **Asterisks indicate text added to existing list of LI uses by this MDA.



STAFF REPORT

Thompson Pump and Manufacturing Company, Inc. Master Development Agreement and Conceptual Development Plan
CASE NO. 16-40000008

REQUEST:	To approve the Thompson Pump and Manufacturing Company, Inc. Master Development Agreement and Conceptual Development Plan
CONTRACT PURCHASER:	Thompson Pump and Manufacturing Company, Inc.
PROPERTY OWNER:	City of Port Orange
LOCATION:	East side of Williamson Boulevard, south of Hockney Court.
RECOMMENDATION:	Approval , dependent on City Council's approval of the policy considerations as described in the staff report
PLANNING COMMISSION RECOMMENDATION:	Approval
CITY COUNCIL DATE:	January 17, 2017

DISCUSSION:

The subject property is located on the east side of Williamson Boulevard, south of Hockney Court (Figure 1) and zoned PC-A Workplace District. Currently, the subject property is owned by the City of Port Orange. Thompson Pump has a contract with the City to close on the purchase of the +/- 15-acre property in March 2017. As the contract purchaser, Thompson Pump has prepared a Master Development Agreement (MDA) and Conceptual Development Plan (CDP) that would apply to the subject property.



According to the Land Development Code (LDC), the proposed MDA constitutes a zoning document for a specific area within the PC-A Workplace Zoning District, establishing permitted uses and certain development requirements. The CDP is an exhibit to the MDA that includes the general location and size of the buildings, parking, buffers, landscape, and drainage areas. The MDA and CDP do not grant approval of any specific development, but rather, establish parameters for how the property can be developed.

Specific site development requirements listed the MDA and LDC, such as the type and location of trees and shrubs in the landscape buffers, location and size of the stormwater pipes, and water, sewer, and reclaim lines, shape and depth of the stormwater pond, design of the parking lot, appearance of the buildings, and other site requirements are finalized with a site plan. A site plan is typically a 25 to 35-page set of technical documents that are signed and sealed by a licensed engineer and contain extensive engineering and construction details. The final site plan for the Thompson Pump site is required to be designed to meet the requirements of the LDC and the proposed MDA.

The PC-A Workplace Zoning District was originally envisioned as an area that would be developed with regional office complexes, similar to the Heathrow area near Orlando and the area along I-95, south of downtown Jacksonville, with a possible connection to I-4. However, due to the recession and other factors, the focus of the PC-A Workplace District has expanded to also include manufacturing uses. The flexibility from the standard code requirements for manufacturing uses is offered with the goal of encouraging the development of quality manufacturing uses in the PC-A Workplace Zoning District, such as Thompson Pump and Raydon.

DEVELOPMENT PROPOSAL:

If approved, the MDA and the CDP (Exhibit "A") will provide the regulatory framework for the development of the +/- 15-acre site as an office headquarter/manufacturing campus for Thompson Pump with a combined square footage of +/- 140,000. The following discussion will focus on the significant aspects of the MDA and CDP, such as the use, size, and development impacts.

General Site Layout:

The proposed project will be located within the area defined in the MDA as the "Property". The proposed development is expected to consist of 2 or 3 buildings, generally located between Raydon and Williamson Boulevard, and associated site improvements (parking, landscaping, stormwater, utilities, etc.) The pond shown on the CDP is to be used as a research pond for testing of pumps manufactured at the property. The stormwater drainage pond for this property is located behind Raydon and was originally permitted and built by the City of Port Orange.

Site Access:

The proposed development will be accessed from Williamson Boulevard and Hockney Court. As indicated in the MDA, the developer of the property will install the 4th traffic signal head at the intersection of Williamson Boulevard and Town West Boulevard.

Phasing:

There is a provision in the MDA that allows for the project to be developed in phases, provided each phase is able to function in regard to access and infrastructure. Past MDA's approved by the City Council allow projects to be developed in phases as long as necessary infrastructure has been inspected and approved by the City to allow a portion of the project to be open to the public.

Permitted Uses:

The following uses are proposed within the Property: equipment and engine repair, equipment rental of equipment manufactured on the property, testing/demonstration pond of water pumps, and uses currently allowed in the LDC for the PC-A Workplace Zoning District such as: manufacturing, office, commercial/industrial equipment and supplies, commercial/industrial warehouses, etc.

The accessory uses, typically associated with a manufacturing use, could include equipment and engineer repair, equipment rental of equipment manufactured on the property, and testing/demonstration area. The accessory uses will meet the criteria for accessory uses in Chapter 16 of the LDC including:

1. Be customarily incidental to the principal use established on the same lot;
2. Be subordinate to and serve such principal use;
3. Be subordinate in area, extent and purpose to such principal use; and
4. Contribute to the comfort, convenience or necessity of users of such principal use.

Proposed Deviations from the Master Plan Requirements:

The proposed MDA allows the contract purchaser to request flexibility from the standard code requirements. The only specific criteria in the LDC to assess the requested deviations are that they provide for innovative site and building design and a greater public benefit. Staff recommendations on zoning matters are generally based on considerations of compatibility with adjacent uses, similar conventional City zoning districts, and consistency with the adopted Comprehensive Plan. As part of the review of this proposal, the Planning Commission and City Council will need to consider the following deviations from the LDC requested by the contract purchaser:

1. Parking Lot Design: The contract purchaser is requesting flexibility to be able to design the parking lot in the traditional manor allowed in most of the City's industrial and commercial zoning districts. The PC-A Workplace is the only zoning district with a requirement for all properties with frontage on Williamson Boulevard and Hockney Court to have a maximum of 50 parking spaces in front of the building. The proposed MDA removes this requirement but states that the parking lot will be designed according to the requirements in Chapter 12 of the LDC. In addition, a 50-foot landscape buffer will be installed along Williamson Boulevard and a 10' landscape buffer will be installed along Hockney Court.

The parking space location requirement was created specifically for the PC-A Workplace zoning district when it was envisioned as an area that would be developed with regional office complexes and the City wanted to minimize the size of parking lots visible from the roads in this area.

According to the contract purchaser, the placement of parking spaces behind and along the sides of the building will interfere with the daily operations of the manufacturing use. The placement of a majority of the required parking spaces is anticipated to be in front of their buildings because the area behind the buildings will be used for the storage of materials and products, shipping and receiving of materials and products, and the manufacturing of products.

2. Open Space: The contract purchaser is requesting the open space requirement for the property be similar to the open space requirement in the City's other industrial and zoning districts: Commercial Industrial (CI) and Light Industrial (LI). The PC-A Workplace zoning district requires a minimum of 30% of the site to be open space. According to the LDC, open space is not developed with impervious surface and includes tree and environmental preservation areas, water bodies, and landscape buffers. The proposed MDA requests a minimum twenty percent (20%) open space requirement for the property.

The proposed open space requirement in the MDA is consistent with the open space requirement in the City's CI and LI zoning districts and the St. Johns River Water Management District permit.

Table 1. Open Space Requirement

Zoning or Permit	Open Space Required
Proposed MDA	20%
PC-A Workplace	30%
Light Industrial (LI)	15%
Commercial Industrial (CI)	20%
SJRWMD Permit	20%

3. Walklights: The contract purchaser is requesting to remove the PC-A zoning requirement to install walklights every 100 feet. along Williamson Boulevard for sites in the PC-A zoning district. According to the contract purchaser, this request is being made because there is not expected to be a sufficient volume of pedestrian traffic to warrant special lights that only light the sidewalk. There are no residential neighborhoods on the east side of Williamson Boulevard that would directly benefit from the lit sidewalk. In addition, some of the properties on the east side of Williamson Boulevard are not in the PC-A zoning district so even if walklights are installed with this project there would still be substantial light gaps along the east side.

Within the PC-A zoning district, the only road required to install walklights is Williamson Boulevard. The other roadways within the PC-A (McGinnis Avenue, Coraci Boulevard, Town West Boulevard, Hockney Court, and local subdivision streets) are not required to install walklights. In addition, all of the residential uses in the PC-A are located on the west side of Williamson Boulevard and a majority of the residents that walk or bike to the Pavilion or the commercial uses at Williamson Boulevard and Taylor Road use the 8' sidewalk on the west side of Williamson Boulevard where there are walklights. These pedestrians typically cross at the Williamson Boulevard/Summer Trees Boulevard/Pavilion traffic light.

4. Internal Parking Lot Landscaping: The LDC requires 10% of the paved vehicular use area (parking lot) on a site to be designed as landscaping that is to be located within the parking lot. According to the contract purchaser, the proposed use will have paved areas that are not open to the public and serve as outside storage, loading, and assembly areas related to the manufacturing use. The areas will not function like typical vehicular use areas more common in shopping centers and other commercial developments. For the manufacturing use, these areas need to remain free of obstacles that could impede areas dedicated to the manufacturing function. The proposed MDA states that only parking spaces and access drives open to the public or visible from a right-of-way or adjacent property will be used to determine the amount of landscaping required in the parking lot.

RECOMMENDATION:

Approval of the Thompson Pump and Manufacturing Company, Inc. Master Development Agreement and Conceptual Development Plan subject to the following:

1. City Council direction on the policy considerations and
2. Review and approval by the City Attorney's Office for legal form and content.

ATTACHMENT:

1. Exhibit "A" – Master Development Agreement & Conceptual Development Plan

**REVISED**

THE THOMPSON PUMP AND MANUFACTURING COMPANY, INC.
MASTER DEVELOPMENT AGREEMENT

This THOMPSON PUMP AND MANUFACTURING COMPANY, INC Master Development Agreement is hereby entered into by and between the City of Port Orange, a Florida municipal corporation, having a mailing address of 1000 City Center Circle, Port Orange, Florida 32129 (hereinafter "City"); and Thompson Pump & Manufacturing Company, Inc. (hereinafter "Developer"), hereby agree and covenant, and bind their successors and assigns as follows:

1. PURPOSE OF AGREEMENT:

The purpose of this Master Development Agreement is to provide a comprehensive development plan for the subject property as defined below. This Master Development Agreement is approved pursuant to Chapter 17, Section 29(e)(3) of the Land Development Code, unless amended herein.

2. THE PROPERTY:

The property that is subject to this Master Development Agreement (hereinafter "Agreement") consists of approximately 15.45 acres of real property located on Williamson Boulevard, within the municipal limits of the City of Port Orange and further described on Exhibit "A", which is attached hereto and by reference made a part hereof (the "Property"). The Property is under unified ownership of the City of Port Orange, and is under contract with the Developer, both of whom are signatories to this Agreement.

3. CONFORMANCE WITH COMPREHENSIVE PLAN:

The City has determined that the Property is suitable in size, location and character for the uses proposed, that the uses proposed meet the needs of the City, and that the uses proposed are consistent with the City's comprehensive plan as of the date of adoption of this Agreement enacting the zoning provided herein.

4. DEVELOPMENT:

- A. The Property shall generally be developed as a phased industrial development project according to the Agreement and as depicted on the Conceptual Development Plan (CDP) prepared by Kimley-Horn and dated November 22, 2016, which is attached hereto and incorporated herein as Exhibit "B" and as more particularly described herein. The development of the Property will require the approval of a site plan and/or subdivision plat and plans application, which shall be reviewed in accordance with this Agreement and the Land Development Code.

- B. Developer does not plan to subdivide the property. However, should subdivision be considered in the future, the Developer shall comply with the requirements of the Land Development Code in place at the time of such subdivision.
- C. As part of the first phase of development, Developer shall install a 4th traffic signal head on the existing traffic light at the intersection of Town West Boulevard and Williamson Boulevard prior to issuance of the first certificate of occupancy (C/O). Developer shall be responsible for any re-timing of the signals along Williamson Boulevard, if necessary. Developer shall coordinate installation of said traffic signal head with Volusia County as required, including seeking county assistance with design and installation.

5. DEVELOPMENT AGREEMENT AND CONCEPTUAL DEVELOPMENT PLAN:

- A. Development of the Property shall be controlled by the terms and conditions of this Agreement and the CDP, which depicts the planned layout of improvements to the Property. To the extent actual buildings and other improvements are shown on the CDP, they are shown only for illustrative purposes. Developers shall be permitted to relocate or reconfigure buildings, other improvements and uses so long as the changes are otherwise consistent with this Agreement. The CDP depicts possible layouts for the Property. Either of the respective layouts, or one not currently presented, may ultimately be developed on the Property, so long as the chosen layout complies with this Agreement and the development parameters found herein, and subject to review and approval of all necessary site plans and related permits. Collectively, this Agreement and the CDP for the Property may be referred to as the "Plan". In case of conflict between any textual provision of this Agreement and the CDP, the textual provision of this Agreement shall control. If the Agreement is silent regarding a subject or requirement, such silence shall not be construed as a conflict with the CDP. Except as otherwise provided in this Agreement, in the event of a conflict between the terms and provisions of the Plan and the City's ordinances, the terms and provisions of the Plan shall control. If the Plan fails to address a subject or code requirements, the requirements of the applicable City ordinance(s) as defined by the City's Land Development Code ("LDC"), shall control.
- B. In the event modifications to comply with the LDC are required, and modifications to the CDP are not in conflict with the textual provisions of this Agreement and LDC requirements not superseded by this Agreement, the modifications shall be deemed "minor" and may be approved without formal amendment of this Agreement. All other modification shall be deemed "major" and shall require formal amendment of this Agreement. Minor modifications shall require the written approval by the Administrative Official, who is defined in the LDC. If the Developer is not satisfied with the suggested resolution or the decision of the City Administrative Official categorizing the modifications as minor or major, the Developer may appeal the decision to the Planning Commission. Appeals from the Planning Commission may be made to the City Council.

6. PHASING:

- B. Development of the Property is intended to occur in multiple phases, as the market dictates and at the sole discretion of Developer. Each proposed phase shall be required to install all necessary infrastructure, including all necessary easements and dedications, to stand alone, with the support of previous built phases. Each phase shall be built to be consistent with applicable City standards and this Agreement. Permits for development of phases or sub-phases shall be submitted for approval through the City's Final Site Plan and/or Subdivision Plat and Plan process.

7. PERMITTED USES:

Permitted uses shall be those allowed herein and in the City of Port Orange's Planned Community – Agricultural (PC-A) Workplace (Office/Industrial) Zoning District, as may be amended from time to time, and those consistent with the use limitations placed upon the property through a deed restriction, set forth in the Warranty Deed recorded in the Official Records Book 5934, Page 2532, and as amended in Official Records Book ____, Page ____, all in Public Records of Volusia County, Florida. Specifically, the list of uses attached hereto and incorporated herein as Exhibit "C" shall be permitted and if any additional uses are added by the City to the PC-A Workplace (Office/Industrial) Zoning District, those uses shall also be permitted.

- 8. DIMENSIONAL REQUIREMENTS:** The Property shall be subject to the following dimensional requirements: Dimensional Requirements shall be those allowed in the City of Port Orange's Planned Community – Agricultural (PC-A) Workplace (Office/Industrial) Zoning District, as may be amended from time to time, unless modified herein:

Maximum Building Coverage per Individual Lot: 50%

Maximum Impervious Coverage per Individual Lot: 80%

Minimum Open Space per Individual Lot: 20%

Minimum Lot Width – 150'

Minimum Lot Area – 20,000 SF

Minimum Building Setbacks

Front– Required Right-of-Way Landscape Buffer

Side – 20'

Rear - 25'

Hockney Court – 20'

S. Williamson Boulevard – 50'

Maximum Building Height: 60'

9. LANDSCAPE BUFFER/OPAQUE SCREENING/WALKLIGHTS:

- A. All landscape buffers, foundation landscaping, vehicular use/parking landscaping, supplemental landscaping, and tree preservation, shall be developed in compliance with the Land Development Code (LDC). as may be amended from time to time, unless modified herein:

- i. Ten percent of the area designed for vehicular use (driveways, access drives, and parking spaces) shall be devoted to the creation of interior landscaping. The base area of the vehicular use area shall be measured along the outer edge and include all parking spaces, access drives, landscaped islands at the corners of and within parking areas, and other areas for vehicular use as determined by staff. See CDP for example of area required to have interior landscaping. Paved areas (greater than 30') between buildings or between a building and parking spaces dedicated to industrial uses as determined by staff shall not be included in the base area.
 - ii. Foundation plantings required by the LDC can be transferred to areas on the property to provide additional screening from a public street or adjacent property.
 - iii. To the extent that internal landscaping is shown on Exhibit "B", attached hereto and incorporated herein, it is shown only for illustrative purposes. Developer shall be able to reconfigure landscaping so long as the changes are otherwise consistent with the LDC and the provisions of this Agreement.
- B. The development shall be exempt from Chapter 17, Section 29(h)(2) of the Land Development Code regarding the installation of walk lights within the Williamson Boulevard right-of-way.

10. ARCHITECTURAL/DESIGN STANDARDS:

All buildings and accessory structures on the Property shall be developed in compliance with the requirements of the LDC.

11. PARKING LOT:

- A. The development shall be exempt from Chapter 17, Section 29(e)(2)(b)(4) of the Land Development Code regarding the placement of parking spaces on the subject property.
- B. Minimum required parking spaces and bicycle spaces, parking lot design, parking space dimensions, access drive width and design shall be developed in compliance with the Land Development Code (LDC) as may be amended from time to time.

12. PUBLIC UTILITIES AND STORMWATER MANAGEMENT:

- A. Public utilities shall be designed to meet the City's specifications and requirements of the LDC and City Standard Construction Details.
- B. Stormwater management shall comply with the LDC, City Standard Construction Details and the rules and regulations of the St. John's River Water Management District concerning storm water drainage. The Developer shall provide all required easements to the City over the proposed retention area and related stormwater structures.
- C. Research Pond shall not be included as contributing to the required stormwater management features but may, as determined by the Developer, hold stormwater from time to time.

13. SIGNAGE:

Except as otherwise set forth in the CDP or this Agreement, the signage for the Property shall be in compliance with the terms set forth in the LDC.

14. MAINTENANCE OF COMMON OPEN SPACE AND COMMON FACILITIES:

- A. The Property is incorporated in the Port Orange Business Park Property Owner Association and as such, is subject to the Declaration of Covenants, Conditions, Restrictions, Reservations and Easements for the same, recorded in the Official Records Book 6370, Page 50 in Public Records of Volusia County, Florida, as may be amended from time to time.
- B. If the Property is subdivided, the Developer shall form and incorporate a Property Owner Association (the "POA") or enter into an agreement to govern the continued operation and maintenance of common areas, and common facilities on the Property, including but not limited to all access drives, sidewalks, common open space, stormwater, utilities, etc. Prior to approval of a subdivision plat the POA Covenants and Restrictions or agreement shall be reviewed and approved by City.
- C. If the Property is not subdivided, the Developer shall maintain the Property according to the LDC.

15. ENVIRONMENTAL CONSIDERATIONS:

The Developer shall comply with all rules, statutes, laws and regulations pertaining to protected wildlife species, including but not limited to the rules and permitting requirements of the Florida Fish and Wildlife Commission. Compliance with the City Land Development Code may necessitate modification of the CDP.

16. EFFECTIVE DATE AND EXPIRATION:

- A. This Agreement shall be effective upon recording by the City at the Developer's expense in the public records of Volusia County, Florida. The Second Reading of the Ordinance for MDA shall not take place until the Developer has provided an executed copy of the MDA to the City Attorney's Office addressing all issues discussed prior to the scheduled Second Reading. If there are no additional requirements, corrections or conditions attached by the City Council at the Second Reading, the Agreement shall be signed by the Mayor and City Clerk and recorded.
- B. The Initial phase of development of the Property shall commence within three (3) years from the effective date unless extended by mutual agreement of the parties. Failure to comply with the established schedule shall cause the Agreement to lapse. The term "Development" shall have the meaning as set forth in the LDC.

17. AMENDMENTS

- A. Amendments to this Agreement shall not be effective unless in writing and signed by all record title property owners of the land for which the amendment is to be applied, and the City.
- B. Before amending this Agreement, the City shall conduct one or more public hearings. At the City's option, one of the public hearings may be held by the Planning Commission.
 - 1. Notice of intent to consider an amendment to this Agreement shall be published by the City, at the Developer's cost, in a newspaper of general circulation and readership in Volusia County, Florida.
 - 2. If applicable, notice of intent to consider an amendment shall comply with the requirements of Section 166.041(3)(c), Florida Statutes, as amended from time to time.
 - 3. The notices required above shall specify the location of the Property, the location of that portion of the Property subject to the proposed amendment, the nature of the proposed amendment, and the following information to the extent applicable:
 - a. Changes permitted, conditional, and/or prohibited uses proposed.
 - b. Changes in building intensities and/or height proposed.
 - 5. All notices shall specify a place where a copy of the proposed amendment can be obtained.

18. CONFORMANCE WITH LAWS

The Developer agrees:

- 1. To develop the Property according to all regulations of the City to the extent those regulations are not inconsistent with the Plan for the Property.
- 2. To be bound by all City codes and ordinances that are not in conflict with the provisions of this Agreement.

19. ENFORCEABILITY

If any provision of this Agreement is held by a court of competent jurisdiction to be invalid or otherwise unenforceable, such holding shall not affect the validity or enforceability of any other provision of this Agreement unless the holding so states.

20. PRIOR AGREEMENTS:

This Agreement represents the complete understanding by and between the parties with respect to the development and continued use of the subject Property. Any and all prior agreements between the parties with respect to any subject comprehended by this Agreement is hereby voided and suspended by this Agreement. Any amendment to this Agreement shall be in writing and signed by the City and the Developer(s).

21. POLICE POWER

Nothing contained in this Agreement shall be construed as a waiver of or contract with respect to the regulatory and permitting authority of the City as it now or hereafter exists under applicable laws, rules and regulations. Further, nothing contained in this Agreement

shall be construed as a waiver of the attempted waiver by the City of its sovereign immunity under the Constitution and laws of the State of Florida.

IN WITNESS, WHEREOF, the parties have executed this Master Development Agreement by and through their duly authorized representatives, on the respective dates below.

WITNESSES:

**CITY OF PORT ORANGE, a Florida
Municipal Corporation**

Printed name

Printed name

Printed name

Printed name

By: _____
Donald O. Burnette, Mayor
1000 City Center Circle
Port Orange, Florida 32129

Attest _____
Robin L. Fenwick, CMC, City Clerk
1000 City Center Circle
Port Orange, Florida 32129

STATE OF FLORIDA
COUNTY OF VOLUSIA

The foregoing instrument was acknowledged before me this ____ day of _____, 2016, by Allen Green, Mayor of the CITY OF PORT ORANGE, FLORIDA, a Florida Municipal Corporation, on behalf of the City. They are personally known to me and did not take an oath.

Notary Public

(Seal)

STATE OF FLORIDA
COUNTY OF VOLUSIA

The foregoing instrument was acknowledged before me this ____ day of _____, 2016,
by Robin L. Fenwick, City Clerk, of the CITY OF PORT ORANGE, FLORIDA, a Florida Municipal
Corporation, on behalf of the City. She is personally known to me and did not take an oath.

Notary Public

(Seal)

Witnesses:

DEVELOPER

Printed Name

By: _____

Date: _____

By: _____

Date: _____

STATE OF FLORIDA
COUNTY OF VOLUSIA

The foregoing instrument was acknowledged before me this ____ day of _____,
2016, by..... He/she is personally known to me and did not take an oath.

Type, Print or Stamp Name

My Commission Expires: _____

Witnesses:

CITY

By: _____

Date: _____

Printed Name

By: _____

Date: _____

STATE OF FLORIDA
COUNTY OF VOLUSIA

The foregoing instrument was acknowledged before me this ____ day of _____,
2016, by..... He/she is personally known to me and did not take an oath.

Type, Print or Stamp Name

My Commission Expires: _____

[Notary Seal]

EXHIBIT "A" – LEGAL DESCRIPTION

A PORTION OF SECTION 13, TOWNSHIP 16 SOUTH, RANGE 32 EAST, AND SECTION 18, TOWNSHIP 16 SOUTH, RANGE 33 EAST, VOLUSIA COUNTY, FLORIDA; BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE SOUTHWEST CORNER OF THE SOUTHEAST 1/4 OF SAID SECTION 18, THENCE S89°57'22"E ALONG THE SOUTH LINE THEREOF, 886.76 FEET TO THE EASTERLY RIGHT OF WAY LINE OF WILLIAMSON BOULEVARD AND THE BEGINNING OF A NON TANGENT CURVE CONCAVE SOUTHWEST, HAVING A RADIUS OF 2965.00 FEET, A CENTRAL ANGLE OF 15°03'12" AND A CHORD BEARING OF N47°17'27"W; THENCE NORTHWESTERLY ALONG SAID EASTERLY RIGHT OF WAY LINE AND THE ARC OF SAID CURVE, 779.00 FEET; THENCE N54°49'03"W ALONG SAID RIGHT OF WAY LINE, 4266.66 FEET TO THE POINT OF BEGINNING; THENCE CONTINUE ALONG SAID RIGHT OF WAY LINE, N54°49'03"W, 260.76 FEET TO THE BEGINNING OF A CURVE, CONCAVE NORTHEASTERLY, HAVING A RADIUS OF 1,809.86 FEET AND A CENTRAL ANGLE OF 20°02'30"; THENCE NORTHWESTERLY ALONG THE ARC OF SAID CURVE, 633.08 FEET TO THE BEGINNING OF A NON TANGENT CURVE CONCAVE SOUTHEASTERLY, HAVING A RADIUS OF 32.00 FEET, A CENTRAL ANGLE OF 21°55'50" AND A CHORD BEARING OF N47°19'58"E; THENCE DEPARTING SAID EASTERLY RIGHT OF WAY LINE, NORTHEASTERLY ALONG THE ARC OF SAID CURVE, 12.25 FEET TO THE SOUTHERLY RIGHT OF WAY LINE OF HOCKNEY COURT; THENCE ALONG SAID SOUTHERLY RIGHT OF WAY LINE, N58°17'53"E, 104.29 FEET TO THE BEGINNING OF A CURVE, CONCAVE NORTHWESTERLY, HAVING A RADIUS OF 171.00 FEET AND A CENTRAL ANGLE OF 14°55'53"; THENCE NORTHEASTERLY ALONG THE ARC OF SAID CURVE, 44.56 FEET; THENCE N43°22'00"E, 35.73 FEET TO THE BEGINNING OF A CURVE CONCAVE SOUTHEASTERLY, HAVING A RADIUS OF 248.00 FEET AND A CENTRAL ANGLE OF 13°12'21"; THENCE NORTHEASTERLY ALONG THE ARC OF SAID CURVE, 57.16 FEET TO A POINT OF REVERSE CURVE, CONCAVE NORTHWESTERLY, HAVING A RADIUS OF 535.00 FEET AND A CENTRAL ANGLE OF 21°57'55"; THENCE NORTHEASTERLY ALONG THE ARC OF SAID CURVE, 205.10 FEET; THENCE N34°36'26"E, 175.85 FEET TO THE NORTHWESTERLY CORNER OF THAT PARCEL DESCRIBED IN OFFICIAL RECORDS BOOK 6370, PAGE 114 OF THE PUBLIC RECORDS OF VOLUSIA COUNTY, FLORIDA; THENCE DEPARTING SAID SOUTHERLY RIGHT OF WAY LINE AND ALONG THE WESTERLY LINE OF THE AFOREMENTIONED PARCEL, S55°23'33"E, 983.80 FEET TO THE SOUTHWESTERLY CORNER OF SAID PARCEL; THENCE DEPARTING SAID WESTERLY LINE AND CONTINUING ALONG THE NORTHERLY LINE OF A ST. JOHNS RIVER WATER MANAGEMENT DISTRICT CONSERVATION EASEMENT AS RECORDED IN O.R. BOOK 6221, PAGE 983, SAID PUBLIC RECORDS OF VOLUSIA COUNTY, FLORIDA, THE FOLLOWING SEVEN (7) CALLS: S84°36'06"W, 9.34 FEET; THENCE S16°28'11"W, 86.90 FEET; THENCE S01°50'54"W, 87.63 FEET; THENCE S65°11'31"W, 54.75 FEET; THENCE S24°57'24"W, 93.67 FEET; THENCE S09°14'16"E, 61.11 FEET; THENCE S71°43'17"W, 58.75 FEET TO THE NORTHEASTERLY CORNER OF THAT CERTAIN PARCEL DESCRIBED IN OFFICIAL RECORDS BOOK 5939, PAGE 0062, SAID PUBLIC RECORDS OF VOLUSIA COUNTY, FLORIDA; THENCE DEPARTING SAID NORTHERLY LINE OF A ST. JOHNS RIVER WATER MANAGEMENT DISTRICT CONSERVATION EASEMENT AND CONTINUING ALONG THE NORTHERLY LINE OF THE AFOREMENTIONED PARCEL DESCRIBED IN OFFICIAL RECORDS BOOK 5939, PAGE 0062, N55°23'34"W, 282.36 FEET TO THE NORTHWESTERLY CORNER OF SAID PARCEL; THENCE ALONG THE WESTERLY LINE OF SAID PARCEL, S34°36'26"W, 342.08 FEET TO SAID EASTERLY RIGHT OF WAY LINE OF WILLIAMSON BOULEVARD AND THE POINT OF BEGINNING.

CONTAINING 672,925 sq. ft. OR 15.45 acres, MORE OR LESS

EXHIBIT “B” – CDP



CONCEPTUAL DEVELOPMENT PLANS FOR THOMPSON PUMP MDA

CITY OF PORT ORANGE, FLORIDA
NOVEMBER 2016
TAX PARCEL: 13-16-32-09-00-0010

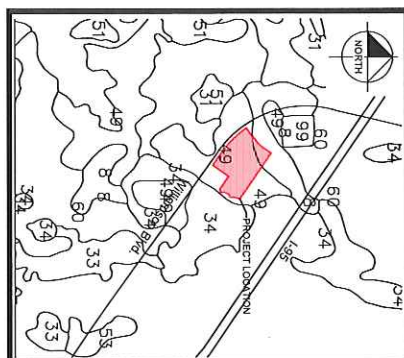
PROJECT TEAM

OWNER
CITY OF PORT ORANGE
1000 CITY CENTER CIRCLE
PORT ORANGE, FL 32129
PHONE: (386) 506-5500

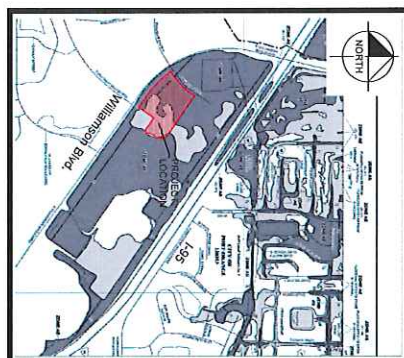
CONTRACT PURCHASER/DE
THOMPSON PUMP & MFG. CO., INC.
4620 CITY CENTER DRIVE
PORT ORANGE, FL 32129
CONTACT: CHRIS THOMPSON
PHONE: (386) 527-0595

SURVEYOR
SLIGER & ASSOCIATES, INC
3921 SOUTH NOVA ROAD
PORT ORANGE, FL 32127
CONTACT: JOE ZAPERT
PHONE: (386) 761-5385
FAX: (386) 760-0619

ENGINEER
KIMLEY-HORN AND ASSOCIATES
3660 MAGUIRE BLVD., SUITE 200
ORLANDO, FL 32803
CONTACT: JONATHAN A. MARTIN, P.E.
PHONE: (407) 898-1511



SOILS MAP
APPROXIMATE SCALE 1"=1,000'



FLOOD ZONE
APPROXIMATE SCALE 1"=1,000'



ZONING MAP
APPROXIMATE SCALE 1"=1,000'



VICINITY MAP
APPROXIMATE SCALE 1"=1,000'

LEGAL DESCRIPTION

[illegible]

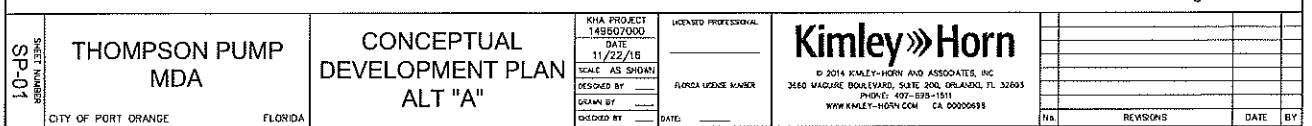
PREPARED BY
Kimley»Horn

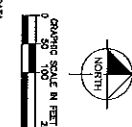
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3650 Meguire Boulevard, Suite 200, Orlando, FL 32830
Phone: (407) 898-1511 Fax: (407) 894-4781
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SHEET INDEX

SP-00	COVER SHEET
SP-01	CONCEPTUAL DEVELOPMENT PLAN-ALT "A"
SP-02	CONCEPTUAL DEVELOPMENT PLAN-ALT "B"

JONATHAN A. MARTIN, P.E.
FL. P.E. NO. 54035



[illegible]

SHEET NUMBER SP-02	THOMPSON PUMP MDA	CITY OF PORT ORANGE FLORIDA	CONCEPTUAL DEVELOPMENT PLAN ALT "B"	KHA PROJECT 149807000	LICENSED PROFESSIONAL [Signature Line]	 © 2014 KIMLEY-HORN AND ASSOCIATES, INC. 3550 MAGUIRE BOULEVARD, SUITE 200, ORLANDO, FL 32803 PHONE: 407-888-1811 WWW.KIMLEY-HORN.COM CA 00000666						
				DATE 11/22/16 SCALE: AS SHOWN DESIGNED BY: [Signature] GRABBY BT CHECKED BY: [Signature]			FLORIDA LICENSE NUMBER DATE: [Blank]	No.	REVISIONS	DATE	BY	

EXHIBIT "C" – LIST OF USES

Section 23: - Commercial industrial (CI) district.

- (a) *Purpose and intent.* The commercial industrial (CI) district is intended to provide development of those less intense storage, repair, industrial service and limited manufacturing uses that have fewer potential impacts on surrounding properties, yet are logically segregated from general commercial areas for aesthetic and economic reasons.
- (b) *Permitted uses.*
- (1) Adult/vocational education.
 - (2) Antennas.
 - (3) Appliance/electronic repair shops.
 - (4) Boat repair, engine.
 - (5) Business services.
 - (6) Camouflaged and monopole communication towers.
 - (7) Commercial/industrial equipment and supplies.
 - (8) Commercial/industrial services.
 - (9) Commercial/industrial warehouses.
 - (10) Construction contractor's yard and storage.
 - (11) Fleet-based services.
 - (12) Greenhouses and nurseries (wholesale and retail).
 - (13) Laboratory, research and development.
 - (14) Laundry and dry cleaning plants.
 - (15) Maintenance contractors.
 - (16) Manufacturing: craftsman shops.
 - (17) Manufacturing: fabrication.
 - (18) Manufacturing: limited.
 - (19) Mini-warehouses.
 - (20) Motor vehicle and boat storage facilities.
 - (21) Motor vehicle repair facilities.
 - (22) Motor vehicle service stations.
 - (23) Motor vehicle towing and impoundment.
 - (24) Offices.

- (25) Taxidermy.
- (26) Transportation services.
- (27) Truck/trailer/automobile rental.
- (28) Wholesalers and distributors.

(c) *Permitted uses with special development requirements (chapter 18, section 4).*

- (1) Brewery (subsection 3.7).
- (2) Kennels (subsection 8).
- (3) Health/exercise club (subsection 6).

(d) *Special exception uses (chapter 18, section 3).*

- (1) Guyed and lattice communication towers.
- (2) Medical marijuana cultivation (subsection 9.7).
- (3) Medical marijuana processing facility (subsection 9.7).
- (4) Used motor vehicle parts yards (subsection 23).

Section 24: - Light industrial (LI) district.

(a) *Purpose and intent.* The light industrial (LI) district is intended to provide development for limited industrial operations engaged in the fabricating, repair, or storage of manufactured goods, where no objectionable by-products of the activity (such as odors, smoke, dust, refuse, electromagnetic interference, noise in excess of that customary to loading, unloading, and handling of goods and materials) are noticeable beyond the lot on which the facility is located. No hazardous materials may be utilized by the industrial operations permitted in this district.

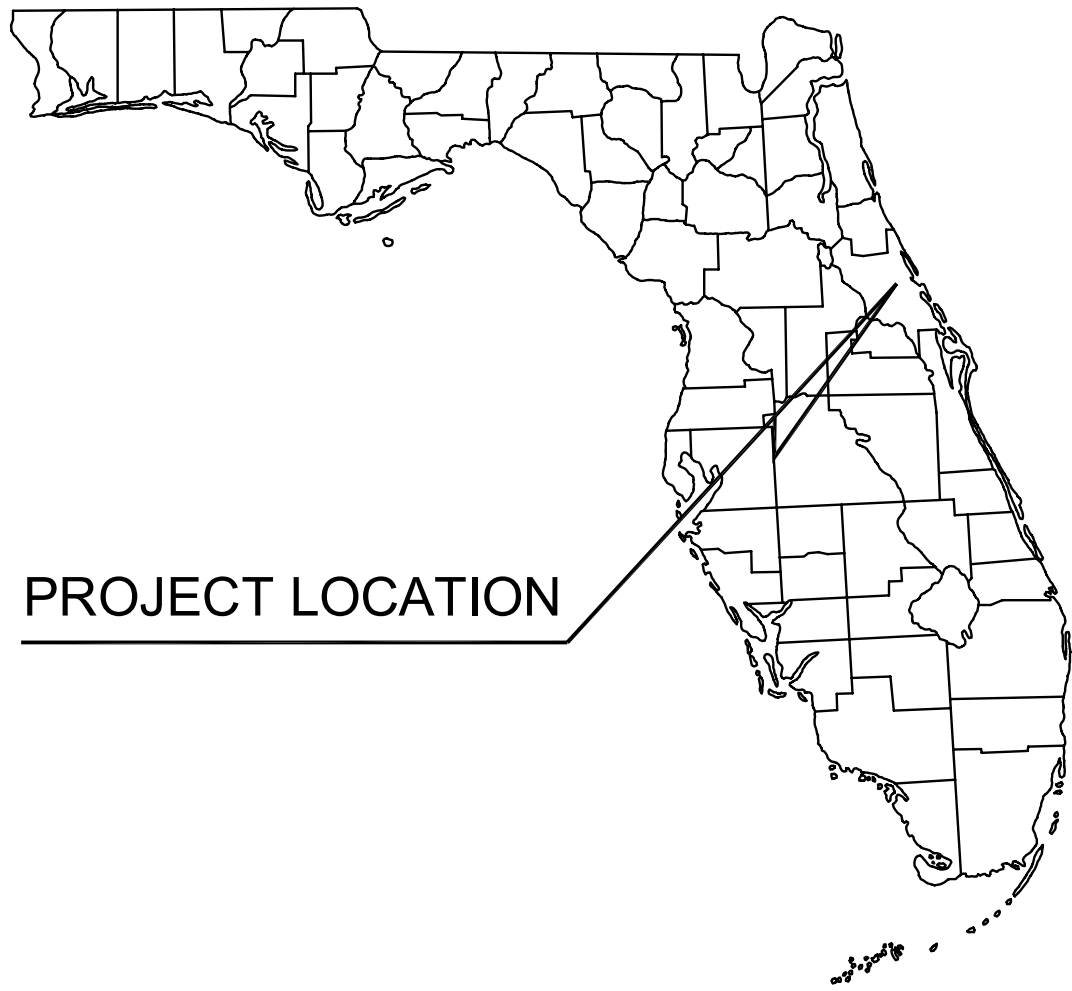
(b) *Permitted uses.*

- (1) Airport and related activities.
- (2) Antennas.
- (3) Boat repair, body.
- (4) Boat repair, engine.
- (5) Camouflaged, guyed, lattice and monopole communication towers.
- (6) Commercial/industrial warehouse.
- (7) Construction contractor's yard and storage.
- (8) Crematoriums.

- (9) Equipment, electric motor and engine repair.**¹
- (10) Greenhouses and nurseries (wholesale only).
- (11) Laboratory, research and development.
- (12) Laundry and dry cleaning plants.
- (13) Manufacturing, craftsman shops.
- (14) Manufacturing, limited.
- (15) Manufacturing, fabrication.
- (16) Manufacturing, processing, including painting.
- (17) Motor vehicle repair facilities.
- (18) Motor vehicle towing and impoundment.
- (19) Offices.
- (20) Rental of Equipment on the subject property manufactured or serviced by the industrial site on the subject property.**
- (21) Storage of materials used in manufacturing processes.**
- (22) Testing / Demonstration ponds for water pumps, including outdoor testing and demonstration of equipment.**
- (23) Trucking terminals.
- (c) *Permitted uses with special development requirements (chapter 18, section 4).*
 - (1) Brewery (subsection 3.7).
 - (2) Health/exercise club (subsection 6).
- (d) *Special exception uses (chapter 18, section 3).*
 - (1) Marina, commercial/industrial (subsection 9.5).
 - (2) Medical marijuana cultivation (subsection 9.7).
 - (3) Medical marijuana processing facility (subsection 9.7).
 - (4) Truck stops (subsection 21).

¹ **Asterisks indicate text added to existing list of LI uses by this MDA.

Drawing name: K:\ORL_GW\149607000-Thompson Pump\CADD\COVER.dwg Layout1 Dec 15, 2016 10:44am by: kelly.starkey
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CONCEPTUAL DEVELOPMENT PLANS

FOR

THOMPSON PUMP MDA

CITY OF PORT ORANGE, FLORIDA
NOVEMBER 2016
TAX PARCEL: 13-16-32-09-00-0010

RECEIVED
12-16-16
CITY OF PORT ORANGE
Community Development
REVISED



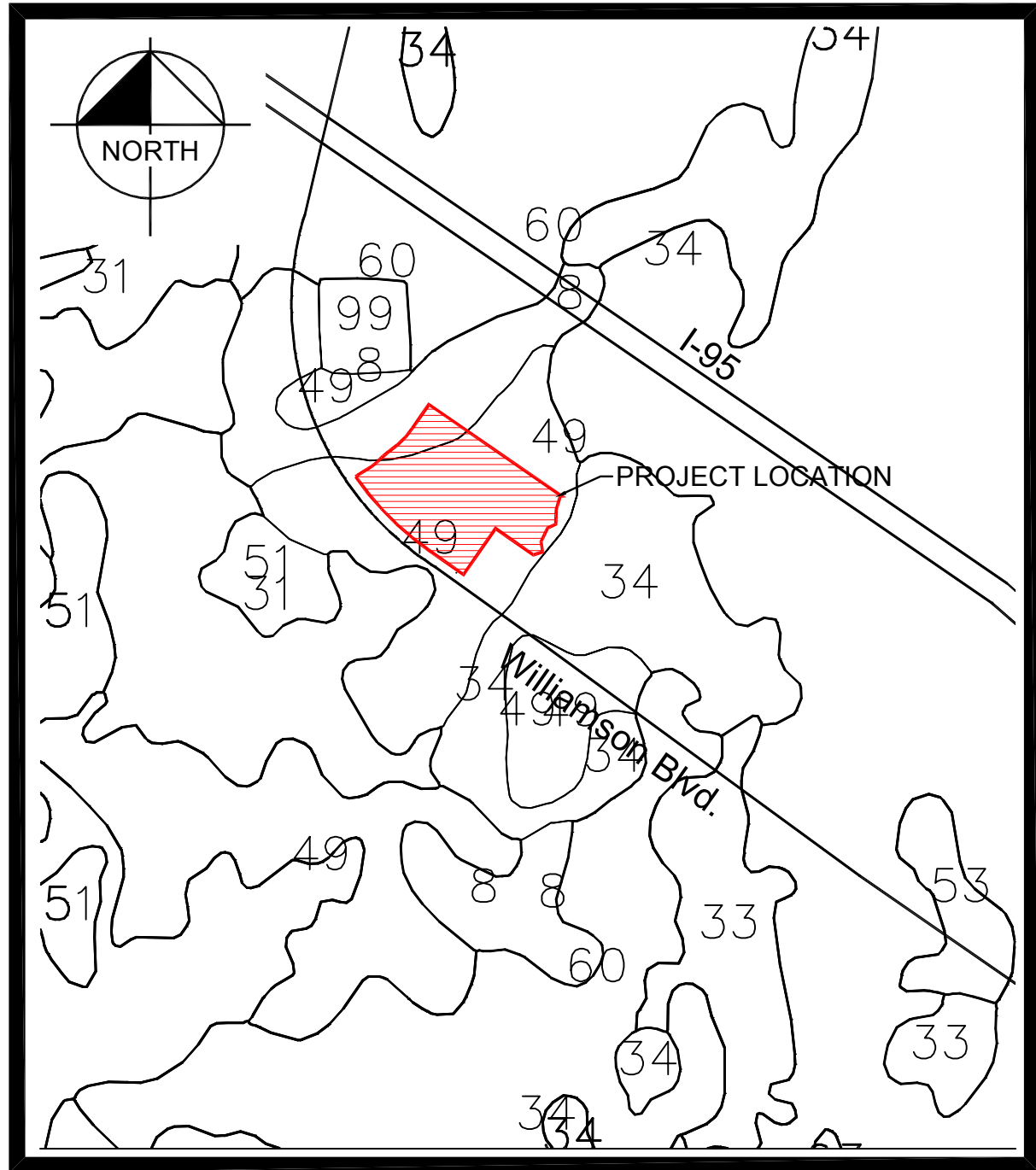
PROJECT TEAM

OWNER
CITY OF PORT ORANGE
1000 CITY CENTER CIRCLE
PORT ORANGE, FL 32129
PHONE: (386) 506-5500

CONTRACT PURCHASER/DEVELOPER
THOMPSON PUMP & MFG. CO. INC.
4620 CITY CENTER DRIVE
PORT ORANGE, FL 32129
CONTACT: CHRIS THOMPSON
PHONE: (386) 527-0595

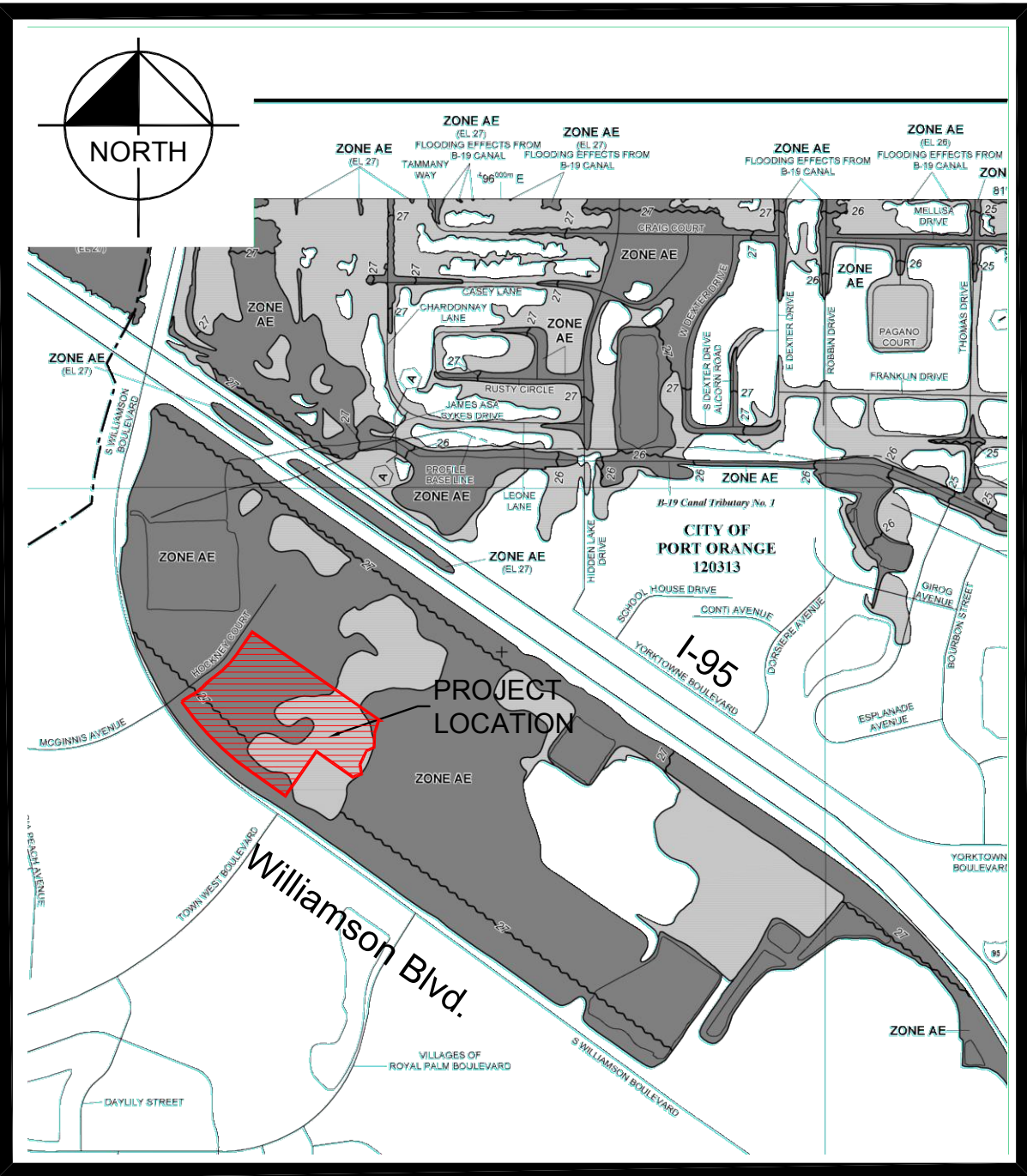
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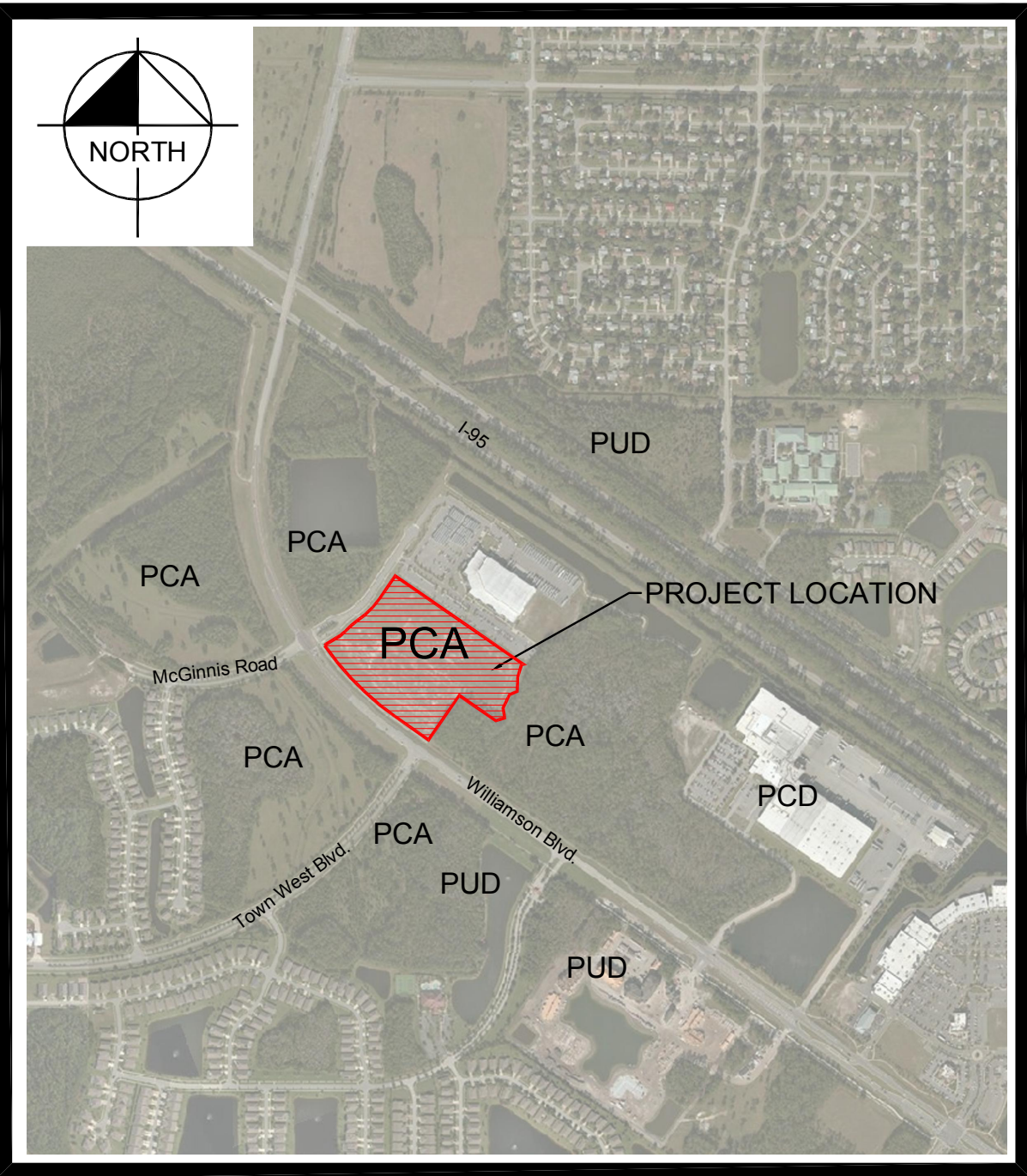
SOILS MAP
APPROXIMATE SCALE 1"=1,000'

LEGEND
8 - Basinger Fine Sand, Depressional, 0 to 1 percent slopes (A/D)
34 - Myakka-St. Johns Complex (A/D)
49 - Pomona Fine Sand (A/D)
60 - Smyrna Fine Sand, wet, fine sand, 0 to 2 percent slopes (A/D)



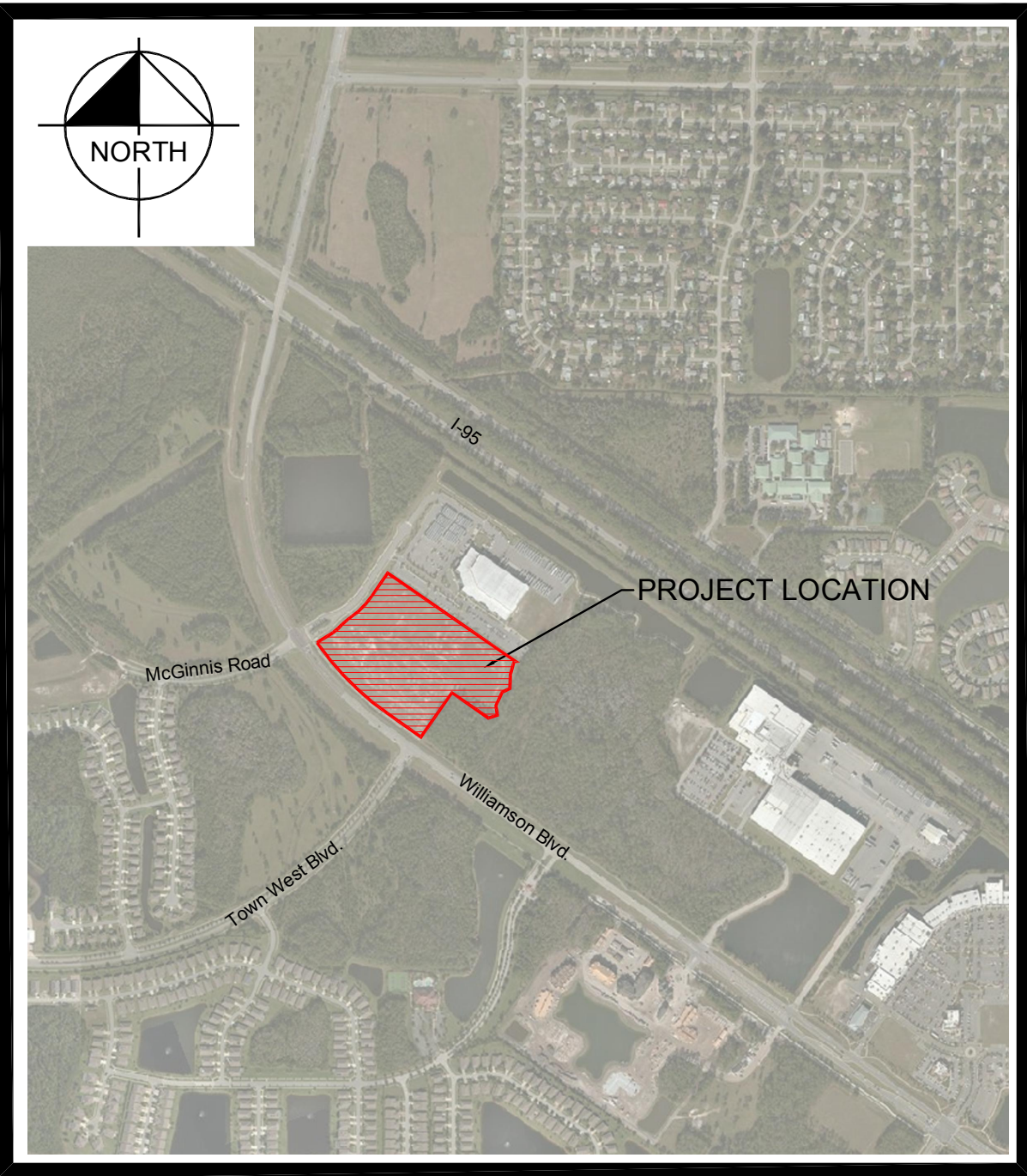
FLOOD ZONE
APPROXIMATE SCALE 1"=1,000'

LEGEND
ZONE AE - Base flood elevations determined
ZONE X - Areas determined to be outside the 500-year floodplain
SOURCE
FIRM Panel 12127C0506H (Dated February 19, 2014)



ZONING MAP
APPROXIMATE SCALE 1"=1,000'

LEGEND
PCA - Planned Community Agricultural
PCD - Planned Commercial Development
PUD - Planned Unit Development



VICINITY MAP
APPROXIMATE SCALE 1"=1,000'

LEGAL DESCRIPTION

A PORTION OF SECTION 13, TOWNSHIP 16 SOUTH, RANGE 32 EAST, AND SECTION 18, TOWNSHIP 16 SOUTH, RANGE 33 EAST, VOLUSIA COUNTY, FLORIDA; BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:
COMMENCE AT THE SOUTHWEST CORNER OF THE SOUTHEAST 1/4 OF SAID SECTION 18, THENCE S89°57'22"E ALONG THE SOUTH LINE THEREOF, 886.76 FEET TO THE EASTERLY RIGHT OF WAY LINE OF WILLIAMSON BOULEVARD AND THE BEGINNING OF A NON TANGENT CURVE CONCAVE SOUTHWEST, HAVING A RADIUS OF 2965.00 FEET, A CENTRAL ANGLE OF 15°03'12" AND A CHORD BEARING OF N47°17'27"W; THENCE NORTHWESTERLY ALONG SAID EASTERLY RIGHT OF WAY LINE AND THE ARC OF SAID CURVE, 779.00 FEET; THENCE N54°49'03"W ALONG SAID RIGHT OF WAY LINE, 4266.66 FEET TO THE POINT OF BEGINNING; THENCE CONTINUE ALONG SAID RIGHT OF WAY LINE, N54°49'03"W, 260.76 FEET TO THE BEGINNING OF A CURVE, CONCAVE NORTHEASTERLY, HAVING A RADIUS OF 1,809.88 FEET AND A CENTRAL ANGLE OF 20°02'30"; THENCE NORTHWESTERLY ALONG THE ARC OF SAID CURVE, 633.08 FEET TO THE BEGINNING OF A NON TANGENT CURVE CONCAVE SOUTHEASTERLY, HAVING A RADIUS OF 32.00 FEET, A CENTRAL ANGLE OF 21°55'50" AND A CHORD BEARING OF N47°19'58"E; THENCE DEPARTING SAID EASTERLY RIGHT OF WAY LINE, NORTHEASTERLY ALONG THE ARC OF SAID CURVE, 12.25 FEET TO THE SOUTHERLY RIGHT OF WAY LINE OF HOOKNEY COURT; THENCE ALONG SAID SOUTHERLY RIGHT OF WAY LINE, N58°17'53"E, 104.29 FEET TO THE BEGINNING OF A CURVE, CONCAVE NORTHWESTERLY, HAVING A RADIUS OF 171.00 FEET AND A CENTRAL ANGLE OF 14°55'53"; THENCE NORTHEASTERLY ALONG THE ARC OF SAID CURVE, 44.56 FEET; THENCE N43°22'00"E, 35.73 FEET TO THE BEGINNING OF A CURVE CONCAVE SOUTHEASTERLY, HAVING A RADIUS OF 248.00 FEET AND A CENTRAL ANGLE OF 13°12'21"; THENCE NORTHEASTERLY ALONG THE ARC OF SAID CURVE, 57.16 FEET TO A POINT OF REVERSE CURVE, CONCAVE NORTHWESTERLY, HAVING A RADIUS OF 535.00 FEET AND A CENTRAL ANGLE OF 21°57'55"; THENCE NORTHEASTERLY ALONG THE ARC OF SAID CURVE, 205.10 FEET; THENCE N34°36'26"E, 175.85 FEET TO THE NORTHWESTERLY CORNER OF THAT PARCEL DESCRIBED IN OFFICIAL RECORDS BOOK 6370, PAGE 114 OF THE PUBLIC RECORDS OF VOLUSIA COUNTY, FLORIDA; THENCE DEPARTING SAID SOUTHERLY RIGHT OF WAY LINE AND ALONG THE WESTERLY LINE OF THE AFOREMENTIONED PARCEL, S55°23'33"E, 983.80 FEET TO THE SOUTHWESTERLY CORNER OF SAID PARCEL; THENCE DEPARTING SAID WESTERLY LINE AND CONTINUING ALONG THE NORTHERLY LINE OF A ST. JOHNS RIVER WATER MANAGEMENT DISTRICT CONSERVATION EASEMENT AS RECORDED IN O.R. BOOK 6221, PAGE 983, SAID PUBLIC RECORDS OF VOLUSIA COUNTY, FLORIDA, THE FOLLOWING SEVEN (7) CALLS: S84°36'06"W, 8.34 FEET; THENCE S16°28'11"W, 86.90 FEET; THENCE S01°50'54"W, 87.63 FEET; THENCE S65°11'31"W, 54.75 FEET; THENCE S24°57'24"W, 93.67 FEET; THENCE S09°14'16"E, 61.11 FEET; THENCE S71°43'17"W, 58.75 FEET TO THE NORTHEASTERLY CORNER OF THAT CERTAIN PARCEL DESCRIBED IN OFFICIAL RECORDS BOOK 5939, PAGE 0062, SAID PUBLIC RECORDS OF VOLUSIA COUNTY, FLORIDA; THENCE DEPARTING SAID NORTHERLY LINE OF A ST. JOHNS RIVER WATER MANAGEMENT DISTRICT CONSERVATION EASEMENT AND CONTINUING ALONG THE NORTHERLY LINE OF THE AFOREMENTIONED PARCEL DESCRIBED IN OFFICIAL RECORDS BOOK 5939, PAGE 0062, N55°23'34"W, 282.36 FEET TO THE NORTHWESTERLY CORNER OF SAID PARCEL; THENCE ALONG THE WESTERLY LINE OF SAID PARCEL, S34°36'26"W, 342.08 FEET TO SAID EASTERLY RIGHT OF WAY LINE OF WILLIAMSON BOULEVARD AND THE POINT OF BEGINNING.

CONTAINING 672,925 SQ. FT. OR 15.45 ACRES, MORE OR LESS

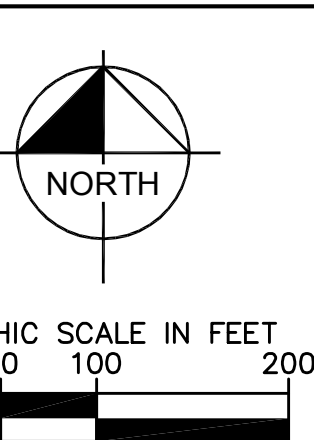
PREPARED BY
Kimley»Horn
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Phone: (407) 898-1511 Fax: (407) 894-4791
WWW.KIMLEY-HORN.COM CA 00000696

SHEET INDEX

SP-00	COVER SHEET
SP-01	CONCEPTUAL DEVELOPMENT PLAN-ALT "A"
SP-02	CONCEPTUAL DEVELOPMENT PLAN-ALT "B"

JONATHAN A. MARTIN, P.E.
FL. P.E. NO. 54055

THOMPSON PUMP
NOVEMBER 2016
ENGINEER'S PROJECT No. 149607000
REVISED: 11/22/16

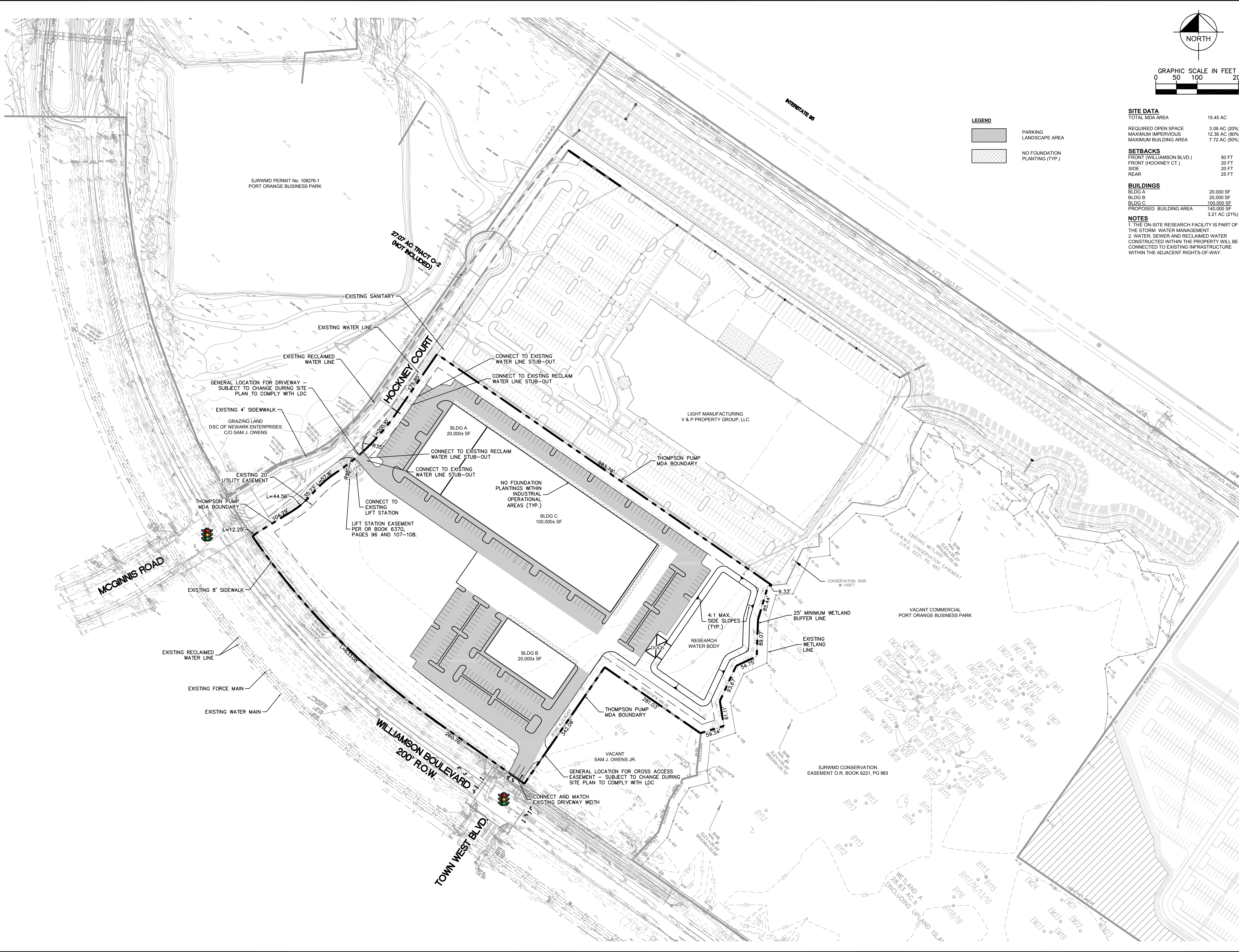


LEGEND

	PARKING LANDSCAPE AREA
	NO FOUNDATION PLANTING (TYP.)

Kimley»»Horn
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3660 MACQUIRE BOULEVARD, SUITE 200, ORLANDO, FL 32809
PHONE: 407-898-1511
WWW.KIMLEY-HORN.COM CA 00000696

Plotted By: Starkey, Kelly Sheet Set: kha Layout: Layout1 December 15, 2016 10:46:28am k:\ORL_Civil\149607000-Thompson Pump\CADD\GDP\SP-02.dwg
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SITE DATA	
TOTAL MDA AREA	15.45 AC
REQUIRED OPEN SPACE	3.09 AC (20%)
MAXIMUM IMPERVIOUS	12.36 AC (80%)
MAXIMUM BUILDING AREA	7.72 AC (50%)
SETBACKS	
FRONT (WILLIAMSON BLVD.)	50 FT
FRONT (HOCKNEY CT.)	20 FT
SIDE	20 FT
REAR	25 FT
BUILDINGS	
BLDG A	20,000 SF
BLDG B	20,000 SF
BLDG C	100,000 SF
PROPOSED BUILDING AREA	140,000 SF
	3.21 AC (21%)
NOTES	
1. THE ON-SITE RESEARCH FACILITY IS PART OF THE STORM WATER MANAGEMENT.	
2. WATER SEWER AND RECLAIMED WATER CONSTRUCTED WITHIN THE PROPERTY WILL BE CONNECTED TO EXISTING INFRASTRUCTURE WITHIN THE ADJACENT RIGHTS-OF-WAY.	

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PHONE: 407-898-1511
WWW.KIMLEY-HORN.COM CA 00000696

LICENSED PROFESSIONAL

DATE: 11/22/16

SCALE: AS SHOWN

DESIGNED BY: [Signature]

DRAWN BY: [Signature]

CHECKED BY: [Signature]

CONCEPTUAL DEVELOPMENT PLAN

ALT "B"

THOMPSON PUMP MDA

CITY OF PORT ORANGE

FLORIDA

SHEET NUMBER

SP-02

REVISIONS

DATE

BY



**The City of Port Orange
Finance Department**

MEMORANDUM

TO: Michael H. Johansson, City Manager
FROM: Tracey Riehm, Finance Director
DATE: December 30, 2016
SUBJECT: **Highlights of the November 2016 Financial Report**

Attached are interim financial reports and highlights for the City's major operating activities for the period ending November 30, 2016, which represents 17% of the fiscal year. Also attached are the financial reports from Cypress Head Golf Course and the YMCA. Detailed reports for all funds are available on the City's website at: http://www.port-orange.org/finance/?p=budget_and_financial_reports. Highlights of these funds are as follows:

GENERAL FUND (Fund 001)

Revenues: During the first two months of the current fiscal year, the General Fund received a total of \$4,528,143 in revenues, of which \$4,259,533 reflected operating revenue and \$268,610 account for contributions from enterprise funds. These revenues include \$2,611,210 or 22% of the annual estimated ad valorem tax revenue. The majority of ad valorem taxes are collected in the first few months of the fiscal year. General fund revenues are 12% of the budget, however after allowing for the budgeted use of appropriated equity, the percent collected increases to 13.5%. Ad-valorem taxes account for the majority of the overall increase in revenue of \$95,408 compared with this time last year.

Expenditures: The first two months operating expenditures amounted to \$4,465,301 or 12% of the estimated expenditures for the year, with an additional encumbered amount of \$2,357,154. Actual expenditures are \$488,322 higher than at this time last year.

Please also see the attached financial statement for additional detail.

BUILDING SPECIAL REVENUE FUND (Fund 109)

Revenues: During the first two months of the current fiscal year, the Building Special Revenue Fund received \$510,225 in operating and non-operating revenues, inclusive of transfers. This equates to 33% of the annual budget, and is \$330,958 (185%) higher than last year. Revenues in this fund are typically received in a sporadic nature.

Expenditures: Year-to-date expenditures in the Building Special Revenue fund are \$163,617 or approximately 11% of estimated expenditure for the year. On a percent of budget basis, year-to-date expenditures are 2% lower than this time last year; with actual expenditures \$24,646 higher than this time last year.

Year to date, the Building Special Revenue Fund is reporting an increase in net position of \$346,607.

Please also see the attached financial statement for additional detail.

WATER & SEWER FUND (Fund 401)

Revenues: The Water and Sewer Fund collected \$2,391,981 in operating revenues during the first two months, which is 10% of projected revenues for the year. This is \$275,717 less than last year and \$19,895 less than in 2015.

Expenses: The first two months operating expenses excluding depreciation amounted to \$1,735,700 or 12% of estimated expenses for the year, with an additional \$1,741,132 encumbered. Non-operating activity reports a net loss of \$2,515, compared to a net increase of \$6,271 reported at the same time last year. Currently, the water and sewer fund is reporting an income of \$653,766, but after transfers the fund is posting a decrease of \$1,032,285 which is a \$262,791 decrease in net position from this time last year.

The attached financial statement provides additional detail.

SOLID WASTE FUND (Fund 410)

Revenues: The Solid Waste Fund's total operating revenues for the first two months were \$684,730, which is 10% of the annual budget and \$41,022 less than this time last year.

Expenses: The Solid Waste Fund's first two months operating expenses excluding depreciation total \$510,180 or 8% of estimated expenses for the year, with an additional encumbered amount of \$5,326,431. The Solid Waste Fund currently is reporting an income before transfers of \$177,987 and a change in net position of \$143,849 after allowing for transfers. The change in net position is \$84,582 less than at this time last year.

The attached financial statement provides additional detail.

DRAINAGE UTILITY FUND (Fund 412)

Revenues: The Drainage Utility Fund's first two months operating revenues amount to \$776,550, or 20% of the annual budget and \$63,568 less than this time last year. Revenues in this fund include the collection of drainage fees by the non-advalorem method.

Expenses: For the first two months, operating expenses totaled \$238,334 which is 11% of the annual budget and \$19,457 higher than last year. An additional \$931,856 is encumbered. After allowing for non-operating expenses, transfers in lieu of taxes and debt service payment transfers, the Drainage Fund is reporting an increase in net position for the first two months of \$207,759 which is \$127,389 less than at this time last year.

The attached financial statement provides additional detail.

GOLF COURSE REPORT

The financial reports for the period ending November 30, 2016 for the Cypress Head Golf Course are attached. Detailed statements are available in the Finance Department.

YMCA REPORT

The financial report for the period ending November 30, 2016 for the YMCA is attached.

IN SUMMARY:

As appropriations lapse at the end of each year, City Council re-appropriates funding for open purchase orders and existing funded projects. Total budget projections as they are presented in the attached reports incorporate current year appropriations plus prior year carryover pertaining to open and in process projects. Available liquid equity has been evaluated and is adequate to meet or exceed revenue policies as established by City Council.

Should you have any questions as they relate to this report or its attachments, please feel free to contact me.

Thank you,

Tracey Riehm
Finance Director

TR/lb

City of Port Orange									
Revenue Comparison - General Fund (001)									
Period Ending: November 30 (17% of the Fiscal Year)									
Sub Activity	2015			2016			2017		FYTD16 % of Budget
	FYTD Actual	Audited Annual Receipts	FYTD14 % of Total	FYTD Actual	Unaudited Annual Receipts	FYTD15 % of Total	FYTD Actual	Total Current Budget	
ADVALOREM TAXES	2,959,126	10,443,031	28%	2,645,832	10,979,872	24%	2,611,210	11,879,103	22%
SALES & USE TAXES	0	736,939	0%	0	741,261	0%	0	0	0%
UTILITY SERVICE TAXES	500,686	5,153,922	10%	469,425	5,278,259	9%	511,036	5,271,979	10%
COMMUNICATIONS SERVICE TX	157,375	1,886,648	8%	0	1,784,375	0%	0	1,722,687	0%
LOCAL BUSINESS TAX	20,586	113,499	18%	27,478	148,250	19%	20,936	150,000	14%
FEES & PERMITS	24,735	3,333,346	1%	18,493	3,243,221	1%	13,785	3,256,443	0%
INTER GOVT	537,020	5,152,710	10%	340,768	5,377,254	6%	332,395	5,724,197	6%
CHARGES FOR SERVICE	359,783	3,380,323	11%	366,955	2,690,893	14%	448,650	2,695,286	17%
FINES & FORFEITS	32,029	45,940	70%	65,937	190,480	35%	9,631	157,600	6%
MISC REVENUE	237,453	380,473	62%	228,781	2,536,292	9%	311,889	1,065,051	29%
INTERFUND TRANSFER	0	63,649	0%	0	32,000	0%	0	0	0%
CONTRB FROM ENTERPRISE FD	274,377	1,646,259	17%	269,067	1,614,401	17%	268,610	1,611,658	17%
APPROPRIATED EQUITY	0	0	0%	0	0	0%	0	3,431,423	0%
GENERAL FUND REVENUE:	\$5,103,169	\$32,336,738	16%	\$4,432,735	\$34,616,559	13%	\$4,528,143	\$36,965,427	12%

City of Port Orange									
Expense Comparison - General Fund (001)									
Period Ending: November 30 (17% of the Fiscal Year)									
Department Description	2015			2016			2017		FYTD16 % of Budget
	FYTD Actual	Audited Annual Expenditures	FYTD14 % of Total	FYTD Actual	Unaudited Annual Expenditures	FYTD15 % of Total	FYTD Actual	Total Current Budget	
NON DEPARTMENTAL	313,678	3,474,836	9%	304,573	4,380,757	7%	474,438	4,933,846	10%
MAYOR & COUNCIL	24,813	199,746	12%	30,891	212,692	15%	32,938	201,830	16%
CITY MANAGER	49,217	456,549	11%	77,916	588,099	13%	66,551	576,868	12%
LEGAL SERVICES	60,441	499,708	12%	51,244	563,124	9%	70,558	686,993	10%
CITY CLERK	31,862	291,702	11%	39,309	327,846	12%	44,870	364,615	12%
FINANCE	119,422	870,178	14%	132,440	968,335	14%	138,951	1,221,245	11%
PERSONNEL	53,177	352,949	15%	42,441	324,998	13%	50,871	408,231	12%
COMMUNITY DEVELOPMENT	181,870	1,266,317	14%	187,689	1,388,959	14%	199,366	1,587,304	13%
FIRE SERVICES	1,077,409	7,646,521	14%	1,051,473	8,272,337	13%	1,124,859	8,313,227	14%
POLICE	1,567,236	11,622,625	13%	1,473,559	11,674,383	13%	1,520,211	12,018,156	13%
PUBLIC WORKS	203,647	1,960,595	10%	212,159	2,255,991	9%	341,489	2,871,201	12%
PARKS MAINTENANCE	212,723	1,738,032	12%	224,009	1,914,366	12%	242,735	2,381,791	10%
RECREATION	75,315	718,415	10%	77,815	830,040	9%	83,834	875,960	10%
ATHLETICS	44,546	312,346	14%	70,900	441,446	16%	72,820	502,249	14%
POGTV	729	3,133	23%	560	3,462	16%	809	21,911	4%
GENERAL FUND EXPENSES:	\$4,016,085	\$31,413,652	13%	\$3,976,979	\$34,146,836	12%	\$4,465,301	\$36,965,427	12%
Excess of Revenue over(under) Expenditures	\$1,087,085	\$923,086		\$455,756	\$469,723		\$62,842	\$ -	

Note: minor variances in totals may exist due to rounding

CITY OF PORT ORANGE

STATEMENT OF REVENUE, EXPENDITURES AND CHANGES IN FUND BALANCE
BUDGET AND ACTUAL - BUILDING SPECIAL REVENUE FUND (109)
 Period Ending: November (17% of the Fiscal Year)

	FY2015			FY2016			FY2017		
	FYTD Actual	Audited Annual	%	FYTD Actual	Unaudited Annual	%	FYTD Actual	Budgeted Annual	%
Revenues									
Permits and fees	172,535	1,250,379	14%	177,428	961,415	18%	507,888	1,151,500	44%
Miscellaneous	-	140	0%	-	126	0%	-	-	0%
Total operating revenues	172,535	1,250,519	14%	177,428	961,541	18%	507,888	1,151,500	44%
Expenditures									
General government:									
Planning and community development	138,516	982,921	14%	138,971	1,081,176	13%	163,617	1,552,557	11%
Total operating expenses - w/o depreciation	138,516	982,921	14%	138,971	1,081,176	13%	163,617	1,552,557	11%
Operating income (loss)	34,018	267,598	13%	38,457	(119,635)	-32%	344,271	(401,057)	-86%
Non-operating revenues (expenses)									
Interest earnings	(1,402)	9,047		1,839	15,627		2,337	9,000	
Other income (expense)									
Interest and amortization expense									
Total nonoperating revenue (expenses)	(1,402)	9,047	-16%	1,839	15,627	12%	2,337	9,000	26%
Income (loss) before contributions and transfers	32,616	276,645	12%	40,295	(104,008)	-39%	346,607	(392,057)	-88%
Appropriated Fund Balance								392,057	
Transfers									
Transfers in	-	2,613		-	0				
Transfers (out) - In Lieu of Tax									
Transfers (out) - Debt Service									
Change in net position	32,616	279,258		40,295	(104,008)		346,607	-	

Note: minor variances in totals may exist due to rounding

CITY OF PORT ORANGE									
STATEMENT OF REVENUE, EXPENDITURES AND CHANGES IN FUND BALANCE									
BUDGET AND ACTUAL - UTILITIES OPERATING FUND (401)									
Period Ending: November (17% of the Fiscal Year)									
	FY2015			FY2016			FY2017		
	FYTD Actual	Audited Annual	%	FYTD Actual	Unaudited Annual	%	FYTD Actual	Budgeted Annual	%
Operating revenues									
Charges for services:									
Water sales	1,045,568	11,274,679	9%	1,112,883	11,541,651	10%	1,009,260	10,401,471	10%
Hydrant rentals	1,297	36,165	4%	34,687	46,423	75%	1,331	46,010	3%
Sewer charges	1,263,294	13,639,842	9%	1,410,729	14,346,973	10%	1,298,837	13,282,971	10%
Connections service, and cut-off charges	100,070	796,698	13%	103,023	738,937	14%	78,280	891,308	9%
Other revenues	1,646	178,259	1%	6,376	104,876	6%	4,273	36,253	12%
Total operating revenues	2,411,876	25,925,643	9%	2,667,698	26,778,860	10%	2,391,981	24,658,013	10%
Operating expenses²									
Personal services	895,880	5,801,431	15%	808,525	5,990,459	13%	859,517	6,616,336	13%
Contractual services (Professional & Other)	102,354	2,904,120	4%	99,912	2,547,385	4%	306,034	2,943,811	10%
Utilities	106,908	1,321,228	8%	95,538	1,183,947	8%	178,793	1,357,364	13%
Maintenance and repairs	23,579	1,895,478	1%	41,964	559,949	7%	85,747	737,164	12%
Other supplies and expenses	491,367	2,145,414	23%	750,064	3,028,563	25%	305,608	3,252,497	9%
Total operating expenses - w/o depreciation	1,620,087	14,067,671	12%	1,796,002	13,310,304	13%	1,735,700	14,907,172	12%
Operating income (loss)	791,789	11,857,972	7%	871,696	13,468,556	6%	656,281	9,750,841	7%
Non-operating revenues (expenses)									
Interest earnings	(8,831)	129,347		20,667	115,824		17,203	74,448	
Other income (expense)	(26,672)	0		(14,396)	(382,429)		(19,718)	(3,166,325)	
Interest and amortization expense	-	(1,205,050)		-	(141,187)				
Total nonoperating revenue (expenses)	(35,503)	(1,075,703)	3%	6,271	(407,792)	-2%	(2,515)	(3,091,877)	0%
Income (loss) before contributions and transfers	756,286	10,782,269	7%	877,967	13,060,764	7%	653,766	6,658,964	10%
Appropriated Fund Balance				-			-	3,457,340	
Capital Contributions		1,926,860		-	-				
Transfers									
Transfers in	-	9,579		-	-		-	-	
Transfers (out) - In lieu of tax	(210,091)	(1,260,543)		(204,234)	(1,225,404)		(203,178)	(1,219,069)	
Transfers (out) - debt service ¹	(1,458,227)	-		(1,443,227)	(8,659,363)		(1,482,873)	(8,897,235)	
Change in net position	(912,031)	11,458,165		(769,494)	3,175,997		(1,032,285)	-	

¹ Proprietary Debt Service transfers zero out as part of the year-end funds consolidation process.

² For comparison purposes FY16 expense classifications adjusted to comply with FY15 audit classifications

Note: minor variances in totals may exist due to rounding

CITY OF PORT ORANGE

STATEMENT OF REVENUE, EXPENDITURES AND CHANGES IN FUND BALANCE
BUDGET AND ACTUAL - SOLID WASTE OPERATING FUND (410)
 Period Ending: November (17% of the Fiscal Year)

	FY2015			FY2016			FY2017		
	FYTD Actual	Audited Annual	%	FYTD Actual	Unaudited Annual	%	FYTD Actual	Budgeted Annual	%
Operating revenues¹									
Charges for services:									
Waste Disposal Fees	762,859	7,052,339	11%	725,205	7,127,786	10%	684,730	6,967,288	10%
Other revenues	4,755	42	11323%	546	809	68%	-	-	
Total operating revenues	767,613	7,052,381	11%	725,752	7,128,595	10%	684,730	6,967,288	10%
Operating expenses²									
Personal services	34,522	223,365	15%	33,331	253,507	13%	52,517	217,676	24%
Contractual services (Professional & Other)	474,339	6,286,101	8%	348,842	6,441,283	5%	456,389	6,455,526	7%
Utilities	47	858	5%	71	741	10%	119	805	15%
Maintenance and repairs	-	7,251	0%	-	4,608	0%	1,105	8,878	12%
Other supplies and expenses	85,091	54,882	155%	85,549	9,539	897%	51	4,305	1%
Total operating expenses (w/o depreciation)	593,998	6,572,457	9%	467,793	6,709,678	7%	510,180	6,687,190	8%
Operating income (loss)	173,615	479,924	36%	257,959	418,917	62%	174,550	280,098	62%
Non-operating revenues (expenses)									
Interest earnings	(2,060)	13,809		4,544	26,135		3,437	14,000	
Other income (expense)		-			-			(105,267)	
Interest and amortization expense		-			-				
Total nonoperating revenue (expenses)	(2,060)	13,809	-15%	4,544	26,135	17%	3,437	(91,267)	-4%
Income (loss) before contributions and transfers	171,554	493,733	35%	262,502	445,052	59%	177,987	188,831	94%
Appropriated Fund Balance								16,000	
Transfers									
Transfers in		888		-	-		-	-	
Transfers (out) - In lieu of taxes	(32,313)	(193,875)		(34,071)	(204,425)		(34,139)	(204,831)	
Transfers (out) - debt service									
Change in net position	139,242	300,746		228,431	240,627		143,849	-	

¹ For comparison purposes FY16 operating revenue classifications adjusted to comply with FY15 audit classifications

² For comparison purposes FY16 expense classifications adjusted to comply with FY15 audit classifications

Note: minor variances in totals may exist due to rounding

CITY OF PORT ORANGE

STATEMENT OF REVENUE, EXPENDITURES AND CHANGES IN FUND BALANCE
BUDGET AND ACTUAL - STORMWATER OPERATING FUND (412)
 Period Ending: November (17% of the Fiscal Year)

	FY2015			FY2016			FY2017		
	FYTD Actual	Audited Annual	%	FYTD Actual	Unaudited Annual	%	FYTD Actual	Budgeted Annual	%
Operating revenues									
Charges for services:									
Drainage Fees	1,099,770	3,860,256	28%	840,118	3,844,631	22%	776,550	3,967,009	20%
Other revenues	-	218	0%	-	5,494	0%	-		0%
Total operating revenues	1,099,770	3,860,474	28%	840,118	3,850,125	22%	776,550	3,967,009	20%
Operating expenses²									
Personal services	121,358	734,663	17%	113,272	742,094	15%	113,913	964,850	12%
Contractual services (Professional & Other)	3,647	610,614	1%	2,018	571,849	0%	92,856	872,274	11%
Utilities	-	-	0%	-	2,516	0%	299	2,285	13%
Maintenance and repairs	35,032	141,756	25%	12,679	123,603	10%	21,445	171,289	0%
Other supplies and expenses	95,339	69,426	137%	90,908	57,450	158%	9,821	139,133	7%
Total operating expenses (w/o depreciation)	255,376	1,556,459	16%	218,877	1,497,512	15%	238,334	2,149,831	11%
Operating income (loss)	844,394	2,304,015	37%	621,241	2,352,614	26%	538,216	1,817,178	30%
Non-operating revenues (expenses)									
Interest earnings	(1,922)	30,007		835	22,519		2,253	26,700	
Other income (expense)	(34,312)	255,496		-	(493,774)		(43,345)	(2,239,195)	
Interest and amortization expense	-	(420,188)		-	(11,515)		-	-	
Total nonoperating revenue (expenses)	(36,234)	(134,685)		835	(482,770)	0%	(41,092)	(2,212,495)	2%
Income (loss) before contributions and transfers	808,159	2,169,330	37%	622,076	1,869,844	33%	497,124	(395,317)	-126%
Appropriated Fund Balance								2,131,509	
Transfers									
Transfers in		847,500		-	1,726,416		-	-	
Transfers (out) - General Fund		(63,649)		-	-		-	-	
Transfers (out) - In Lieu of Tax	(31,973)	(191,841)		(30,762)	(184,572)		(31,293)	(187,758)	
Transfers (out) - debt service ¹	(306,654)	(83,501)		(256,166)	(1,536,997)		(258,072)	(1,548,434)	
Change in net position	469,532	2,677,839		335,148	1,874,691		207,759	-	

¹ Proprietary Debt Service transfers zero out as part of the year-end funds consolidation process. The remaining balance of Transfer (Out) - Debt Service represents governmental debt.

² For comparison purposes FY16 expense classifications adjusted to comply with FY15 audit classifications

Note: minor variances in totals may exist due to rounding

Financial Reports
for period ending
November 30, 2016

Golf Course

Financial Report
for period ending
November, 2016
Provided by
YMCA

Statement Of Activities Report
Unaudited
Volusia Flagler Family YMCA
Period 11 November 2016

Branch: Port Orange 07

Account Group	Account Group Name	Period 11 November 2016					Year to Date 2016				
		Actual	Budget	\$ Variance	Last Year	\$ Variance	Actual	Budget	\$ Variance	Last Year	\$ Variance
Revenue											
01	Contributions	2,318	6,500	-4,182	50	2,268	71,055	74,200	-3,145	78,181	-7,126
03	Special Events	6,630	2,083	4,547	305	6,325	45,733	56,590	-10,857	28,898	16,835
08	United Way	3,466	3,466	0	3,466	0	38,127	38,127	0	38,127	0
10	Grants	2,466	2,461	5	3,036	-570	28,171	39,654	-11,483	34,228	-6,057
11	Membership	100,850	107,747	-6,897	107,621	-6,771	1,172,615	1,245,002	-72,387	1,223,770	-51,155
13	Program Fees	42,420	46,022	-3,602	49,506	-7,086	578,265	603,689	-25,424	579,262	-997
14	Other - Merchandise/Vending	139	30	109	656	-517	10,717	12,600	-1,883	13,667	-2,950
16	Late Fees/Misc Income	386	750	-364	1,062	-676	2,865	4,127	-1,262	2,789	76
19	Release from Restriction	0	0	0	0	0	-1,390	1,830	-3,220	-5,077	3,687
Total Revenue		158,675	169,059	-10,384	165,702	-7,027	1,946,158	2,075,819	-129,661	1,993,845	-47,687
Expenses											
21	Salaries & Wages	70,644	61,870	-8,774	70,360	-284	746,924	757,184	10,260	828,501	81,577
22	Employee Benefits	3,823	3,232	-591	4,984	1,161	44,790	38,130	-6,660	53,783	8,993
23	Payroll, Taxes & W/C	6,849	5,972	-877	6,777	-72	69,841	73,002	3,161	74,781	4,940
24	Contract Services	3,659	2,125	-1,534	2,831	-828	40,917	47,815	6,898	43,004	2,087
25	Supplies	2,990	3,597	607	4,455	1,465	32,370	39,867	7,497	45,401	13,031
26	Telephone	1,129	770	-359	904	-225	9,613	8,470	-1,143	10,394	781
27	Postage & Shipping	0	33	33	0	0	1,022	367	-655	75	-947
28	Facility Costs	34,556	37,442	2,886	38,499	3,943	423,532	433,838	10,306	437,175	13,643
29	Equipment Costs	6,632	4,444	-2,188	5,286	-1,346	57,166	52,676	-4,490	50,838	-6,328
30	Program Expenses	5,883	2,824	-3,059	4,459	-1,424	66,353	66,526	173	67,707	1,354
31	Marketing & Promotion	0	0	0	49	49	148	555	407	631	483
32	Travel & Mileage	134	90	-44	138	4	882	1,095	213	329	-553
33	Conference & Training	87	42	-45	285	198	2,136	793	-1,343	1,780	-356
34	Fundraising Expense	164	2,300	2,136	179	15	478	2,300	1,822	690	212
35	National & Other Dues	1,759	2,616	857	2,505	746	26,391	28,778	2,387	27,693	1,302
38	Insurance	2,445	2,322	-123	2,465	20	26,238	25,546	-692	24,908	-1,330
39	Miscellaneous Expense	-1,971	0	1,971	5	1,976	7,320	0	-7,320	5	-7,315
40	Depreciation & Amortization	2,125	1,666	-459	2,106	-19	24,305	18,318	-5,987	23,917	-388
48	Metro Services	23,744	23,744	0	26,549	2,805	292,365	292,366	1	317,482	25,117
Total Expenses		164,652	155,089	-9,563	172,836	8,184	1,872,791	1,887,626	14,835	2,009,094	136,303
Change in Net Assets		-5,977	13,970	-19,947	-7,134	1,157	73,367	188,193	-114,826	-15,249	88,616