



REGULAR CITY COUNCIL MEETING

6:30 PM – COUNCIL CHAMBERS – CITY HALL

OCTOBER 20, 2015

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. Bill Wassner
3. Roll Call
4. Rules of Procedure

B. PUBLIC HEARING

5. First Reading - Ordinance No. 2015-37 - Amendment to Chapter 42 of the Code of Ordinances to provide procedures to secure and demolish unsafe structures in the City
6. Second Reading - Ordinance No. 2015-36 - Amending Chapter 50 of the Code of Ordinances Regarding the Golf Course

C. AGENDA APPROVAL

D. BOARD APPOINTMENTS, INTERVIEWS, REPORTS

7. Civil Service Board Appointment
8. Construction Regulation Board Appointment

E. SPECIAL AWARDS, REPORTS, RECOGNITION AND PROCLAMATIONS

9. Proclamation - Grace Episcopal Church

F. CITIZEN PARTICIPATION (Agenda)

10. Derek LaMontagne - "Save Spruce Creek"

G. CITIZEN PARTICIPATION (Non-Agenda – 15 minutes)

H. COUNCIL COMMENTS

11. Comments/Concerns from Council Members

I. CONSENT AGENDA

12. Approval of Minutes

a. October 6, 2015 - Regular City Council Meeting

13. Resolution No. 15-71 - Spruce Creek Rising, Inc.

14. Resolution No. 15-75 - Acceptance of the FY 2015 CDBG grant funding.

15. Resolution No. 15-76 - Cypress Head Golf Course Fees

16. Approval of the Public Utilities Department reorganization

17. Notification of Emergency Replacement of Storm Water Drainage Pipe Along
Riverside Drive for Cost Exceeding \$25,000.00

18. Special Events

a. Major Special Event Request – Christmas Tree Sales at Dunlawton Square
Shopping Center located at 3813 Nova Road

b. Major Special Event Request – Lighthouse Loop Half Marathon & 5K @ DJ's
Deck at 79 E. Dunlawton Avenue, Aunt Catfish Restaurant at 4009 Halifax
Drive and Panheads Pizzeria at 4085 Ridgewood Avenue.

19. Bid Awards and Contract Items

a. Approval of Task Authorization No 5, to the Master contract for Engineering
Services with Kimley-Horn and Associates, Inc.

b. Approval of a Standard Contract for Services with Insight and Beyond, Inc. for
Future Leadership Development and Succession Planning and grant
application to CareerSource Flagler/Volusia for partial funding support for this
initiative.

c. Approve the two year option for insurance coverage for property, crime, excess
crime, inland marine and equipment breakdown

d. Piggyback Agreement and Purchase Order for Ten-8 Fire Equipment

e. Ratify purchases against Purchase Order No 069715 for Florida Detroit Diesel-
Allison c/o Stewart & Stevenson.

f. Change Order No 1 to the Standard Contract for Services with Rexel, Inc.
dated 2/10/2015

g. Award Bid #15-32 to MCG Services for Mockingbird Drive Pipe Replacement in
Cypress Cove Subdivision

- h. Task Authorization No 1 under the Master Contract for Engineering Services with Arcadis U.S., Inc. for the Water Master Plan
- i. Change Order No. 1 to Sparks Concrete, LLC contract for S. Spruce Creek Road Shared Use Path
- j. Task Authorization No. 3 to the contract with Traffic Engineering Data Solutions, Inc. (TEDS) for design and permitting of the McDonald Road sidewalk.

J. REGULAR AGENDA

20. Victoria Gardens Boulevard Sidewalk TPO Project

K. COMMENTS

21. City Attorney Comments

22. City Manager Comments

L. COUNCIL COMMITTEE REPORTS

23. City Council Committee Reports

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

M. 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.



CITY COUNCIL AGENDA ITEM

REQUESTED COUNCIL MEETING DATE 10/20/2015

Consent item: No

SUBJECT: First Reading - Ordinance No. 2015-37 - Amendment to Chapter 42 of the Code of Ordinances to provide procedures to secure and demolish unsafe structures in the City

DEPARTMENT: Community Development

RECOMMENDED MOTION: Move to approve Ordinance No. 2015-37, amending Chapter 42 of the Code of Ordinances to provide procedures to secure and demolish unsafe structures in the City.

SUMMARY: In recent years the number of unsafe structures has increased; and such structures may become open, unsecured, vandalized, or used for illicit purposes by trespassers, resulting in conditions that are unhealthy, unsafe, unsightly, and a blight upon the neighborhood and community at large. The proposed ordinance provides criteria to determine if a structure is unsafe. The ordinance also provides procedures for serving notice to the property owner, hearings before the Special Magistrate, appeals, abatement of the unsafe conditions and assessment of the costs of abatement as a lien. The demolition of unsafe structures will improve the security and quality of life in general of persons living nearby, will prevent blight and decay, and will safeguard the public health, safety, morals and welfare.

Project	Funding Account
No.:	No.:

ATTACHMENTS:

1.	Ordinance 2015-37	.pdf
2.	Staff Report	Staff Report.pdf

Hutchison, Chris
Clark, Wayne
Roberts, Margaret
Johansson, M. Jake

Created/Initiated - 10/07/2015
Approved - 10/07/2015
Approved - 10/14/2015
Final Approval - 10/15/2015

ORDINANCE NO. 2015-37

AN ORDINANCE OF THE CITY OF PORT ORANGE,
VOLUSIA COUNTY, FLORIDA; AMENDING THE CODE OF
ORDINANCES, CHAPTER 42, ARTICLE V, TO ESTABLISH
A NEW DIVISION 3 RELATING TO THE ABATEMENT OF
UNSAFE STRUCTURES, PROVIDING FOR
CODIFICATION; PROVIDING FOR REPEAL OF
CONFLICTING ORDINANCES; PROVIDING FOR
SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City Council hereby finds and declares that in recent years and at present an increased number of unsafe structures exist; and

WHEREAS, such structures often become open, unsecured, vandalized, or used for illicit purposes by trespassers, resulting in conditions that are unhealthy, unsafe, unsightly, and a blight upon the neighborhood and community at large; and

WHEREAS, the abatement of unsafe structures will improve the security and quality of life in general of persons living nearby, will prevent blight and decay, and will safeguard the public health, safety, morals and welfare; and

WHEREAS, the City Council has determined that it is in the best interests of the citizens of the City of Port Orange to abate the nuisance created by unsafe structures as set forth hereinafter; and

WHEREAS, for purposes of this ordinance the newly established Division 3 set forth in Section 1 below shall constitute additions to the original ordinance text.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PORT ORANGE, AS FOLLOWS:

Section1: The City Council of the City of Port Orange hereby amends Chapter 42, Article V of the Code of Ordinance to establish a new Division 3 as follows:

DIVISION 3. – ABATEMENT OF UNSAFE STRUCTURES

Sec. 42-106. Purpose

The intent and purpose of this division is to protect the health, safety, morals, and welfare of all the people of the City of Port Orange by establishing standards governing the abatement of unsafe structures; authorizing and establishing procedures for the demolition of the same and setting forth a procedure for the enforcement of this division by ordering the abatement of structures found unsafe. This division is hereby declared to be remedial and essential to the public interest, and it is intended that this division be liberally construed to effectuate the purposes as stated above.

Sec. 42-107. Inspections.

The building official, or his or her designee, shall have the authority to inspect any structure for the purpose of determining whether the same is unsafe based on the conditions set forth herein. The building official, or his or her designee, is authorized to utilize the services of private engineers, architects or other professionals in order to determine the condition of the structure in question.

Sec. 42-108. Unsafe Conditions; Nuisance.

(a) A structure is unsafe when any of the following conditions exist:

- (1) The structure's interior walls or other structural members list, lean, or buckle or the support for the structure has become damaged or deteriorated to such an extent that there is a reasonable likelihood that the walls or other structural members may fall or give way.
- (2) The structure has improperly distributed loads upon the floor or roof or the floor or roof is overloaded or has insufficient strength to be reasonably safe for the purpose used.
- (3) The structure has been damaged by fire, wind, or other causes and has become dangerous to life, safety, or the general health and welfare of people within or near the structure.
- (4) The structure is so dilapidated, decayed, unsafe, insanitary, or so utterly fails to provide the amenities essential to decent living that it is unfit for human habitation or is likely to cause sickness or disease so as to injure the health, safety, or general welfare.
- (5) The structure has connected parts that have become so detached from one another that there is a reasonable likelihood they may fall and injure members of the public or cause property damage in general.
- (6) The structure is vacant and not sufficiently secured to prevent easy access to trespassers and vagrants or is otherwise untended or unkempt to the extent that it poses a general health or safety hazard for neighboring people or property.

- (b) A structure that is unsafe constitutes a nuisance. No person shall permit an unsafe structure to exist on property under his or her ownership or control.

Sec. 42-109. Notice of violation and notice of hearing.

When the building official, or his or her designee, verifies the existence of a structure which is unsafe, an initial notice of violation and notice of hearing shall be provided to the owner of record and other known interested parties as set forth in section 42-110. Said notice shall describe the condition(s) found by the building official, or his or her designee, and relied upon in determining the structure is unsafe and state the requirements to secure and repair, or demolish the structure within a reasonable period of time along with a notice informing all interested parties of the date, time and location of the hearing before the special magistrate which may result in an order requiring the property owner or city to demolish the structure(s) on the property with any costs therefor being assessed against the property and constituting a lien thereon.

Sec. 42-110. - Manner of serving notice.

- (a) For the purpose of providing notice, interested parties shall be the owner of the property as shown on the county tax rolls, other persons whose names appear on the county tax rolls as having an interest in the property, and the tenant or occupant, if any, of the property, as well as other persons of record interest, which may include the mortgagee, contract purchaser (if known), agent with power of attorney, and any person claiming an interest under a lis pendens.
- (b) Ten days or more prior to the hearing before the special magistrate, the notice of violation and notice of hearing shall be posted on the front of the property and shall be delivered to the interested parties either:
 - (1) By personally delivering a copy thereof to the party to be notified;
 - (2) By leaving such copy at such person's usual place of residence with some person of the household above 15 years of age and informing such person of the contents thereof; or
 - (3) By standard United States mail and either registered or certified United States mail with return receipt requested.

If the name of any interested party or their place of residence or their post office address cannot be ascertained after diligent search or in the event a notice sent by either registered or certified mail shall be returned undelivered, notice shall be given by publishing a copy thereof two times in a newspaper of general circulation in the city as set forth in subsection (d) of this section and, if the name of such interested party is known, mailing a copy thereof to such person's last known address, if known.

- (c) A copy of such notice of violation and notice of hearing shall be posted in a conspicuous place at City Hall.
- (d) If publication of notice is made, a notice of notice of violation and notice of hearing shall be published on two different days in a newspaper of general circulation in the city and the last publication of such notice shall be not less than 10 days prior to the date of hearing.

Sec. 42-111. Hearing and authority to order secure and repair or demolition.

- (a) In any hearing before the special magistrate pursuant to this division, formal rules of evidence shall not apply, but fundamental due process shall be observed and shall govern the proceedings. Irrelevant, immaterial, or unduly repetitious evidence shall be excluded. All other evidence of a type commonly relied upon by reasonably prudent persons in the conduct of their affairs shall be admissible whether or not such evidence would be admissible in a trial in the courts of the State. Each interested party shall have the right to appear in person, by legal counsel or by an agent, to call and examine witnesses under oath, to introduce documentary evidence or exhibits, to cross-examine opposing witnesses on any relevant matter even though the matter was not covered under direct examination, to impeach any witness regardless of which party first called him to testify, and to submit rebuttal evidence.
- (b) Upon substantial competent evidence, the special magistrate may render his or her order requiring the owner to secure and repair, or cause to be demolished, the structure(s) which have been established as unsafe within a reasonable period of time not less than 30 days from the date of the order, and provide authority for the city to take the necessary steps to abate the condition(s) in the event the owner fails to do so and charging all expenses of the abatement against the property in accordance with this division. The order may also require vacating of the property if such action is necessary and has not already been accomplished.
- (c) All unsafe structures which have been secured as a result of an order to secure and repair shall be subject to inspection and the owner of the structure shall be assessed a fee for each and every such inspection. For the purpose of ensuring that the vacant and unfit or unsafe structure is locked and/or secured, inspections shall be conducted no less frequently than at 30-day intervals and the following fee collected in the manner provided by this division for each and every inspection conducted.
 - (1) Residential, commercial, institutional and industrial structures, per structure: \$50.00.
 - (2) Other structures (detached garages, accessory buildings, etc.), per structure: \$25.00.

Sec. 42-112. - Appeal procedure.

An aggrieved party, including the city, may appeal a final administrative order of the special magistrate to the circuit court in Volusia County. Such an appeal shall not be a hearing de novo but shall be limited to appellate review of the record created before the special magistrate. An appeal shall be filed within 30 days of the execution of the order to be appealed.

Sec. 42-113. - Condition of lot after demolition.

A lot from which a structure is demolished shall be properly filled, graded and seeded with grass seed or sodded within five days of the date of completion of the demolition. The lot shall comply with the established vegetation standards of the city.

Sec. 42-114. - Assessment of cost of demolition; lien on property.

- (a) Upon expiration of the 30-day right of appeal to the Circuit Court with no appeal having been taken, or, if appeal is taken, expiration of the 30-day period following the 30-day period for filing a claim of appeal to the District Court of Appeal, or following an emergency demolition authorized and conducted in accordance with section 42-115, unless otherwise ordered by a court of competent jurisdiction, the city manager or his or her designee, after proceeding under this division, shall assess the entire cost of such vacation, demolition, removal or securing against the real property upon which such cost was incurred by recording a lien. The costs which may be assessed include the cost of rodent extermination where employed, all administrative costs (which shall include all costs related to any hearing before the special magistrate and the lien recording and releasing fee), postal expense, newspaper publication and other costs reasonably and necessarily incurred by the city, including attorney's fees and costs. Such costs when assessed shall constitute a lien upon such property and such lien shall bear interest from such date at the rate established by the comptroller of the State pursuant to section 55.03, state statutes (F.S. § 55.03) and shall be enforceable if unsatisfied, after the expiration of one year from the date of recording such notice of lien, as other liens may be enforced by the City.
- (b) In those instances where the owner has repaired, secured or demolished a structure or caused such work to be done as the result of having been determined to be in violation of this division, all costs described in subsection (a) of this section reasonably and necessarily incurred by the City shall be assessed against the property and such lien shall bear interest from such date at the rate established by the comptroller of the State pursuant to section 55.03, state statutes (F.S. § 55.03) and shall be enforceable if unsatisfied, after the expiration of one year from the date of recording such notice of lien, as other liens may be enforced by the City..
- (c) The City shall record a notice of lien in the public records of Volusia County. The notice of lien shall show the nature of such lien, the amount thereof, the names of persons having an ownership or other property interest of record and an accurate legal description of the property, which lien shall date from the date of recording of the notice of lien. Such lien shall bear interest from such date at the rate established by the comptroller of the State pursuant to section 55.03, state statutes (F.S. § 55.03) and shall be enforceable if unsatisfied, after the expiration of one year from the date of recording such notice of lien, as other liens may be enforced by the City.

Sec. 42-115. - Emergency condemnations, authority to take action; lien on property.

- (a) In cases where there is imminent peril to the public safety or general welfare or immediate danger to the life or safety of any person or where the public is endangered by weather conditions, fire, other natural disasters or the particular location of the subject property, unless an unfit or unsafe structure is immediately repaired, demolished, or removed, the city manager or his or her designee shall promptly cause such structure to be made safe or removed. For this purpose the city manager or his or her designee may at once enter such a structure or land on which it stands, or abutting land or structures, to perform an inspection with such assistance and at such cost as may be deemed necessary.
- (b) Upon inspection, the city manager or his or her designee shall determine whether or not the structure requires immediate emergency demolition in order to maintain the safety and welfare of the owner, tenants, or public. A written report will document results of these inspections. Exterior and interior photographs of the building, structure, or portion thereof will be taken when feasible.
- (c) The city manager or his or her designee may order the vacation of adjacent structures and may require the protection of the public by appropriate fencing or such other means as may be necessary, and for this purpose may close any public or private way.
- (d) If the city manager or his or her designee determines that sufficient time exists, prior to demolition, to reasonably and safely serve a notice of intent to demolish, it will be sent via priority mail or courier delivery and by attempting to telephone the owner or interested parties (if listed in the current phone directory) giving notice of the emergency demolition. This written notification must state the findings of the city manager or his or her designee, documenting cause for demolition or removal. Where the owner or other interested party fails to take immediate corrective action as ordered by the city manager or his or her designee, the city manager or his or her designee shall have the authority to promptly proceed with the abatement of the unsafe structure in accordance with this division. Failure to effect personal notice upon the individual owner or interested parties shall not prevent the city from performing the emergency demolition or removal and assessing a lien on the property. All costs incurred in the evaluation, vacation, securing and emergency demolition are the responsibility of the property owner, and the city manager shall place a lien on the property as set forth in section 42-114.

Section 2: All ordinances or parts of ordinances in conflict with the provisions of

this ordinance are hereby repealed to the extent of such conflict.

Section 3: 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 4: This ordinance shall take effect immediately upon adoption.

MAYOR ALLEN GREEN

ATTEST:

Robin L. Fenwick, CMC, City Clerk

Passed on first reading on the _____ day of _____, 2015.

Passed and adopted on second and final reading on the ____ day of _____, 2015.

Reviewed and Approved: _____
Assistant City Attorney



STAFF REPORT

REQUEST: Amendment to Chapter 42 of the Code of Ordinances to provide procedures to secure and demolish unsafe structures in the city.

APPLICANT: City of Port Orange

STAFF RECOMMENDATION: Approval

STAFF CONTACT: Chris Hutchison, Code Enforcement Manager (386) 506-5643

CITY COUNCIL DATE: October 20, 2015

INTRODUCTION:

In recent years the number of unsafe structures has increased; and such structures may become open, unsecured, vandalized, or used for illicit purposes by trespassers, resulting in conditions that are unhealthy, unsafe, unsightly, and a blight upon the neighborhood and community at large. The proposed ordinance provides criteria to determine if a structure is unsafe. The ordinance also provides procedures for serving notice to the property owner, hearings before the Special Magistrate, appeals, abatement of the unsafe conditions and assessment of the costs of abatement as a lien. The demolition of unsafe structures will improve the security and quality of life in general of persons living nearby, will prevent blight and decay, and will safeguard the public health, safety, morals and welfare.

DISCUSSION:

A structure that is unsafe constitutes a nuisance. The proposed ordinance provides the following criteria to determine if a structure is unsafe. A structure will be considered unsafe when any of the following conditions exist:

- (1) The structure's interior walls or other structural members list, lean, or buckle or the support for the structure has become damaged or deteriorated to such an extent that there is a reasonable likelihood that the walls or other structural members may fall or give way.
- (2) The structure has improperly distributed loads upon the floor or roof or the floor or roof is overloaded or has insufficient strength to be reasonably safe for the purpose used.
- (3) The structure has been damaged by fire, wind, or other causes and has become dangerous to life, safety, or the general health and welfare of people within or near the structure.
- (4) The structure is so dilapidated, decayed, unsafe, insanitary, or so utterly fails to provide the amenities essential to decent living that it is unfit for

- human habitation or is likely to cause sickness or disease so as to injure the health, safety, or general welfare.
- (5) The structure has parts which are so attached that there is a reasonable likelihood they may fall and injure members of the public or property in general.
 - (6) The structure is vacant and not sufficiently secured to prevent easy access to trespassers and vagrants or is otherwise untended or unkempt to the extent that it poses a general health or safety hazard for neighboring people or property.

Once the Building Official, or his designee, verifies the existence of a structure which is unsafe, an initial notice of violation must be provided to the owner. The notices shall be issued ten days or more prior to the hearing before the Special Magistrate.

The Special Magistrate may render an order requiring the owner to secure and repair, or demolish the structure(s) which have been proven to be unsafe and provide authority for the City to take the necessary steps to abate the conditions in the event the owner fails to do so. All expenses of the abatement may be charged against the property. The order may also require vacating of the property if such action is necessary and has not already been accomplished.

A lot from which a structure is demolished shall be properly filled, graded and seeded with grass seed or sodded within five days of the date of completion of the demolition. The lot shall comply with the established vegetation standards of the City.

RECOMMENDATION: Approval



CITY COUNCIL AGENDA ITEM

REQUESTED COUNCIL MEETING DATE 10/20/2015

Consent item: No

SUBJECT: Second Reading - Ordinance No. 2015-36 - Amending Chapter 50 of the Code of Ordinances Regarding the Golf Course

DEPARTMENT: Parks & Recreation

RECOMMENDED MOTION: Move to approve Ordinance No. 2015-36.

SUMMARY:

This ordinance amendment creates the Cypress Pass, an annual pass to be sold to the general public. The existing "annual pass" and "founders club pass" have been consolidated to be named "legacy passes" and shall continue to be eligible for renewal at a discounted rate for those approximately 50 remaining legacy pass holders.

As a general clean-up item, the discount card program is being removed, which is consistent with the council's expressed intent by its adoption of Resolution 12-44.

This amendment also removes the Parks and Recreation Director's authority to set special fees for evening hours and special events and to waive fees for promotional purposes or for certain special guests.

"Surcharge" and "Capital Improvement" will now be defined terms to clear-up any past confusion.

Also, the nonresidency restriction on purchase of passes has been lifted, and the method for determining residency has been established.

Lastly, the play card program has been amended to be limited to a seasonal program instead of annual.

A new rate resolution is currently being prepared and will replace the current rate resolution (Reso. 12-44) with the new Cypress Pass fees. The resolution will be brought forward for City Council approval with the second reading of this ordinance, however, a draft is attached hereto for informational purposes only.

Project	Funding Account
No.:	No.:

ATTACHMENTS:

1.	Ordinance No. 2015-36	Golf Course Ord 2015-36.pdf
2.	Draft Fee Resolution	Draft Fee Resolution.pdf
3.	Draft Nov. 2015 Fees	draftfees2015.xlsx

Fenwick, RobinCreated/Initiated - 10/02/2015

ORDINANCE NO. 2015-36

AN ORDINANCE OF THE CITY OF PORT ORANGE, VOLUSIA COUNTY, FLORIDA, AMENDING CHAPTER 50, ARTICLE IV, DIVISION 1, OF THE CODE OF ORDINANCES REGARDING THE MUNICIPAL GOLF COURSE; AMENDING SECTION 50-81 MODIFYING DEFINITIONS; AMENDING SECTION 50-83 REGARDING FEES; AMENDING SECTION 50-84 ESTABLISHING RULES FOR LEGACY PASSES; AMENDING SECTION 50-85 ESTABLISHING RULES FOR CYPRESS PASSES AND DELETING DISCOUNT CARDS; REMOVING SECTION 50-80.5 REGARDING PLAY CARDS; AMENDING SECTION 50-86 TO REMOVE FOUNDERS CLUB RULES AND ESTABLISH AMENDED PLAY CARD RULES; AMENDING SECTION 50-87 REGARDING NONRESIDENT FEES; PROVIDING FOR REPEAL OF CONFLICTING ORDINANCES; PROVIDING FOR CODIFICATION; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, amendment of the Code of Ordinances regarding the Cypress Head Golf Course is necessary to create consistency with the current practices and procedures as well as plans for the future; and

WHEREAS, the City Council wishes to offer for sale annual memberships to the general public which will be known as Cypress Passes; and

WHEREAS, the Board of Directors of the Golf Club at Cypress Head, Inc. have recommended the creation of an annual membership program; and

WHEREAS, for purposes of this ordinance words with underlined (underlined) type shall constitute additions to the original text and words with strikethrough (~~strikethrough~~) type shall constitute deletions from the original text.

NOW, THEREFORE, BE IT ENACTED BY THE CITY COUNCIL OF THE CITY OF PORT ORANGE, VOLUSIA COUNTY, FLORIDA:

SECTION 1: The City Council of the City of Port Orange hereby amends Chapter 50, Article IV, Division 1, Section 50-81 of the Code of Ordinances, to read as follows:

Chapter 50 – PARKS AND RECREATION
ARTICLE IV. – MUNICIPAL GOLF COURSE
DIVISION 1. - GENERALLY

Sec. 50-81. - Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

~~*Annual pass* means a pass which is valid from October 1 through September 30 of each year.~~

Capital expenditures means those expenditures exceeding \$5,000.00 in cost and having a useful life of one or more years.

Cypress pass means an annual golf membership available for purchase by the general public which entitles the pass holder to a single payment for greens fees for the entire year regardless of rounds played.

Director means the director of the parks and recreation department or his or her designee.

~~*Discount card* means a prepaid card that entitles the holder to a discounted greens fee.~~

Founders club means a group comprised of the persons who enroll for the first year of golf course operation from an original list of 400 persons.

Holiday means any day designated as a legal holiday by the state.

Junior means a person who is 18 years of age or younger and attends high school, or who meets the requirements established by the United States Golf Association.

Legacy pass means one of the 100 annual passes allocated and awarded by the City to the original developer of the Cypress Head Subdivision to be assigned by the developer to residents of the surrounding development, or a founders club pass.

Legacy pass holder means an individual who has acquired a legacy pass and who has since acquisition renewed his or her pass in each successive year thereafter.

Nonresident means a person who does not reside within the corporate limits of the city.

Pass means a permit issued to a person upon payment of the applicable fee.

Play card means a card valid for a limited number of golf course plays.

Resident means a person who resides within the corporate limits of the city.

Surcharge means an additional fee for each 9 hole round of golf played of which fifty percent (50%), less applicable sales tax, is reserved for capital expenditures made for clubhouse, golf course, or golf course related facility improvements, renovations or restorations.

Trail pass means an annual pass to use a privately owned golf cart on the golf course.

Weekday means Monday through Friday of each week, excluding any holiday.

Weekend means Saturday and Sunday of each week.

SECTION 2: The City Council of the City of Port Orange hereby amends Chapter 50, Article IV, Division 1, Section 50-83 of the Code of Ordinances, to read as follows:

**Chapter 50 – PARKS AND RECREATION
ARTICLE IV. – MUNICIPAL GOLF COURSE
DIVISION 1. - GENERALLY**

Sec. 50-83. - Fees.

- (a) Golf course fees for players, juniors, spouses ~~founders club~~, cypress passes, trail passes, legacy passes, surcharge ~~discount cards~~ and play cards shall be established by resolution of the city council.
- ~~(b) Fees for evening hours and special events may be authorized by the director, subject to written approval from the city manager in accordance with rules and regulations established by the city council.~~
- ~~(c) The director may be authorized to waive fees for the golf course in exchange for promotion or services for the golf course or for special guests, such as P.G.A. members and superintendents, subject to written approval from the city manager in accordance with rules and regulations established by the city council.~~

SECTION 3: The City Council of the City of Port Orange hereby amends Chapter 50, Article IV, Division 1, Section 50-84 of the Code of Ordinances, to read as follows:

**Chapter 50 – PARKS AND RECREATION
ARTICLE IV. – MUNICIPAL GOLF COURSE
DIVISION 1. - GENERALLY**

Sec. 50-84. - Legacy passes Passes.

- (a) ~~Annual passes~~ Legacy pass holders shall ~~be paid~~ renew their passes in September of each year. Any person legacy pass holder who downgrades or fails

to renew his or her pass shall not be eligible for upgrading or renewal of his or her pass. ~~Any person holding an annual pass~~ Legacy pass holders may reserve a tee time seven days in advance, provided that such pass is valid at the time of play.

- (b) Junior annual passes shall be available to juniors who are children of a legacy pass holder, who reside in the same household as a legacy pass holder, residents and who attend a seminar on rules and etiquette conducted by the golf course professional.
- (c) Any pass may only be used by the person who originally purchased such pass.

SECTION 4: The City Council of the City of Port Orange hereby amends Chapter 50, Article IV, Division 1, Section 50-85 of the Code of Ordinances, to read as follows:

Chapter 50 – PARKS AND RECREATION
ARTICLE IV. – MUNICIPAL GOLF COURSE
DIVISION 1. - GENERALLY

Sec. 50-85. - Cypress passes ~~Discount cards.~~

- (a) Cypress passes shall be available for purchase by the general public throughout the year on a pro-rated basis with each pass year beginning on October 1 and ending September 30. Cypress pass holders may reserve a tee time seven days in advance, provided that such pass is valid at the time of play.
- (b) Spouse cypress passes shall be available to the spouse of a cypress pass holder who resides in the same household as the cypress pass holder.
- (c) Trail passes and cart rentals shall be sold separately.

~~-Discount cards shall be valid any time and any day during the year and one year from the date of issuance. A discount card is not valid with any other discount.~~

SECTION 5: The City Council of the City of Port Orange hereby amends to delete Chapter 50, Article IV, Division 1, Section 50-85.5 of the Code of Ordinances.

Chapter 50 – PARKS AND RECREATION
ARTICLE IV. – MUNICIPAL GOLF COURSE
DIVISION 1. - GENERALLY

Sec. 50-85.5 – ~~Play cards.~~

~~Play cards shall be valid any time on weekdays, after 11:00 a.m. on weekends and holidays, and one year from the date of issuance. A play card may only be used by the person who originally purchased such play card.~~

SECTION 6: The City Council of the City of Port Orange hereby amends Chapter 50, Article IV, Division 1, Section 50-86 of the Code of Ordinances to read as follows:

**Chapter 50 – PARKS AND RECREATION
ARTICLE IV. – MUNICIPAL GOLF COURSE
DIVISION 1. - GENERALLY**

Sec. 50-86. - Play cards ~~Founders club.~~

Play cards shall be valid any time on weekdays, after 11:00 a.m. on weekends and holidays, and from the date of issuance until its expiration date. A play card may only be used by the person who originally purchased such play card.

~~Persons who enroll in the founders club will be entitled to golf privileges from June 1, 1992, through September 30, 1993. After September 30, 1993, persons enrolled in the founders club will pay the same rate as an annual pass. Any person in the founders club may reserve a tee time seven days in advance. Any person who fails to renew his founders club rate will not be eligible for renewal.~~

SECTION 7: The City Council of the City of Port Orange hereby amends Chapter 50, Article IV, Division 1, Section 50-87 of the Code of Ordinances to read as follows:

**Chapter 50 – PARKS AND RECREATION
ARTICLE IV. – MUNICIPAL GOLF COURSE
DIVISION 1. - GENERALLY**

Sec. 50-87. - Nonresident fees.

- (a) Golf course fees for nonresidents shall be established by resolution of the city council.
- (b) Residency shall be established by the address listed on a valid government issued identification card with photograph. ~~Nonresidents shall not be eligible for annual passes, junior annual passes or trail passes.~~

SECTION 8: CONFLICTING ORDINANCES.

All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed to the extent of such conflict.

SECTION 9: CODIFICATION

The provisions of this Ordinance shall become and be made a part of the Code of Ordinances of the City of Port Orange and the Sections of this Ordinance may be renumbered or re-lettered to accomplish such intention. The Code codifier is granted liberal authority to codify the provisions of this Ordinance.

SECTION 10: SEVERABILITY.

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 the 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 11: EFFECTIVE DATE.

This Ordinance shall take effect immediately upon adoption.

MAYOR ALLEN GREEN

ATTEST:

Robin L. Fenwick, CMC, City Clerk

Passed on first reading on the _____ day of _____

Passed and adopted on second and final reading on the _____ day of _____

Reviewed and Approved: _____
Assistant City Attorney

RESOLUTION NO. 15-??

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PORT ORANGE, VOLUSIA COUNTY, FLORIDA, ESTABLISHING REVISED CHARGES AND FEES RELATING TO MUNICIPAL GOLF COURSE; PROVIDING FOR REPEAL OF CONFLICTING ORDINANCES; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Section 166.201, Florida Statutes, provides for municipalities in the State of Florida to impose user charges or fees by ordinances; and

WHEREAS, Chapter 50, Article IV, Code of Ordinances, City of Port Orange, Florida, authorizes the imposition of charges and fees relating to municipal golf course activities; and

WHEREAS, the Parks and Recreation Director has reviewed and recommended approval of the golf course charges and fees set forth in this resolution.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF PORT ORANGE, VOLUSIA COUNTY, FLORIDA:

Section 1. Pursuant to Section 50-83 of the Code of Ordinances, City of Port Orange, Florida, the following maximum fees are established for use of the municipal golf course:

GOLF ROUND

DAILY

Player (per person) Green Fee

\$46.00 (plus sales tax)

Junior (per person) Green Fee

\$17.00 (plus sales tax)

Cart Rental (per person)

\$23.00 (plus sales tax)

LEGACY PASS

ANNUAL

Legacy Pass Holder

\$1,700.00 (plus sales tax)

Spouse

\$900.00 (plus sales tax)

Junior

\$400.00 (plus sales tax)

Transfer fee (with qualifying sale of property)

\$250.00 (plus sales tax)

CYPRESS PASS

ANNUAL

Cypress Pass Holder

\$2,100.00 (plus sales tax)

Spouse

\$1,200.00 (plus sales tax)

*May be pro-rated on monthly basis (up to 6 months)

TRAIL

ANNUAL

Trail Pass

\$1,500.00 (plus sales tax)

*May be pro-rated on monthly basis (up to 6 months)

PLAY CARD

SEASONAL

10 Play Card

\$250.00 (plus sales tax)

Section 2. Pursuant to Section 50-87 of the Code of Ordinances, City of Port Orange, Florida, the following maximum fees are established for use of the municipal golf course by nonresidents:

Nonresidents may be assessed fees up to twenty-five percent (25%) greater than those set forth in Section 1 above.

Section 3. Surcharge.

Every player using the golf course shall pay a \$1.00 surcharge for each 9 hole round of golf played, unless said round is offered as barter for third party wholesaler service. This surcharge shall be assessed in addition to the charges outlined above in Sections 1 and 2. Fifty percent (50%) of the total surcharge collected, less applicable sales tax, shall be reserved for capital expenditures made for clubhouse, golf course, or golf course related facilities improvements, renovations or restorations. Capital expenditures shall be defined as those expenditures exceeding \$5,000.00 in cost and useful life of one year or more.

Section 4. Sales Tax.

Applicable sales tax shall be added to the fees established herein.

Section 5. This Resolution shall supersede Resolution 12-44.

Section 6. The charges and fees established herein shall become effective immediately upon adoption.

MAYOR ALLEN GREEN

ATTEST:

Robin L. Fenwick, CMC, City Clerk

Passed and adopted on the _____ day of _____

Reviewed and Approved: _____
Assistant City Attorney

	7 am-10 am	10 am -12 pm	12 pm- 2 pm	2 pm - Close
November 1 - 29, 2015 DRAFT				
18 Hole - Port Orange Resident	\$37	\$33	\$27	\$18
18 Hole - Florida Resident	\$39	\$35	\$29	\$19
18 Hole - Non-Resident	\$41	\$37	\$31	\$20
9 hole - Port Orange Resident	N/A	N/A	\$19	\$13
9 hole - Florida Resident	N/A	N/A	\$20	\$14
9 hole - Non-Resident	N/A	N/A	\$21	\$15
9 Hole Walking (All Players)	N/A	N/A	\$17	\$12
Junior 18 holes(18 years or younger)	\$30	\$25	\$18	\$9
Junior 9 holes	N/A	N/A	\$10	\$7
Legacy Pass Single-GF only	\$1,051.82			
Legacy Pass With Spouse-GF only	\$1,474.44			
Cypress Pass Single-Port Orange-GF only	\$1,646			
Cypress Pass with Spouse P.O. GF only	\$2,563			
Cypress Pass Single Non Res- GF only	\$1,795			
Cypress Pass with Spouse-Non Res- GF only	\$2,795			
Trail Fee	\$1,202.08			
All rates above do not include sales tax.				
Draft				
Daily rates include surcharge fee.	Passes do not include surcharge fee.			



CITY COUNCIL AGENDA ITEM

REQUESTED COUNCIL MEETING DATE 10/20/2015

Consent item: No

SUBJECT: Civil Service Board Appointment

DEPARTMENT: City Clerk

RECOMMENDED MOTION: Move to appoint Sarah Jones for a three year term on the Civil Service Board.

SUMMARY: Sarah Jones has volunteered to fill the vacant position on the Civil Service Board. Ms. Jones' application is attached for your review. There have been no other applications received by the City Clerk's Office. The term will expire on October 20, 2018.

Ms. Jones is unable to attend the meeting due to a previous commitment but is committed to serving the City in this capacity.

Project	Funding Account
No.:	No.:

ATTACHMENTS:

1.	Sarah Jones application	Sarah Jones application.pdf
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Fenwick, Robin
Johansson, M. Jake

Created/Initiated - 09/29/2015
Final Approval - 10/15/2015

ADVISORY BOARDS AND COMMISSIONS VOLUNTEER APPLICATION

Submitted by Sarah Jones on 09/13/2015

Personal Information

Name: Sarah Jones
Date of Birth: 09/19/1943
Telephone: 386-760-2177
E-mail: sarahjanejones@mac.com
Business Telephone: 386-290-2653 (Cell)
Address: 44 Woodfield Dr, Port Orange, FL 32129
Are you a registered voter in Port Orange? Yes
City Council District: 2
How long have you been a resident of Port Orange? 20 years
Are you currently serving on a City Board? No
If yes, when and which board?

References

Reference 1: Drew Bastian, Port Orange City Hall, 1000 City Center Circle, Port Orange, FL 32129; 386-506-5524
Reference 2: Stacy Stepanovich, VTO Building, 1381 Educators Rd, Daytona Beach, FL 32114; 386-235-5751
Reference 3: Toni Strange, 1945 Avocado Dr, Port Orange, FL 32128; 386-290-8115

Education

High School: Onondaga Valley Academy, Syracuse, NY
Date Graduated High School: 06/27/1961
College: Smith College, Northampton, MA
Date Graduated College: 05/10/1965
Degree: B.A.

Work Experience

cook-housekeeper, mail handler, college teaching assistant, public health chemist, labor union elected officer

Interests/Activities

Government with an emphasis on working women & men; Athletics with an emphasis on spinning and swimming; Travel with an emphasis on the unusual; Reading with an emphasis on history and science

Community Involvement

President CSEA/AFSCME N FL Retiree Local 952 representing CSEA Retirees (They worked for government in NYS.) who are now residents of the northern half of FL; Member Volusia/Flagler AFL-CIO Executive Board; Volusia Democratic Women's Club Secretary; Volusia Northeast Democratic Club Board

Why do you desire to serve on these boards?

I want to become more active in my city. CRA's - I am interested in CRA's because I know that they are intended to divert any increases in an area's taxes to that area exclusively to encourage development of that area and that this can be very important to not just that area, but the city and county. I hope to learn more about CRA's (the good and the bad) by serving on one of these Boards. And, I believe the Board would benefit from my experience in labor and politics. Civil Service - I spent most of my working career as a government employee covered by the regulations of civil service. I have an understanding of this employment system and would be able to contribute to the Board. Charter Review - I have participated in writing Charters/ ByLaws for several organizations and would be able to contribute to the Board.

Resume/Additional Information

Selected Boards/Commissions

Charter Review Board
Civil Service Board
Eastport Community Redevelopment Agency
Town Center Community Redevelopment Agency

Order of Preference

Town Center CRA, Eastport CRA, Civil Service, Charter Review

Signature: Sarah Soule Jones

Date: 09/13/2015



CITY COUNCIL AGENDA ITEM

REQUESTED COUNCIL MEETING DATE 10/20/2015

Consent item: No

SUBJECT: Construction Regulation Board Appointment

DEPARTMENT: City Clerk

RECOMMENDED MOTION: Move to appoint Darrel Bofamy to the Construction Regulation Board.

SUMMARY: There is one opening on the Construction Regulation Board. Darrel Bofamy has volunteered to serve on the Board. The terms are for two (2) years and this one will expire on February 15, 2017. Mr. Bofamy's application is attached for your review. There have been no other applications received by the Clerk's Office.

Project	Funding Account
No.:	No.:

ATTACHMENTS:

1.	Darrel Bofamy application	Darrel Bofamy application.pdf
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Fenwick, Robin
Johansson, M. Jake

Created/Initiated - 10/01/2015
Final Approval - 10/15/2015

CITY OF PORT ORANGE ADVISORY BOARDS AND COMMISSIONS

VOLUNTEER APPLICATIONS

Thank you for your interest in serving the City of Port Orange. Your completion of this application is necessary so that the members of the City Council can thoroughly review each application as part of their consideration for your appointment.

Please choose the Board(s)/Commission(s) for which you wish to apply. If applying for more than one Board/Commission, please number in the order of preference.

<u>3</u>	Environmental Advisory Board	<u>2</u>	Library Advisory Board
<u>1</u>	Construction Regulation Board*		Parks and Recreation Board
	Code Enforcement Board*		Planning Commission*
	Charter Review Board		City Manager Selection Committee
	Civil Service Board		Audit & Budget Advisory Board
	Districting Commission		Youth Advisory Board

CRA Boards

 Eastport Community Redevelopment Agency*
 Town Center Community Redevelopment Agency*

Pension Boards

 General Employees*
 Police*
 Fire*

ALL OF THE ABOVE ARE SUBJECT TO THE "SUNSHINE LAW"

MEMBERS OF THE BOARDS/COMMISSIONS WITH AN ASTERIK ARE REQUIRED TO FILE FINANCIAL DISCLOSURES WITHIN 30 DAYS OF DATE OF APPOINTMENT.

1. PERSONAL

Name Darrel C Botamy Date of Birth 2-16-44
Address 5761 White Acres Lane P.O. 32127
Home Telephone 386 682 6424
E-Mail Address DCBotamy@gmail.com
Business Telephone 386 795 7660

Are you a registered voter in Port Orange? ☒ Yes ☐ No

City Council District

How long have you been a resident of Port Orange? 4 months

Are you currently serving on a City Board? Yes S. Daytona

Have you ever served on a City Board? Yes S. Daytona & DR Shores

If yes, when and which Board? S. Daytona Currently
DR Shores - 1987-91

2. REFERENCES – Please list three references (business and/or personal)

Dave Duckitt 386 547-0137 932 Countryside W.
Name, address, and telephone number P.O. #

Daniel McHone 380 S. Atlantic Ave DB 256-4760
Name, address, and telephone number

Pastor Rob Hall
Name, address, and telephone number

3. EDUCATION

High School Suitland Md Date Graduated '62

College U of Md Date Graduated _____ Degree _____

4. WORK EXPERIENCE

37 years H.R. Block Mortgage
(20 years District Mgr, 15 years Regional Director
2 years Managing Director). Currently Assoc. Broker
With Cardwell Banker

5. INTERESTS/ACTIVITIES

Exercise, Reading,
Karate, gardening and eating

6. COMMUNITY INVOLVEMENT

Past: Little League Coach,
H Lopez School Board member - chaired
Finance Committee and F.L. V.P. Boosters Club

7. WHY DO YOU DESIRE TO SERVE ON THIS/THESE BOARDS?

Like to stay in touch and serve my
community

8. A resume or separate sheet with additional information should be included. N/A

I understand the responsibilities associated with being a board member, and I have adequate time to serve if appointed.

[Signature]
Signature

7-23-14
Date

Note: If you have questions concerning the duties and responsibilities of any of the above Boards/Commissions, please contact the City Clerk's Office at 506-5563.

Return this form to:

Robin Fenwick, CMC, City Clerk,
1000 City Center Circle
Port Orange, Florida 32129

PROCLAMATION

WHEREAS, on this day, Saturday, October 24, 2015, Grace Episcopal Church, known as “the Church of Open Arms” is celebrating 125 years of joyful service to the Port Orange Community; and

WHEREAS, Grace Episcopal Church and Guild Hall is a historic site located at 4110 S. Ridgewood Avenue in Port Orange, and was added to the U.S. National Register of Historic Places on February 5, 1998; and

WHEREAS, The chapel, a historic landmark erected in 1893, is one of the oldest churches in the area still in use with two rare Tiffany stained-glass windows given to the church by Dr. Charles H. Meeker and his wife, Mary, gracing the structure; and

WHEREAS, Numerous ministries and out-reach programs are available to meet both the spiritual and physical needs of individuals and families in the area; and

WHEREAS, Grace Episcopal Church extends an invitation to all members of the Port Orange community and surrounding area to join Grace’s celebration on October 24 from 11 a.m. to 3 p.m. and includes tour of the campus, lunch, and refreshments, games and activities for children, and dinner tickets available to purchase for the Pioneer Dinner at 6 p.m.

NOW, THEREFORE, I, Allen Green, Mayor of the City of Port Orange, Florida, do hereby proclaim Saturday, October 24, 2015 as

GRACE EPISCOPAL CHURCH DAY

In the City of Port Orange, and urge all citizens to extend our sincere congratulations and best wishes to all who have worked so diligently to make this Dedication a reality.

Allen Green, Mayor
October 20, 2015

REGULAR CITY COUNCIL MEETING MINUTES
COUNCIL CHAMBERS – CITY HALL
1000 CITY CENTER CIRCLE
OCTOBER 6, 2015

THE REGULAR CITY COUNCIL MEETING of the City of Port Orange was called to order by Mayor Allen Green at 6:30 p.m.

Pledge of Allegiance

Silent Invocation

Roll Call:	Present:	Councilman Bob Ford Councilman Donald Burnette Councilman Scott Stiltner Vice Mayor Drew Bastian Mayor Allen Green
	Also Present:	Jake Johansson, City Manager Margaret T. Roberts, City Attorney Robin Fenwick, City Clerk

PUBLIC HEARING

4. Second Reading - Ordinance No. 2015-34 - LDC Amendment/Medical Marijuana Related Uses; Case No. 15-25000002

Mayor Green read Ordinance No. 2015-34.

ORDINANCE NO. 2015-34

AN ORDINANCE OF THE CITY OF PORT ORANGE, VOLUSIA COUNTY, FLORIDA AMENDING THE LAND DEVELOPMENT CODE; AMENDING CHAPTER 2 TO ADD DEFINITIONS RELATED TO MEDICAL MARIJUANA; AMENDING CHAPTER 12 TO ADD PARKING REQUIREMENTS FOR MEDICAL MARIJUANA RELATED USES; AMENDING CHAPTER 16 TO ADD MARIJUANA RELATED USES TO THE LIST OF PROHIBITED HOME OCCUPATIONS; AMENDING CHAPTER 17 TO ADD MEDICAL MARIJUANA DISPENSARIES AS A SPECIAL EXCEPTION USE IN THE COMMUNITY COMMERCIAL (CC) ZONING DISTRICT; TO ADD MEDICAL MARIJUANA CULTIVATION AND MEDICAL MARIJUANA PROCESSING FACILITIES AS SPECIAL EXCEPTION USES IN THE COMMERCIAL INDUSTRIAL (CI) AND LIGHT INDUSTRIAL (LI) ZONING DISTRICTS; AMENDING CHAPTER 18 TO ADD

SPECIAL REQUIREMENTS FOR THESE SPECIAL EXCEPTION USES; PROVIDING FOR REPEAL OF CONFLICTING ORDINANCES; PROVIDING FOR CODIFICATION; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

Motion to approve Ordinance No. 2015-34 was made by Vice Mayor Bastian, and Seconded by Councilman Burnette. Motion carried 4-1 by roll call vote with Mayor Green voting no.

AGENDA APPROVAL

Items pulled: #22 and 23

Motion to approve the agenda as amended was made by Vice Mayor Bastian and Seconded by Councilman Burnette. Motion carried unanimously by voice vote.

SPECIAL AWARDS, REPORTS, RECOGNITION AND PROCLAMATIONS

5. The 8th Annual pogTV Film Festival Awards.

Kent Donahue, Grants Coordinator/PIO, announced the winners of the 8th Annual pogTV Film Festival.

6. Report from Kemper Sports Management regarding Cypress Head Golf Course

Bob Duquette, General Manager, provided details of the status of the golf course, which is set to reopen on October 30, 2015. The grow-in of the greens is on schedule.

CITIZEN PARTICIPATION (Agenda)

7. Request for the City to process an amendment to the Gateway Center PCD zoning to remove the maximum building size restriction

Penny Cruz, Planner, explained the details of the request.

Mr. Patel advised Council that he has been involved in this type of project before. Council supported the idea of the change and project but want to see the specific plans.

Margaret Roberts, City Attorney, advised that an ordinance change is needed and will be brought back.

Ms. Cruz advised the request is for direction to Staff to bring the amendment forward since the property is owned by the City. Council agreed.

8. ADA 800 Walk - Ormond Strong

Ken Parker, citizen, provided details of the ADA 800 Walk to be held on October 24, 2015 at the Port Orange bridge. He will work with Parks and Recreation to coordinate the event. Susan Lovallo, Parks & Recreation Director, asked Council for direction regarding liability insurance requirements. Council directed Staff to work with Mr. Parker on the event.

9. Atlantic High School - Athletic Director Zach Rigney to address EMT Fees

Zach Rigney, Athletic Director, asked Council to consider waiving EMT fees for football games. They have five home games. Council supports the waiver of the fees for the football games. Mayor Green asked that the costs be monitored throughout the year so the costs can be budgeted next year.

CITIZEN PARTICIPATION (Non-Agenda – 15 minutes)

Sue Avella, citizen, asked Council to reduce the code enforcement lien against her property. Mayor Green asked the City Manager to review the issue and report back.

Monica Jones, citizen, asked Council to reduce her excess bill for a leak under her mobile home. Mayor Green asked the City Manager to review the issue without shutting her water off.

Ted Nofall, citizen, expressed concerns with the process for working with citizens on excessive fines, liens, and water bills. He asked Council to address transparency within the City specifically the read file.

COUNCIL COMMENTS

10. Comments/Concerns from Council Members

Mayor Green asked for the Council Comments to be moved to the end of the meeting as it used to be. Councilman Ford disagreed. He wants to ensure citizens are still in attendance and Council is not rushed to leave.

Councilman Ford asked for a Comprehensive Plan for the Dunlawton Corridor. He asked for a volunteer from Council to be the coordinator.

Councilman Burnette asked for a report on the timing of the lights on Dunlawton Avenue. He advised that the City Center Market will begin setting up in the mornings and evenings on Thursdays. He said the level of service on Clyde Morris Blvd. from the

County is not good enough. He would like the service augmented by the City. He asked for the water loss flow report. Mr. Johansson said it is scheduled to be ready in November.

Vice Mayor Bastian thanked Staff for the Family Days event over the weekend.

Councilman Stiltner agreed; and thanked the volunteers and the Family Days Board. He supports more events in the City. He complimented the City Manager's work minimizing the impact on neighbors of new building.

Mayor Green suggested stacking lanes along Dunlawton Avenue to help with traffic flow.

TABLED ITEMS

11. Proposed License Agreement for Waters Edge at Port Orange Homeowners Association, Inc. (Tabled from September 22, 2015)

Motion to pull Item #11 from the table for further discussion and vote was made by Vice Mayor Bastian, and Seconded by Councilman Burnette. Motion carried unanimously by voice vote.

Motion to approve the item was made by Vice Mayor Bastian, and Seconded by Councilman Burnette. Motion carried unanimously by roll call vote.

CONSENT AGENDA

12. Approval of Minutes
a. September 22, 2015 - Regular City Council Meeting
13. Resolution No. 15-68 - Florida City Government Week
14. Resolution No. 15-69 - Encouraging Congress to fund the Community Development Block Grant Program
15. Resolution No. 15-70 - Voting Rights Act 50th Anniversary
16. Resolution No. 15-72 - ICMA-RC Manager 401(a) Retirement Plan
17. Resolution No. 15-74 - Lien Amnesty Program
18. FY 2016 Expenditure Authorization for AT&T Mobility Wireless Communication Services & Equipment
19. FY 2016 Expenditure Authorization for Level 3 Communications (Formerly Time Warner Telecom, Inc.)
20. FY 2016 Expenditure Authorization for SunGard Public Sector, Inc.
21. FY2016 Spending Authorization and Amendment for Aaron's Backflow Services, Inc.

22. Joint Project Agreement with Pioneer Community Development District for utility relocates for Williamson Blvd. Widening
23. Infrastructure Accounting Procedure
24. Proposed Write off of Bad Debts (Miscellaneous Receivables)
25. Utility Billing back-billing policy
26. Bid Awards and Contract Items
 - a. Street Sweeping Services Contract with USA Services of Florida, Inc. via Piggyback of Pinellas County Contract 134-0287-B (LN)
 - b. Change Order No 1 to Task Authorization No 3 to the contract for Engineering Services with Kimley-Horn and Associates, Inc.
 - c. Piggyback City of Lakeland Contract with SiteSecure, LLC for Security Systems Repairs, Maintenance, and Upgrades and approve Task Authorization No 1 Public Utilities Security System Upgrade.
 - d. Task Authorization No. 3 to the Contract for Engineering Services with Wade Trim, Inc. for Spruce View Way Water Main Design and Permitting
 - e. Change Order No 1 to Task Authorization No 1 to the contract for Engineering Services with Wade Trim, Inc.
 - f. Award RFP #15-31 for Commercial/Industrial Realtor Services
 - g. Change Order No 1 to Task Authorization No 4 to the contract for Engineering Services with Kimley-Horn and Associates, Inc.
27. FY 15/16 Edward Byrne Memorial Justice Assistance Grant (JAG) Countywide Program Support

Motion to approve Consent Agenda as amended was made by Vice Mayor Bastian, and Seconded by Councilman Burnette. Motion carried unanimously by roll call vote.

Item #22 - Joint Project Agreement with Pioneer Community Development District for utility relocates for Williamson Blvd. Widening

Vice Mayor Bastian asked for further clarification. Ms. Roberts advised the utilities need to be moved because they are in the County's right of way and will be developed for the Woodhaven Subdivision.

Mayor Green said there is almost always an issue that comes up with utility projects. He asked if the unforeseen allowance is listed by unit pricing.

Councilman Ford believes the unforeseen conditions allowance amount is too high for a project manager. Rick Wilson, Assistant Director Public Utilities, advised that the City Manager would have to approve any expenditures.

Councilman Burnette prefers the unforeseen conditions allowance being at 15% rather than 33%. He asked what the impact is for the 403 fund for this project. Mr. Johansson will provide that information to Council.

Derek LaMontange, citizen, addressed his concerns regarding the project. He does not support it.

Motion to approve the agreement without an unforeseen allowance was made by Councilman Ford, and Seconded by Councilman Burnette. Motion carried 4-1 by roll call vote with Councilman Burnette voting no.

Item #23 - Infrastructure Accounting Procedure

Motion to approve was made by Vice Mayor Bastian, and Seconded by Councilman Burnette.

Tracey Riehm, Finance Director, advised that the procedure moves away from the modified accrual process based on the Auditor's comment that Staff should begin depreciating infrastructure assets over their useful lives. Most municipalities use the standard process Staff is recommending.

Mr. Noftall asked what level the City currently meets as far as asset tracking documentation. He asked why the City chose not to go to longer depreciation terms.

Motion carried unanimously by voice vote.

REGULAR AGENDA

28. Cypress Head Clubhouse Alteration Request

Susan Lovallo, Parks & Recreation Director, asked for Council approval regarding the request from Cypress Greens for a new sign. The sign will follow all permitting requirements of the City.

Motion to approve was made by Vice Mayor Bastian, and Seconded by Councilman Burnette. Motion carried unanimously by voice vote.

29. First Reading - Ordinance No. 2015-36 - Amending Chapter 50 of the Code of Ordinances Regarding the Golf Course

Mayor Green read Ordinance No. 2015-36.

ORDINANCE NO. 2015-36

AN ORDINANCE OF THE CITY OF PORT ORANGE, VOLUSIA COUNTY, FLORIDA, AMENDING CHAPTER 50, ARTICLE IV, DIVISION 1, OF THE CODE OF ORDINANCES REGARDING THE MUNICIPAL GOLF COURSE; AMENDING SECTION 50-81 MODIFYING DEFINITIONS; AMENDING SECTION 50-83 REGARDING FEES; AMENDING SECTION 50-84 ESTABLISHING RULES FOR LEGACY PASSES; AMENDING SECTION 50-85 ESTABLISHING RULES FOR CYPRESS PASSES AND DELETING DISCOUNT CARDS; REMOVING SECTION 50-80.5 REGARDING PLAY CARDS; AMENDING SECTION 50-86 TO REMOVE FOUNDERS CLUB RULES AND ESTABLISH AMENDED PLAY CARD RULES; AMENDING SECTION 50-87 REGARDING NONRESIDENT FEES; PROVIDING FOR REPEAL OF CONFLICTING ORDINANCES; PROVIDING FOR CODIFICATION; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

Motion to approve Ordinance No. 2015-36 was made by Vice Mayor Bastian, and Seconded by Councilman Burnette.

Councilman Ford said the Golf Board supports the annual pass idea.

Councilman Burnette asked why the Parks & Recreation Director's approval authority was removed for certain situations. Ms. Lovallo is not comfortable with the authority and does not feel she needs that authority.

Motion carried unanimously by roll call vote.

30. Resolution No. 15-73 - Half Cent Sales Tax for Transportation

Mayor Green read Resolution No. 15-73.

RESOLUTION NO. 15-73

A RESOLUTION OF THE CITY OF PORT ORANGE, VOLUSIA COUNTY, FLORIDA, TO SUPPORT THE DEVELOPMENT OF LOCAL TRANSPORTATION INFRASTRUCTURE AND SERVICES; IDENTIFYING A NEED TO CONDUCT A SURVEY TO DETERMINE COMMUNITY INTERESTS AND PRIORITIES REGARDING TRANSPORTATION SYSTEMS AND FUTURE FUNDING; AND PROVIDING AN EFFECTIVE DATE.

Ms. Roberts asked for a contribution amount to be determined before the motion.

Councilman Burnette does not support the resolution. He knows there is a need for money for transportation. He doesn't believe Port Orange gets their fair share.

Councilman Ford also does not support spending taxpayer's money in a political campaign. He doesn't believe there is enough information.

Mr. Johansson advised Council that the County is asking if Council will pay for a survey to determine what projects are important to citizens.

Motion to approve Resolution No. 15-73
with a \$1.00 contribution from each
Council Member was made by Vice
Mayor Bastian, and Seconded by
Councilman Burnette. Motion carried
unanimously by roll call vote.

31. Financial Report- August 31, 2015

Ms. Riehm provided details of the financial report for the period ending August 31, 2015.

Mr. Nofall objected to the presentation. He believes it should be a complete report rather than the "cherry-picked" information provided by Staff. He asked that financial reports be provided every month of the year. He also voiced his concerns regarding the payroll issues with exempt employees.

Motion to accept was made by Vice
Mayor Bastian, and Seconded by
Councilman Ford. Motion carried
unanimously by voice vote.

COMMENTS

32. City Attorney Comments
Agreement for 5126 Ridgewood Avenue

Ms. Roberts advised Council of the agreement with Mr. Adams for 5126 Ridgewood Avenue. Mr. Adams has moved forward with his promises as discussed with Council.

Motion to approve the agreement was
made by Vice Mayor Bastian, and
Seconded by Councilman Burnette.

Mr. Nofall asked Council to set criteria for reducing liens.

Motion carried unanimously by roll call vote.

Ms. Roberts advised Council that an actuarial report has been requested but is exempt. She asked Council if they would like to release it.

Motion to release the report was made by Vice Mayor Bastian, and Seconded by Councilman Stiltner.
Motion carried 4-1 by roll call vote with Mayor Green voting no.

33. City Manager Comments

Mr. Johansson advised Council that deadlines have changed for the legislative agenda to be delivered to the Volusia Legislative Delegation. He asked Council to provide feedback prior to October 16, 2015. It is subject to change at the October 20, 2015 meeting.

Councilman Burnette would like to see flood control projects included.

Councilman Ford believes elected officials need to meet with elected officials. He agreed with adding flood control projects.

Mr. Johansson congratulated the Finance Department on their recent award for last year's budget.

COUNCIL COMMITTEE REPORTS

34. City Council Committee Reports
- a. General Employee's Pension Board – Councilman Stiltner reported that the quarter was not great. The year has positive gains though.
 - b. River to Sea TPO – Councilman Ford reported they are preparing for the major study.
 - c. YMCA – Report was provided by Ms. Riehm with the Financial Report.

ADJOURNMENT: 8:56 p.m.

Mayor Allen Green

Attest:

Robin Fenwick, CMC
City Clerk



CITY COUNCIL AGENDA ITEM

REQUESTED COUNCIL MEETING DATE 10/20/2015

Consent item: Yes

SUBJECT: Resolution No. 15-71 - Spruce Creek Rising, Inc.

DEPARTMENT: City Attorney

RECOMMENDED MOTION: Move to approve Resolution No. 15-71

SUMMARY:

Project	Funding Account
No.:	No.:

ATTACHMENTS:

1.	Reso. No. 15-71	Reso. No. 15-71 .pdf
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London, Tracy
Roberts, Margaret
Riehm, Tracey
Johansson, M. Jake

Created/Initiated - 09/22/2015
Approved - 10/12/2015
Approved - 10/15/2015
Final Approval - 10/15/2015

RESOLUTION NO. 15-71

A RESOLUTION OF THE CITY OF PORT ORANGE,
VOLUSIA COUNTY, FLORIDA; SUPPORTING THE
EFFORTS OF SPRUCE CREEK RISING, INC., A NON-
PROFIT ORGANIZATION; AND PROVIDING AN EFFECTIVE
DATE.

WHEREAS, the City Council have heard and considered the evidence and arguments by Robert W. Lloyd, Esq. and Edward S. Donini, Esq., Officers and Directors of the Non-Profit corporation, Spruce Creek Rising, Inc.; and

WHEREAS, the City Council has determined that the goals and actions of said Non-Profit Corporation are bona fide, in its efforts to stop further destruction of the waterway known as The Spruce Creek Waterway; and

WHEREAS, the City Council having determined that a substantial portion of said waterway lies in the jurisdiction of the City of Port Orange; and

WHEREAS, the City Council has further confirmed, by unanimous vote, on August 18, 2015, that it is in the best interests of the City of Port Orange to support the said efforts of Spruce Creek Rising, Inc.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF PORT ORANGE, VOLUSIA COUNTY, FLORIDA:

Section 1. To allow them access to the records, studies, maps, photographs, films and documents, concerning or related to The Spruce Creek Waterway, which are within the possession or control of the City of Port Orange.

Section 2. To allow them to have copies of any items listed in Section 1 above, without charge, as long as Spruce Creek Rising, Inc., remains in its present, non-profit status.

Section 3. To allow Spruce Creek Rising, Inc. to have access to the officers, agents and employees of the City who have possession of any such items listed in Section 1 above or have information regarding The Spruce Creek Waterway.

Section 4. To honor reasonable requests by Spruce Creek Rising, Inc. to have the city manager of the City write letters to, or otherwise correspond with, any other cities, towns, counties, state agencies, officials and departments, Federal agencies, officials and departments and organizations and any public officials which correspondences would assist Spruce Creek Rising, Inc. in their said efforts.

Section 5. To lend such continuous support to Spruce Creek Rising, Inc., in all venues, including City, County, State, and Federal.

Section 6. To allow the agents, servants and employees, of the City of Port Orange, to assist the said work of Spruce Creek Rising, Inc., in any reasonable way, shape or form, as directed by the city manager.

Section 7. To have the said Officers and Directors of Spruce Creek Rising, Inc., render periodic reports, to this City Council, and, when necessary, appear before this body to render updates on the progress of Spruce Creek Rising, Inc.

Section 8. To consider additional requests, by Spruce Creek Rising, Inc., for any future Resolutions which may assist them in said cause.

Section 9. This resolution shall become effective immediately upon adoption.

MAYOR ALLEN GREEN

ATTEST:

Robin L. Fenwick, CMC, City Clerk

Adopted on the _____ day of

Reviewed and Approved: _____
City Attorney



CITY COUNCIL AGENDA ITEM

REQUESTED COUNCIL MEETING DATE 10/20/2015

Consent item: Yes

SUBJECT: Resolution No. 15-75 - Acceptance of the FY 2015 CDBG grant funding.

DEPARTMENT: City Manager

RECOMMENDED MOTION: Move to approve Resolution 15-75 to accept the FY 2015 CDBG funding.

SUMMARY: Each year the city develops and approves a Community Development Block Grant (CDBG) Action Plan to utilize CDBG funding to improve our community's low- and moderate-income areas. Based on a formula, the city's funding allocation for FY 2015 is \$258,112.00. Attached is the acceptance resolution.

Project	Funding Account
No.:	No.:

ATTACHMENTS:

1.	Reso. No. 15-75	Reso. No. 15-75.pdf
2.	CDBG 2015 Funding Agreement	Port Orange CDBG Funding Agreement 2015.pdf
3.	CDBG 2015 Funding Conditions	Port Orange CDBG Special Conditions 2015.pdf

Donahue, Kent
Roberts, Margaret
Johansson, M. Jake

Created/Initiated - 10/15/2015
Approved - 10/15/2015
Final Approval - 10/15/2015

RESOLUTION NO. 15-75

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PORT ORANGE, VOLUSIA COUNTY, FLORIDA, AUTHORIZING THE MAYOR AND CITY MANAGER TO ACCEPT FINANCIAL GRANT ASSISTANCE FROM THE U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT FOR THE CITY'S FY2015-2016 COMMUNITY DEVELOPMENT BLOCK GRANT ACTION PLAN; AUTHORIZING THE MAYOR AND CITY CLERK TO EXECUTE AGREEMENTS OR CONTRACTS; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the U.S. Department of Housing and Urban Development provides financial assistance under their Community Development Block Grant (CDBG) Program for the development of viable communities by conducting activities that improve the quality of life by providing of decent housing and a suitable living environment and expanding economic opportunities, principally for persons and areas of low and moderate income; and

WHEREAS, the City Council approved the City of Port Orange's FY 2015-2016 annual Action Plan to conduct the White Acres Public Infrastructure/Sanitary Sewer Project and install Audible Pedestrian Crossing Signals; and

WHEREAS, the City Council of the City of Port Orange desires to accept the financial grant assistance from the U.S. Department of Housing and Urban Development's CDBG program.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF PORT ORANGE, VOLUSIA COUNTY, FLORIDA:

Section 1. The Mayor and City Clerk of the City of Port Orange are hereby authorized to execute agreements or contracts necessary to implement this Resolution.

Section 2. The City accepts the CDBG grant award in the amount of \$258,112.00.

Section 3. This resolution shall become effective immediately upon adoption.

MAYOR ALLEN GREEN

ATTEST:

Robin L. Fenwick, CMC, City Clerk

Adopted on the day of

Reviewed and Approved: _____
City Attorney

Funding Approval/Agreement

Title I of the Housing and Community
Development Act (Public Law 930383)
HI-00515R of 20515R

U.S. Department of Housing and Urban Development
Office of Community Planning and Development
Community Development Block Grant Program

OMB Approval No.
2506-0193 (exp 5/31/2018)

1. Name of Grantee (as shown in item 5 of Standard Form 424) Port Orange	3a. Grantee's 9-digit Tax ID Number 596000412	3b. Grantee's 9-digit DUNS Number 080827082
2. Grantee's Complete Address (as shown in item 5 of Standard Form 424) 1000 City Center Cir Port Orange, FL 32129	4. Date use of funds may begin 10/01/2015	
	5a. Project/Grant No. 1 B-15-MC-12-0053	6a. Amount Approved \$258,112
	5b. Project/Grant No. 2	6b. Amount Approved

Grant Agreement: This Grant Agreement between the Department of Housing and Urban Development (HUD) and the above named Grantee is made pursuant to the authority of Title I of the Housing and Community Development Act of 1974, as amended, (42 USC 5301 et seq.). The Grantee's submissions for Title I assistance, the HUD regulations at 24 CFR Part 570 (as now in effect and as may be amended from time to time), and this Funding Approval, including any special conditions, constitute part of the Agreement. Subject to the provisions of this Grant Agreement, HUD will make the funding assistance specified here available to the Grantee upon execution of the Agreement by the parties. The funding assistance specified in the Funding Approval may be used to pay costs incurred after the date specified in item 4 above provided the activities to which such costs are related are carried out in compliance with all applicable requirements. Pre-agreement costs may not be paid with funding assistance specified here unless they are authorized in HUD regulations or approved by waiver and listed in the special conditions to the Funding Approval. The Grantee agrees to assume all of the responsibilities for environmental review, decision making, and actions, as specified and required in regulations issued by the Secretary pursuant to Section 104(g) of Title I and published in 24 CFR Part 58. The Grantee further acknowledges its responsibility for adherence to the Agreement by sub-recipient entities to which it makes funding assistance hereunder available.

U.S. Department of Housing and Urban Development (By Name) Gary Causey		Grantee Name Port Orange			
Title HUD Community Planning and Development Director		Title			
Signature	Date (mm/dd/yyyy) 09/23/2015	Signature	Date (mm/dd/yyyy)		
7. Category of Title I Assistance for this Funding Action (check only one) ☒ a. Entitlement, Sec 106(b) ☐ b. State-Administered, Sec 106(d)(1) ☐ c. HUD-Administered Small Cities, Sec 106(d)(2)(B) ☐ d. Indian CDBG Programs, Sec 106(a)(1) ☐ e. Surplus Urban Renewal Funds, Sec 112(b) ☐ f. Special Purpose Grants, Sec 107 ☐ g. Loan Guarantee, Sec 108	8. Special Conditions (check one) ☐ None ☒ Attached	9a. Date HUD Received Submission (mm/dd/yyyy) 08/12/2015	10. check one ☒ a. Orig. Funding Approval ☐ b. Amendment Amendment Number		
		9b. Date Grantee Notified (mm/dd/yyyy) 08/17/2015			
		9c. Date of Start of Program Year (mm/dd/yyyy) 10/01/2015			
	11. Amount of Community Development				
	Block Grant		FY (2015)	FY ()	FY ()
	a. Funds Reserved for this Grantee		\$258,112		
	b. Funds now being Approved		\$258,112		
c. Reservation to be Cancelled (11a minus 11b)					
12a. Amount of Loan Guarantee Commitment now being Approved N/A		12b. Name and complete Address of Public Agency Port Orange 1000 City Center Cir Port Orange, FL 32129			
Loan Guarantee Acceptance Provisions for Designated Agencies: The public agency hereby accepts the Grant Agreement executed by the Department of Housing and Urban Development on the above date with respect to the above grant number(s) as Grantee designated to receive loan guarantee assistance, and agrees to comply with the terms and conditions of the Agreement, applicable regulations, and other requirements of HUD now or hereafter in effect, pertaining to the assistance provided it.		12c. Name of Authorized Official for Designated Public Agency			
		Title			
		Signature			

HUD Accounting use Only

Batch	TAC	Program	Y	A	Reg	Area	Document No.	Project Number	Category	Amount	Effective Date (mm/dd/yyyy)	F
	153											
	176											
			Y					Project Number		Amount		
			Y					Project Number		Amount		
Date Entered PAS (mm/dd/yyyy)		Date Entered LOCCS (mm/dd/yyyy)		Batch Number		Transaction Code		Entered By		Verified By		

8. Special Conditions.

- (a) The period of performance for the funding assistance specified in the Funding Approval (“Funding Assistance”) shall begin on the date specified in item 4 and shall end on September 1, 2022. The Grantee shall not incur any obligations to be paid with such assistance after September 1, 2022. (Source: 31 U.S.C. 1551-1557)
- (b) If Funding Assistance will be used for payment of indirect costs pursuant to 2 CFR 200, Subpart E - Cost Principles, attach a schedule in the format set forth below to the executed Grant Agreement that is returned to HUD. The schedule shall identify each department/agency that will carry out activities with the Funding Assistance, the indirect cost rate applicable to each department/agency (including if the de minimis rate is charged per 2 CFR §200.414), and the direct cost base to which the rate will be applied. Do not include indirect cost rates for subrecipients.

<u>Administering Department/Agency</u>	<u>Indirect cost rate</u>	<u>Direct Cost Base</u>
_____	_____ %	_____
_____	_____ %	_____
_____	_____ %	_____

- (c) The grantee shall comply with requirements established by the Office of Management and Budget (OMB) concerning the Universal Numbering System and System for Award Management (SAM) requirements in Appendix A to 2 CFR part 25, and the Federal Funding Accountability and Transparency Act (FFATA) in Appendix A to 2 CFR part 170.
- (d) The grantee, unit of general local government or Insular Area that that directly or indirectly receives CDBG funds may not sell, trade, or otherwise transfer all or any such portion of such funds to another such entity in exchange for any other funds, credits or non-Federal considerations, but must use such funds for activities eligible under title I of the Housing and Community Development Act of 1974 (the Act). (Source: P.L. 113-235, Consolidated and Further Continuing Appropriations Act, 2015, Division K, Title II, Community Development Fund)
- (e) CDBG funds may not be provided to a for-profit entity pursuant to section 105(a)(17) of the Act unless such activity or project has been evaluated and selected in accordance with Appendix A to 24 CFR 570 - “Guidelines and Objectives for Evaluating Project Costs and Financial Requirements.” (Source - P.L. 113-235, Consolidated and Further Continuing Appropriations Act, 2015, Division K, Title II, Community Development Fund)

- (e) The grantee shall ensure that no CDBG funds are used to support any Federal, State, or local projects that seek to use the power of eminent domain, unless eminent domain is employed only for a public use. For the purposes of this requirement, public use shall not be construed to include economic development that primarily benefits private entities. Any use of funds for mass transit, railroad, airport, seaport or highway projects as well as utility projects which benefit or serve the general public (including energy-related, communication-related, water-related and wastewater-related infrastructure), other structures designated for use by the general public or which have other common-carrier or public-utility functions that serve the general public and are subject to regulation and oversight by the government, and projects for the removal of an immediate threat to public health and safety or brownfields as defined in the Small Business Liability Relief and Brownfields Revitalization Act (Public Law 107-118) shall be considered a public use for purposes of eminent domain. (Source: P.L. 113-235, Consolidated and Further Continuing Appropriations Act, 2015, Division K, Title IV, General Provisions, Section 407)
- (f) **E.O. 12372-Special Contract Condition - Notwithstanding any other provision of this agreement, no funds provided under this agreement may be obligated or expended for the planning or construction of water or sewer facilities until receipt of written notification from HUD of the release of funds on completion of the review procedures required under Executive Order (E.O.) 12372, Intergovernmental Review of Federal Programs, and HUD's implementing regulations at 24 CFR Part 52. The recipient shall also complete the review procedures required under E.O. 12372 and 24 CFR Part 52 and receive written notification from HUD of the release of funds before obligating or expending any funds provided under this agreement for any new or revised activity for the planning or construction of water or sewer facilities not previously reviewed under E.O. 12372 and implementing regulations.**



CITY COUNCIL AGENDA ITEM

REQUESTED COUNCIL MEETING DATE 10/20/2015

Consent item: Yes

SUBJECT: Resolution No. 15-76 - Cypress Head Golf Course Fees

DEPARTMENT: Parks & Recreation

RECOMMENDED MOTION: Move to approve Resolution No. 15-76.

SUMMARY: This resolution sets forth the maximum fees to be charged to residents and non-residents for use of the municipal golf course which includes the maximum fee for the newly created Cypress Pass. This resolution also clarifies the collection and use of surcharge funds.

Project	Funding Account
No.:	No.:

ATTACHMENTS:

1.	Resolution No. 15-76	.pdf
2.	Draft Nov. 2015 Fees	draftfees2015.xlsx

Lovallo, Susan	Created/Initiated - 10/15/2015
Lovallo, Susan	Approved - 10/15/2015
Jones, Matthew	Approved - 10/15/2015
Riehm, Tracey	Approved - 10/15/2015
Roberts, Margaret	Approved - 10/15/2015
Johansson, M. Jake	Final Approval - 10/15/2015

RESOLUTION NO. 15-76

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PORT ORANGE, VOLUSIA COUNTY, FLORIDA, ESTABLISHING REVISED CHARGES AND FEES RELATING TO MUNICIPAL GOLF COURSE; PROVIDING FOR REPEAL OF CONFLICTING ORDINANCES; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Section 166.201, Florida Statutes, provides for municipalities in the State of Florida to impose user charges or fees by ordinances; and

WHEREAS, Chapter 50, Article IV, Code of Ordinances, City of Port Orange, Florida, authorizes the imposition of charges and fees relating to municipal golf course activities; and

WHEREAS, Cypress passes and Trail passes, offered on an annual basis, shall be prorated on a monthly basis for the first six months of each pass year beginning October 1st and shall not be eligible for any further proration thereafter; and

WHEREAS, the Parks and Recreation Director has reviewed and recommended approval of the golf course charges and fees set forth in this resolution.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF PORT ORANGE, VOLUSIA COUNTY, FLORIDA:

Section 1. Pursuant to Section 50-83 of the Code of Ordinances, City of Port Orange, Florida, the following maximum fees are established for use of the municipal golf course by residents:

GOLF ROUND

DAILY

Player (per person) Green Fee \$46.00 (plus sales tax)

Junior (per person) Green Fee \$17.00 (plus sales tax)

Cart Rental (per person) \$23.00 (plus sales tax)

LEGACY PASS

ANNUAL

Legacy Pass Holder \$1,700.00 (plus sales tax)

Spouse \$900.00 (plus sales tax)

Junior	\$400.00 (plus sales tax)
Transfer fee (with qualifying sale of property)	\$250.00 (plus sales tax)

CYPRESS PASS*

ANNUAL

Cypress Pass Holder	\$2,100.00 (plus sales tax)
Spouse	\$1,200.00 (plus sales tax)

*May be prorated on monthly basis (up to 6 months)

TRAIL*

ANNUAL

Trail Pass	\$1,500.00 (plus sales tax)
------------	-----------------------------

*May be prorated on monthly basis (up to 6 months)

PLAY CARD

SEASONAL

10 Play Card	\$250.00 (plus sales tax)
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Section 2. Pursuant to Section 50-87 of the Code of Ordinances, City of Port Orange, Florida, the following maximum fees are established for use of the municipal golf course by nonresidents:

Nonresidents may be assessed fees up to twenty-five percent (25%) greater than those set forth in Section 1 above.

Section 3. Surcharge.

Every player using the golf course shall pay a \$1.00 surcharge for each 9 hole round of golf played, unless said round is offered for exchange as barter for third party wholesaler service pursuant to a written agreement. This surcharge shall be assessed in addition to the charges outlined above in Sections 1 and 2. Fifty percent (50%) of the total surcharge collected, less applicable sales tax, shall be reserved for capital expenditures made for clubhouse, golf course, or golf course related facilities improvements, renovations or restorations. Capital expenditures shall be defined as those expenditures exceeding \$5,000.00 in cost and useful life of one year or more.

Section 4. Sales Tax.

Applicable sales tax shall be added to the fees and surcharge established herein.

Section 5. This Resolution shall supersede Resolution 12-44.

Section 6. The charges and fees established herein shall become effective immediately upon adoption.

MAYOR ALLEN GREEN

ATTEST:

Robin L. Fenwick, CMC, City Clerk

Passed and adopted on the day of

Reviewed and Approved: _____
Assistant City Attorney

	7 am-10 am	10 am -12 pm	12 pm- 2 pm	2 pm - Close
November 1 - 29, 2015 DRAFT				
18 Hole - Port Orange Resident	\$37	\$33	\$27	\$18
18 Hole - Florida Resident	\$39	\$35	\$29	\$19
18 Hole - Non-Resident	\$41	\$37	\$31	\$20
9 hole - Port Orange Resident	N/A	N/A	\$19	\$13
9 hole - Florida Resident	N/A	N/A	\$20	\$14
9 hole - Non-Resident	N/A	N/A	\$21	\$15
9 Hole Walking (All Players)	N/A	N/A	\$17	\$12
Junior 18 holes(18 years or younger)	\$30	\$25	\$18	\$9
Junior 9 holes	N/A	N/A	\$10	\$7
Legacy Pass Single-GF only	\$1,051.82			
Legacy Pass With Spouse-GF only	\$1,474.44			
Cypress Pass Single-Port Orange-GF only	\$1,646			
Cypress Pass with Spouse P.O. GF only	\$2,563			
Cypress Pass Single Non Res- GF only	\$1,795			
Cypress Pass with Spouse-Non Res- GF only	\$2,795			
Trail Fee	\$1,202.08			
Draft				
Daily rates include surcharge fee.		Passes do not include surcharge fee.		



CITY COUNCIL AGENDA ITEM

REQUESTED COUNCIL MEETING DATE 10/20/2015

Consent item: Yes

SUBJECT: Approval of the Public Utilities Department reorganization

DEPARTMENT: Public Utilities

RECOMMENDED MOTION: Move to approve the Public Utilities Department reorganization.

SUMMARY: In accordance with Section 4.05 of the Port Orange Code of Ordinances, the Public Utilities Department is requesting consideration for reorganizing. The purpose of the Public Utilities Department reorganization is to improve accountability, improve span of control, provide for better cost accounting between water and wastewater activities, provide for succession and career pathing and provide for excellence of service in support of public health and safety.

The Interim City Manager presented the Public Utilities department reorganization to City Council on August 11th during the utility fund budget work session.

Over the past several months Public Utilities staff conducted a series of internal meetings to review the needs of the organization, service level expectations and succession planning needs of the staff. A reorganization (restructuring) of the department was born from these discussions. The concept is to provide a structure that provides for improved accountability by having specific managers responsible for all activities within their divisions, improved span of control by reducing the number of divisions, improved cost accounting between water and wastewater by aligning costs for specific activities, and provides for succession planning/career pathing. The reorganization centers on the integration of the maintenance function into the plant operations. This reorganization will place the Public Utilities Department in a better position moving forward to manage future challenges.

Project	Funding Account
No.:	No.:

ATTACHMENTS:

1.	Existing Org Chart	Existing Org Chart.pdf
2.	Proposed Org Chart	Proposed Org Chart.pdf
3.	Utilities Reorganization Concept	PU Reorg Concept rev1.docx

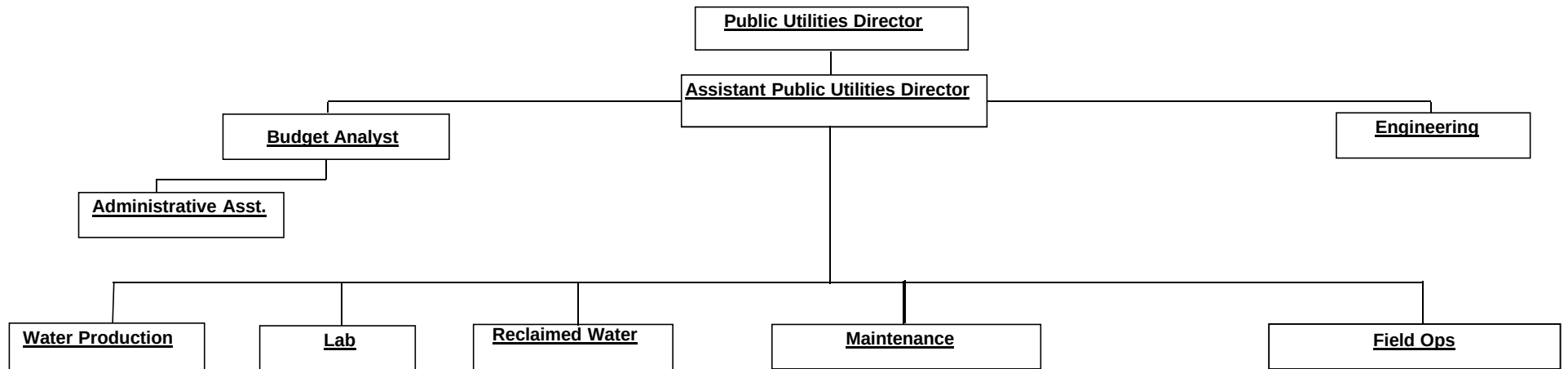
Wiggins, Julia
Wilson, Rick

Created/Initiated - 09/30/2015
Approved - 09/30/2015

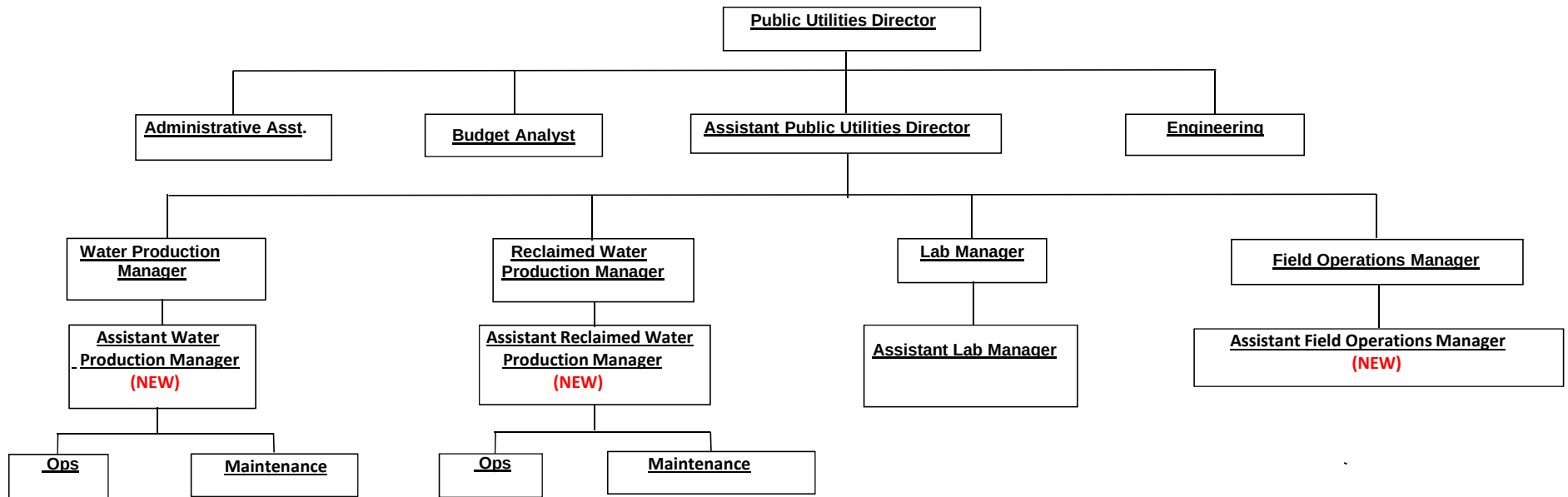
Neff, Andrew
Riehm, Tracey
Johansson, M. Jake

Approved - 10/02/2015
Approved - 10/07/2015
Final Approval - 10/15/2015

PUBLIC UTILITIES DEPARTMENT
ORGANIZATIONAL CHART
EXISTING



PUBLIC UTILITIES DEPARTMENT
ORGANIZATIONAL CHART
REVISED



Public Utilities Reorganization

Integration of Maintenance into Plants

Purpose: To improve accountability, improve span of control, provide for better cost accounting between water and wastewater activities, provide for succession and career pathing and provide for excellence of service in support of public health and safety

Concept: Integrate maintenance functions into the water and reclaimed water plant functions. The current Maintenance Division would be placed into the existing organizational structures of the plants with 1 Chief Mechanic, 2 Mechanics, 2 Service Workers and 1 I&C Technician at the Water Plant and 1 Chief Mechanic, 2 Mechanics, 1 Service Worker and 1 I&C Technician at the Reclaimed Water Plant along with the 3 Lift Station Mechanics.

To manage the increased responsibilities Assistant Plant Managers positions would be created via a reclassification from existing shift lead operator positions. This provides succession for a potential candidate to move into the Plant Manager position and allows migration of mechanics into the operational field. If Mechanics, Service Workers or I&C Techs desire to move up through the maintenance arena then they would be about to move up to the Chief Mechanic position. The existing Superintendent position will be reclassified as a second Chief Mechanic at the other plant affording a supervisory opportunity for advancement.

Capability will also be increased by requiring electrical expertise with the Chief Mechanic position. Position qualifiers will include an electrical journeyman's certification or higher or an electrical contractor's license. Concept includes internal advertisement within the City under the current job description. If not internally filled, then advertise publically with a modified job description with upgraded electrical expertise included.

Succession planning is also enhanced by creating an Assistant Division Manager position for the Field Operations Division from an existing Foreman position along similar lines as the Plants. This provides for an opportunity for a Foreman to advance to this role and assist the Division Manager and develop the needed skills for career development. The Foreman position will be reclassified to a Supervisor position to better align with similar positions in the City. The current Foreman will be afforded an opportunity to serve temporarily in the Assistant role to determine their suitability for the position, which will be competitively filled upon completion of the trial period.

More accountability is attained since the Plant Managers would oversee maintenance work accomplished at their facilities. Plant Managers would work out the space, tool and storage issues for the people assigned to their facilities.

To provide for succession planning and increased capability, mechanics and service workers will be rotated periodically to familiarize themselves with the other facility. This will occur for a limited number of positions at one time to ensure continuity at the originating plant. Duty assignments will be provided by the Plant Manager/Assistant Plant Manager to the Chief Mechanic.

Current budgeting and PO administration will remain in place during a transition period and the current maintenance budgets will be divided between the plants in the next (FY17) budget cycle.



CITY COUNCIL AGENDA ITEM

REQUESTED COUNCIL MEETING DATE 10/20/2015

Consent item: Yes

SUBJECT: Notification of Emergency Replacement of Storm Water Drainage Pipe Along Riverside Drive for Cost Exceeding \$25,000.00

DEPARTMENT: Public Works

RECOMMENDED MOTION: Notification of emergency replacement of collapsed storm water drainage pipe along Riverside Drive for cost exceeding \$25,000.00.

SUMMARY: An existing public storm water drainage pipe across and under the property at 5444 Riverside Drive and at least two others unexpectedly collapsed the third week of September 2015, creating a potential safety hazard to life and property and an emergency. Accordingly, an emergency purchase order was issued to Tomoka Construction Services Inc. for \$33,792.00 to replace the collapsed pipe.

The scope of work includes removal of the collapsed 18"x24" corrugated metal pipe and the installation of approximately 250 linear feet of reinforced concrete pipe, replacement of a driveway apron, and sodding of all disturbed areas.

As required by the City's Purchasing Ordinance and emergency purchasing policy, the City Council is hereby notified as the cost of the emergency work exceeds the purchasing threshold of \$25,000.00.

Project No.: DIP001 Funding Account No.: 41218005416397

ATTACHMENTS:

1.	Tomoka Construction Services	Tomoka Construction Services proposal 5444 Riverside Drive.pdf
2.	Purchase Order to Tomoka Construction	Purchase Order to Tomoka Construction.pdf
3.	City Emergency Purchasing Policy	Section 12 City Emergency Purchasing Policy.pdf
4.	Standard Contract for Services	Tomoka Construction Company, Inc. Standard Contract for Services with City of Port Orange.pdf

Cockcroft, Kynah
Adumuah, Branford

Created/Initiated - 10/08/2015
Approved - 10/08/2015

Gomez, Joseph	Approved - 10/08/2015
Riehm, Tracey	Approved - 10/15/2015
Roberts, Margaret	Approved - 10/15/2015
Johansson, M. Jake	Final Approval - 10/15/2015



City of Port Orange
1000 City Center Circle
Port Orange, FL

September 23, 2015

Job: 5444 Riverside Dr- Stormwater Repair

Plans: NA

Proposal

Scope of Work: Mobilize At Project Location. Dewater Approx 250 LF For Removal & Installation Of New Storm Water Piping. Remove Existing 18" x 24" Corrugated Metal Piping/ Install Approx 250 LF Of 24" RCP Piping. Replace 1 EA Drainage Apron & Approx 980 SF Of 4" 3000 PSI Drives. Sod All Disturbed Areas With Floratam Sod.

Lump Sum: \$33,792.00 ✓

Alternate: All Above Scope of Work; Substituting Proposed RCP With ADS Piping

Lump Sum: \$30,792.00

Not Included: Permits, Bonds, Landscaping, Utility Relocations



Kim K Babcock, Vice President

Accepted By / Date



CITY OF PORT ORANGE

PURCHASE ORDER

PAGE 1

P.O. NUMBER

070489

PLEASE SEND INVOICE IN DUPLICATE TO:

ACCOUNTS PAYABLE

P.O. BOX 291759

PORT ORANGE, FL 32129-1759

TELEPHONE 386-506-5500

FAX 386-506-5711

THIS NUMBER MUST APPEAR ON ALL
PACKING LISTS, LABELS, BILL OF LADING
CORRESPONDENCE.

DATE:	9/25/15
STATE TAX EXEMPT #85-8012621673C-3	
FED. EXCISE TAX #59-80-0185K	
REQUISITION #	0000135309

VENDOR:

TOMOKA CONSTRUCTION SERVICES I
810 FENTRESS CT
STE#140
DAYTONA BEACH FL 32117

SHIP TO:

CITY OF PORT ORANGE
PUBLIC WORKS
407 VIRGINIA AVE
PORT ORANGE FL 32127

(386)274-3120 FAX: (386)274-3170

VENDOR#		258832		DATE NEEDED:		9/25/15		FOB:		
#	QTY	UOM	COMMODITY # / DESCRIPTION		ACCOUNT #		UNIT PRICE		TOTAL COST	
133792	BLK		REPLACE FAILED STORM WATER DRAIN AGE PIPE at 5444 Riverside Drive. Mobilize at project location and dewater appr oximately 250 linear feet for removal and installat ion of new storm water pipe. Remove existing 18" x 24" corrugated metal pipe and install approxi mately 250 LF of 24" rcp pipe. Replace 1 drainage apron and approximately 980 sq of 4" 3000 psi dri ve ways. Sod all disturbed areas/floritam sod. Vendor proposal dated 9/23/15. Emergency purchase must b e ratified by Council at the next scheduled mee ting. 9-25-15 JAG		41218005416397		1.00		33792.00	
REMARKS							TOTAL			
FY 15 EMERGENCY REPAIR DRAINAGE PIPE										

CONDITIONS:

1. The right is reserved to cancel this order if not filled within the contract time.
2. The conditions of this order are not to be modified by any verbal understanding.
3. Acceptance of this order includes acceptance of all terms, prices, delivery instructions, specifications and conditions as stated.
4. The purchase order number must appear on ALL packages, invoices, and correspondence.
5. The CITY ASSUMES NO RESPONSIBILITY FOR GOODS DELIVERED WITHOUT THE AUTHORITY OF A PROPERLY EXECUTED PURCHASE ORDER.
6. Please forward all invoices to Accounts Payable at the above listed address.
7. As per additional terms and conditions on vendor application.

PURCHASING

X

DATE

9/25/15

IMPORTANT - TO RECEIVE PAYMENT ALL INVOICES AND SHIPPING LABELS MUST SHOW PURCHASE ORDER NUMBER & DATE



CITY OF PORT ORANGE

PURCHASE ORDER

PAGE 2

P.O. NUMBER

070489

THIS NUMBER MUST APPEAR ON ALL
PACKING LISTS, LABELS, BILL OF LADING
CORRESPONDENCE.

PLEASE SEND INVOICE IN DUPLICATE TO:

ACCOUNTS PAYABLE

P.O. BOX 291759

PORT ORANGE, FL 32129-1759

TELEPHONE 386-506-5500

FAX 386-506-5711

DATE:	9/25/15
STATE TAX EXEMPT #85-8012621673C-3	
FED. EXCISE TAX #59-80-0185K	
REQUISITION #	0000135309

VENDOR:

TOMOKA CONSTRUCTION SERVICES I

SHIP TO:

CITY OF PORT ORANGE

(386)274-3120 FAX: (386)274-3170

VENDOR: 258832		DATE NEEDED: 9/25/15	FOB:			
#	QTY	UOM	COMMODITY # / DESCRIPTION	ACCOUNT #	UNIT PRICE	TOTAL COST
1			REPLACE FAILED STORM WATER DRAINAGE PIPE ***** ***** PROJECT #: DIP001			
REMARKS FY 15 EMERGENCY REPAIR DRAINAGE PIPE					TOTAL	33792.00

CONDITIONS:

1. The right is reserved to cancel this order if not filled within the contract time.
2. The conditions of this order are not to be modified by any verbal understanding.
3. Acceptance of this order includes acceptance of all terms, prices, delivery instructions, specifications and conditions as stated.
4. The purchase order number must appear on ALL packages, invoices, and correspondence.
5. The CITY ASSUMES NO RESPONSIBILITY FOR GOODS DELIVERED WITHOUT THE AUTHORITY OF A PROPERLY EXECUTED PURCHASE ORDER.
6. Please forward all invoices to Accounts Payable at the above listed address.
7. As per additional terms and conditions on vendor application.

PURCHASING

X

DATE

9/25/15

IMPORTANT - TO RECEIVE PAYMENT ALL INVOICES AND SHIPPING LABELS MUST SHOW PURCHASE ORDER NUMBER & DATE

COPOR

SECTION 12

EMERGENCY PURCHASES

An emergency exists when there is a breakdown in any City service or when supplies are needed for immediate work which may be essential to, or may virtually affect the public health, safety, or general welfare. Existence of an emergency is determined by specific Department Heads, subject to review by the City Manager and/or Finance Director or his designee, or Comptroller. Emergency is further defined as a situation where probable legal problems and/or adverse financial consequences could result and sufficient time is not available to follow the bid requirements of the Purchasing Ordinance.

12.01 HOW TO HANDLE:

In case of any apparent emergency the immediate purchase of supplies, equipment or contractual services, the Department Head is authorized to secure by open market procedure as set forth, at the lowest and/or best obtainable prices, and terms, any such supplies, equipment or contractual service, that affects the public health, safety and welfare. Such action shall be reported to the Purchasing Manager at the beginning of the following work day and such reports will be presented to the City Manager.

1. During Normal Working Hours

If an emergency occurs during working hours a telephone call can be made to the Purchasing Manager and a purchase order number will be orally given, after the proper information is related. A requisition must be entered into the system to be processed through the Finance Department and then to the Purchasing Division. If the emergency is over the threshold limits outlined previously than a hand written report and/or an Agenda Item will follow immediately (within twenty-four (24) hours) to be presented to the City Manager and/or City Council.

2. Non-Working Hours:

If an emergency occurs during non-working hours or on weekends, the appropriate Dept. Head or his designee is authorized to correct the problem. Such emergency actions must be reported to the Purchasing Manager and the City Manager, within twenty-four hours. The requisition should be entered into the computer and all paper work must follow within one (1) working day, but not later than 72 hours after the emergency situation occurs.

In a situation such as this, the City Manager is granted authority to correct the problem even if the price exceeds twenty-five thousand dollars (\$25,000.00). Unless sole source, or in the case of a contractual project that was bid and a change order is required, at least three telephone bids, when possible; if under declared EMERGENCY CONDITIONS, are required and an immediate written report must be made to the City Council if the price exceeds twenty-five thousand dollars (\$25,000.00). Where possible, City Council approval must be received prior to authorization to

purchase. All emergency requisitions must be entered into the computer immediately with their written reports routed as stated above.

3. Disaster Level / Conditions

A disaster can occur at any time and specific policies and procedures written for catastrophic emergencies such as hurricanes, tornados, and other natural disasters, including such disasters as chemical spills and fires are in place to handle these situations. See the Port Orange Comprehensive Emergency Management Plan for information.



CITY OF PORT ORANGE STANDARD CONTRACT FOR SERVICES

This Standard Contract for Services ("Contract") is entered into this ____ day of _____, **2015**, 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 **TOMOKA CONSTRUCTION COMPANY, INC.**, a Florida corporation whose principal address is 810 Fentress Court, Suite 140, Daytona Beach, Florida 32117 ("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 City of Port Orange with stormwater system repair located at 5444 Riverside Drive, more specifically described in Exhibit "1" attached hereto.
- (b) The time, manner and place for performance of such services shall be:

Term: Notwithstanding the date of execution, the term of this Contract shall be effective commencing on September 23, 2015 and shall continue until December 30, 2015.

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. Contractor shall not deliver goods or services without a written Purchase Order(s), signed by an authorized agent of the City of Port Orange.

Time and Essence: Contractor acknowledges that time is of the essence for the Purchase Order(s) 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 Purchase Order(s) 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 Contractor subject to a limit up to but not to exceed Thirty-Three Thousand Seven Hundred Ninety-Two and 00/100 Dollars (\$33,792.00) for the term of the 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. Contract Documents. The following forms are attached as Exhibit "2" and must be completed, signed, witnessed and notarized as indicated, and returned to the City prior to the commencement of any services by Contractor under this Contract:

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

4. Contract Administration. Branford N. Adumuah, Director of Public Works, 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 21 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. 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.

(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 and A.G. Pifer Construction Co., Inc. as additional insureds. 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 Bodily 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. **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.

18. **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.

19. 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.

20. 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.

21. 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.

22. 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.

23. 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.

24. Additional Provisions. As may have been outlined in Exhibit "1" 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.

25. 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.

26. 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: Branford N. Adumuah, Director of Public Works 1000 City Center Circle Port Orange, Florida 32129 (386) 506-5575
Contractor:	Tomoka Construction Services, Inc. Attention: Rick J. Abercrombie, Director 810 Fentress Court Suite 140 Daytona Beach, Florida 32117 (386) 274-3120 – Business Telephone TomokaConstruct@bellsouth.net

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.

27. 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.

28. 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 page intentionally left blank]

Witnesses:

TOMOKA CONSTRUCTION SERVICES, INC.

Printed Name: _____

Printed Name: _____

By: _____

Rick J. Abercrombie, Director

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 FLORIDA
COUNTY OF VOLUSIA

The foregoing instrument was acknowledged before me this ____ day of _____, 2015, by Rick J. Abercrombie, as Director of Tomoka Construction Services, 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

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 _____, 2015, 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 _____, 2015, 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 5086]



City of Port Orange
1000 City Center Circle
Port Orange, FL

September 23, 2015

Job: 5444 Riverside Dr- Stormwater Repair

Plans: NA

Proposal

Scope of Work: Mobilize At Project Location. Dewater Approx 250 LF For Removal & Installation Of New Storm Water Piping. Remove Existing 18" x 24" Corrugated Metal Piping/ Install Approx 250 LF Of 24" RCP Piping. Replace 1 EA Drainage Apron & Approx 980 SF Of 4" 3000 PSI Drives. Sod All Disturbed Areas With Floratam Sod.

Lump Sum: \$33,792.00 ✓

Alternate: All Above Scope of Work; Substituting Proposed RCP With ADS Piping

Lump Sum: \$30,792.00

Not Included: Permits, Bonds, Landscaping, Utility Relocations



Kim K Babcock, Vice President

Accepted By / Date

P.O. Box 11017 • Daytona Beach, Florida 32120-1017 • Tel: 386.274.3120 • Fax: 386.274.3170

EXHIBIT "1"

Exhibit “2”

Payment and Performance Bond

(Exhibit “2” includes a total of 4 pages)

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: Tomoka Construction Services, Inc.
Principal Business Address: 810 Fentress Court
Suite 140
Daytona Beach, Florida 32117
Contact Person: Rick J. Abercrombie, Director
Phone Number: (386) 274-3120 Business Telephone

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: City Manager
Phone Number: (386) 506-5501

Amount: \$33,792.00

City Case/Project No. CC102015

Description of Work: 5444 Riverside Drive Stormwater System Repair

Project Location: 5444 Riverside Drive
Port Orange, Volusia County, Florida

Legal Description: 5444 Riverside Drive, Port Orange, FL 32127 – See Exhibit "A"

Front Page

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

5444 Riverside Drive, Port Orange, FL 32127

Full Parcel ID:

14-16-33-06-00-0090

Short Parcel ID:

6314-06-00-0090

Legal Description:

A portion of Lots Nine (9), Ten (10) and Eleven (11) of Harbor Point Subdivision, Phase III, as recorded in Map Book 35, Page 49, Public Records of Volusia County, Florida;

And the adjoining Riverside Drive 80 foot right-of-way.

EXHIBIT "A"

RETURN RECORDED DOCUMENT TO:

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

5444 Riverside Drive Stormwater System Repair

City Project No. CC102015

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, **TOMOKA CONSTRUCTION SERVICES, INC.** 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 **THIRTY-THREE THOUSAND, SEVEN HUNDRED NINETY-TWO AND 00/100 DOLLARS (\$33,792.00)**, being 100% of the cost estimate for the construction of the required improvements, 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 Standard Contract for Services having an effective date of September 23, 2015 entered into between the Principal and the City, for 5444 Riverside Drive Stormwater System Repair, 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; 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 255.05(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.

IN WITNESS WHEREOF, this performance and payment bond is executed in duplicate originals, each of which shall be deemed an original, this _____, day of _____, 2015.

Attest:

TOMOKA CONSTRUCTION SERVICES, INC.

(As to Corporate Principal) Secretary

By: _____
Rick J. Abercrombie, Director

(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.



CITY COUNCIL AGENDA ITEM

REQUESTED COUNCIL MEETING DATE 10/20/2015

Consent item: Yes

SUBJECT: Major Special Event Request – Christmas Tree Sales at Dunlawton Square Shopping Center located at 3813 Nova Road

DEPARTMENT: Community Development

RECOMMENDED MOTION: Move to approve the Special Event request for Severt Brothers Tree Farm Christmas Tree Sales to be located at 3813 S. Nova Road subject to eighteen (18) conditions outlined in the attached report.

SUMMARY: Paul F. Holub, owner of The Dunlawton Square Shopping Center, 3813 S. Nova Road, requests approval for a major Special Event on behalf of Severt Brothers Tree Farm. The proposed event is planned for a forty-one (41) day period from Sunday, November 15, through Friday, December 25, 2015. The requested hours for the event are from 9:00 a.m. to 11:00 p.m., daily. The event is for the sale of Christmas trees with an advanced donation of five hundred dollars (\$500.00) to the Spruce Creek High School IB Advocate.

The sale is proposed for the parking lot area south of the Burger King. This is the first event requested for the Holub portion of the Dunlawton Square property for 2015 and is a repeat major special event with no issues from the previous year's sale.

Project	Funding Account
No.:	No.:

ATTACHMENTS:

1.	Staff Report	Staff Report.pdf
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Rivera, Jeff
Clark, Wayne
Johansson, M. Jake

Created/Initiated - 09/25/2015
Approved - 09/30/2015
Final Approval - 10/15/2015



STAFF REPORT

Major Special Event Request

REQUEST: Major Special Event – Christmas Tree Sale

OWNER/APPLICANT: Paul F. Holub

EVENT LOCATION: Dunlawton Square Shopping Center –3813 S. Nova Rd.

STAFF CONTACT: Deborah Faircloth, Code Enforcement Inspector

CITY COUNCIL DATE: October 20, 2015

INTRODUCTION:

Paul F. Holub, owner of the Dunlawton Square Shopping Center, 3813 S. Nova Road, requests approval for a major Special Event on behalf of Severt Brothers Tree Farm. The proposed event is planned for a forty-one (41) day period from Sunday, November 15, through Friday, December 25, 2015. The requested hours for the event are from 9:00 a.m. to 11:00 p.m., daily. The event is for the sale of Christmas trees with an advanced donation of five hundred dollars (\$500.00) to the Spruce Creek High School IB Advocate. There will be port-o-let and trash collection facilities on site for the event.

DISCUSSION/ANALYSIS:

The subject proposal has been reviewed by the Police, Fire, Public Works and Community Development departments.

CODE VIOLATIONS:

There were no apparent code violations at the time of pre-inspection.

SPECIAL NOTES:

Staff recommends approval of Christmas Tree Sale Special Event request, subject to the following eighteen (18) conditions:

1. Hours of the event shall be from 9:00 a.m. until 11:00 p.m. with outdoor lighting provided.
2. Tents or canopies being used in conjunction with this event shall comply with the requirements set forth in *NFPA #102 Standards for Tents and Membrane Structures*. Tents or canopies cannot be erected more than forty-eight (48) hours prior to the event, and must be removed within twenty-four (24) hours after the duration of the event. All tents/canopies must maintain at least two (2) exit ways in an unobstructed fashion to allow for a continuous path of travel.
3. Additional requirements for the tent permit are as follows:

- a. Per the Fire Marshal, any use of portable heaters is strictly prohibited.
 - b. All flammable/combustible fuel containers shall be of an approved type container and stored a safe distance away from the sales tent area.
 - c. Any deficiencies made in the asphalt parking lot by the installation of the tent shall be repaired.
4. A temporary structure-building permit is required for the proposed tent.
5. No smoking signage shall be posted within the confines of the tent.
6. Severt Brothers Tree Farm shall contact the Community Development Department and the Building Inspection Hotline (386-506-5603) to schedule an inspection of the tent prior to the start of the event to ensure that the tent is well secured and that all other safety measures are in place.
7. If any outdoor lighting or other structural features are to be installed in association with this event, Severt Brothers Tree Farm shall obtain the proper Building Permits from the Community Development Department. Such lighting must be a minimum of twenty (20) foot candles to provide a safe environment at night.
8. A permit shall be required and obtained by a properly licensed contractor for any electrical work performed in connection with this event. Temporary electrical wiring shall be installed by a certified electrician and shall comply with *Article 590* of the current adopted *NFPA #70 National Electrical Code*. This includes (F) Lamp protection. Any temporary lamps shall be protected from accidental contact or breakage by a suitable fixture or lamp holder with a guard.
9. Portable fire extinguishers shall be provided as outlined in accordance with the *NFPA #10, Standard for Portable Fire Extinguishers*. A fire extinguisher with current certification tags from a fire equipment company must be mounted near each exit.
10. All exits and means of egress shall remain accessible and unobstructed and it shall be the responsibility of Severt Brothers Tree Farm to maintain access for emergency vehicles.
11. Severt Brothers Tree Farm shall provide two (2) port-o-let facilities, with one (1) for females and one (1) for males during the event. A minimum of five percent (5%) of the portable toilets, but no less than one (1) for each sex, shall comply with *Section 4.22 and/or 4.23 Florida Accessibility Code*, i.e. must be handicapped-accessible.
12. All areas being used for this special event shall be handicapped-accessible. Handicapped parking is to remain open and accessible for this event.
13. Vehicle areas, including parking, shall be physically separated from pedestrian areas. Event organizers are required to delineate the event area from the vehicular driving and parking area with cones, ropes and/or barricades where necessary.

14. It shall be the responsibility of the owner to maintain access for emergency vehicles.
15. A temporary sign permit shall be required for the one (1) banner permitted for this event. Application shall be applied for by November 1, 2015.
16. The parking lot shall be kept free and clear of all garbage, trash and tree limbs during the event. All garbage receptacles shall be placed behind the tent to not face Nova Road.
- 17.. The motor home used during this event by Severt Brothers Tree Farm shall be placed so as not to interfere with the normal flow of traffic through the shopping center parking lot. The motor home shall also be positioned between the tent and the buildings of the plaza to not directly face Nova Rd.
18. The \$250.00 surety bond must be paid in full before the issuance of the permit.

DISTRIBUTION LIST

Chris Weir, Fire Marshal
Sgt. Steven Braddock, Police Dept.
Kerry Leuzinger, Building
Gwen Perney, Planner
Chris Barnes, Public Works
File



CITY OF PORT ORANGE

Department of Community Development
1000 City Center Cir.
Port Orange, FL 32129
Phone: (386) 506-5600 Fax: (386) 506-5699

DATE RECEIVED:

RECEIVED BY:

PERMIT NO.:

9/24/15

JR

15-3813

SPECIAL EVENT PERMIT APPLICATION

City Ordinance No. 2013-16 & Fee Resolution No. 13-58 – Chapter 58 Article III, Code of Ordinances

Name of Business/Organization Hosting Event: Spruce Creek High School or Related Charity of School
Event Site Address: 3813 Nova Road, Vacant Lot next to Burger King (See Attached Site Plan)
Event Contact Person: Greg Severt - Severt Brothers Tree Farm
Email Address: gregsevert@gmail.com Phone: 904-910-1098
Description of Event: Sale of Christmas Trees & Wreaths

Dates of Event: November 26, 2015 - December 25, 2015

Repeat Event: YES ☒ NO ☐

Number of Temporary Merchants: 1

Signs: Temporary YES ☒ NO ☐

Temporary Power: YES ☐ NO ☐

Tents: YES ☒ NO ☐

SPECIAL EVENT APPLICATION REQUIREMENTS

Application for **Major Special Events** must be submitted at least **forty-five (45)** days in advance of the requested event. **Minor Special Events** must be submitted at least **seven (7)** days in advance.

Required Documents:

1. Letter of request
2. Proof of ownership, written lease, or notarized authorization form
3. Sketch of the event layout on the property
4. Completed application checklist (attached)

PERMIT APPLICATION FEES**

- ☐ **MINOR SPECIAL EVENTS** (Seven days or less)
\$100.00
- ☐ **MAJOR SPECIAL EVENTS** (Seven days or less)
\$300.00*
- ☒ **MAJOR SPECIAL EVENTS** (More than seven days)
\$500.00*

* Repeat events on properties in good standing with City departments may be eligible for a reduced application fee.

** Additional fees may apply if City resources such as Public Works or Police Department are requested or required.

Revised 9/23/13



HOLUB
DEVELOPMENT

VIA HAND DELIVERY

September 22, 2015

Jeff Rivera
Planning Department
City of Port Orange
1000 City Center Circle
Port Orange, FL 32127

RE: Christmas Tree Lot - 3813 Nova Road

Dear Amanda:

In support of our request for City Council approval of a Christmas tree lot to be located on the vacant lot adjacent to the south of Burger King at 3813 Nova Road, please find enclosed the following:

1. Special Event Permit Application
2. Site Plan depicting area of the Christmas Tree Lot
3. Application Fee in the amount of \$250 (per our conversation)
4. Proof of Ownership

In addition and in compliance with your application checklist, please consider the following:

- The lot shall be used for the sale of Christmas trees and wreaths
- The hours of operation shall be 9 a.m. to 11 p.m. daily
- The Christmas tree lot shall set up on November 15, 2015, open for business on November 26, 2015 and close on or before December 25, 2015.
- There shall be a tent erected to cover the trees from the weather
- Temporary electrical power will be secured from existing power on site
- There shall be one vendor selling the trees (Severt Brothers Tree Farm) with a \$500 advanced donation being contributed to Spruce Creek High School.
- There shall be no need for City provided security.
- There shall be one (1) port-a-let provided on site.

Please review the enclosed site plan sketch which depicts the balance of your information requested.





Can you please set this item for consideration at the November 2015 City Council Agenda and contact me if you require any additional information.

With kind regards I remain.

Sincerely,

Paul F. Holub, Jr.

Dunlawton Nova Investors, LLC

On behalf of Spruce Creek High School

And Severt Brothers Tree Farm

c: Greg Severt

This Document Prepared By and Return to:
Jeffrey C. Sweet, Esquire
595 W. Granada Boulevard
Ormond Beach, Florida 32174

Parcel ID Number: 6309-00-06-0011

Warranty Deed

This Indenture, Made this 1st day of June, 2009 A.D., Between
Naa'im Karkabi

of the County of _____, State of California, grantor, and
Dunlawton Nova Investors, LLC, a Florida limited liability company

whose address is: Post Office Box 730086, Ormond Beach, FL 32173

of the County of Volusia, State of Florida, grantee.

Witnesseth that the GRANTOR, for and in consideration of the sum of

-----TEN DOLLARS (\$10)----- DOLLARS,
and other good and valuable consideration to GRANTOR in hand paid by GRANTEE, the receipt whereof is hereby acknowledged, has
granted, bargained and sold to the said GRANTEE and GRANTEE'S heirs, successors and assigns forever, the following described land, situate,
lying and being in the County of VOLUSIA State of Florida to wit:

*****See Exhibit "A" Attached For Complete Legal Description*****

Subject to taxes for the year 2009 and subsequent years.

Subject to covenants, conditions and restrictions of record, if any,
the mention of which shall not serve to reimpose the same.

THE PROPERTY CONVEYED HEREIN IS COMMERCIAL PROPERTY AND NOT THE
HOMESTEAD PROPERTY OF THE GRANTOR, NOR IS THE PROPERTY CONTIGUOUS TO
HIS HOMESTEAD PROPERTY.

and the grantor does hereby fully warrant the title to said land, and will defend the same against lawful claims of all persons whomsoever.

In Witness Whereof, the grantor has hereunto set his hand and seal the day and year first above written.

Signed, sealed and delivered in our presence:

Printed Name: Naa'im Karkabi Naa'im Karkabi (Seal)

Witness P.O. Address: Post Office Box 308, San Anselmo, CA 94979

Printed Name: Trigger Wagner
Witness

STATE OF California
COUNTY OF

The foregoing instrument was acknowledged before me this _____ day of _____, 2009 by
Naa'im Karkabi, who acknowledged before me that he executed the same.
He () is personally known to me or () he has produced his _____ as identification and who did take
an oath

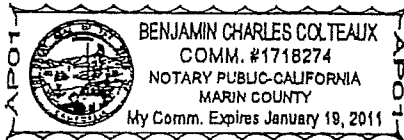
Printed Name: _____
Notary Public
My Commission Expires: _____

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

State of California

County of MARIN

On May 29, 2009 before me, BENJAMIN CHARLES COLTEAUX, notary public
Date Here Insert Name and Title of the Officer
personally appeared NAAIM KARKABI
Name(s) of Signer(s)



who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature [Signature]
Signature of Notary Public

.Place Notary Seal Above

OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

Description of Attached Document

Title or Type of Document: WARRANTY DEED

Document Date: 5/29/2009 Number of Pages: 2

Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer(s)

Signer's Name: _____

- ☐ Individual
☐ Corporate Officer — Title(s): _____
☐ Partner — ☐ Limited ☐ General
☐ Attorney in Fact
☐ Trustee
☐ Guardian or Conservator
☐ Other: _____

Signer Is Representing: _____

RIGHT THUMBPRINT
OF SIGNER
Top of thumb here

Signer's Name: _____

- ☐ Individual
☐ Corporate Officer — Title(s): _____
☐ Partner — ☐ Limited ☐ General
☐ Attorney in Fact
☐ Trustee
☐ Guardian or Conservator
☐ Other: _____

Signer Is Representing: _____

RIGHT THUMBPRINT
OF SIGNER
Top of thumb here

EXHIBIT "A"

PARCEL I:

That part of U.S. Lot 6, Section 9, Township 16 South, Range 33 East, Volusia County, Florida, lying East of Nova Road (State Road 5A) and South of State Road 415; being more particularly described as follows: To find the Point of Beginning, commence at an iron pin located at the intersection of the Easterly right-of-way line of said Nova Road and the Southerly right-of-way line of said State Road 415, thence South 26° 00' 21" East along the Easterly right-of-way line of said Nova Road a distance of 146.50 feet to an iron pin and the Point of Beginning; thence continue South 26° 00' 21" East along the Easterly right-of-way line of said Nova Road a distance of 227.00 feet to an iron pin; thence departing the Easterly right-of-way line of said Nova Road run North 63° 59' 39" East a distance of 816.44 feet to an iron pin, thence North 26° 00' 21" West a distance of 421.75 feet to an iron pin which iron pin lies South 26° 00' 21" East a distance of 27.14 feet from the North line of U.S. Lot 6, thence South 89° 40' 57" West a distance of 226.28 feet to an iron pin located on the Southerly right-of-way line of State Road 415, thence Southwesterly along said Southerly right-of-way of State Road 415, which is a curve to the right with a radius of 2009.86 feet a distance of 456.00 feet through a central angle of 12° 59' 58" (Cord: 455.02 feet) to an iron pin, thence departing the Southerly right-of-way line of said State Road 415, South 26° 00' 21" East a distance of 171.18 feet to an iron pin, thence South 63° 59' 39" West a distance of 174.02 feet to the Point of Beginning.

LESS AND EXCEPT that part conveyed to State of Florida Department of Transportation by QuitClaim Deed filed in Official Records Book 3895, page 179, Public Records of Volusia County, Florida, and as described therein.

PARCEL II:

Together with all easements described hereto per Reciprocal Easement Agreement recorded in Official Records Book 1994, page 756, First Amendment to Reciprocal Easement Agreement filed in Official Records Book 2076, page 1524, Stipulated Order of Taking filed in Official Records Book 3866, page 3274, Public Records of Volusia County, Florida.



CITY COUNCIL AGENDA ITEM

REQUESTED COUNCIL MEETING DATE 10/20/2015

Consent item: Yes

SUBJECT: Major Special Event Request – Lighthouse Loop Half Marathon & 5K @ DJ's Deck at 79 E. Dunlawton Avenue, Aunt Catfish Restaurant at 4009 Halifax Drive and Panheads Pizzeria at 4085 Ridgewood Avenue.

DEPARTMENT: Community Development

RECOMMENDED MOTION: Move to approve the Special Event request for the West Volusia Runners, Inc., known as the Lighthouse Loop Half Marathon & 5K, subject to the eight conditions in the attached staff report.

SUMMARY: City staff has received a special event request from Jennifer Florida, race director for the 4th Annual Lighthouse Loop Half Marathon and 5K. The proposed hours of the event are from 7:00 a.m. until 12:00 p.m. on October 25, 2015. The event is to raise money for the ten Volusia County High School athletic programs. The event will start at DJ's Deck located at 79 E. Dunlawton Avenue. Runners will proceed south to the Ponce Inlet Lighthouse and then will race back north and finish at Aunt Catfish Restaurant located at 4009 Halifax Drive. There will be an awards ceremony after the completion of the race at Panheads Pizzeria located at 4085 Ridgewood Avenue. The ceremony will include designated areas for refreshments and buffet style food, a live DJ, and sponsor exhibit tents. There will be port-o-lets and trash receptacles on site for the ceremony events.

Additionally, the event director has requested the waiver of the surety bond due to good performance in clean-up after the past three events. The cost of the surety bond is determined by the City Council as outlined in Chapter 58, Article III of the City of Port Orange Code of Ordinances, and has generally been set at \$250.00 when required for events. The Lighthouse Loop event has been approved for the past three years and is a repeat event in good standing.

Project	Funding Account
No.:	No.:

ATTACHMENTS:

1.	Staff Report	Staff Report.pdf
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Faircloth, Debbie
Clark, Wayne
Johansson, M. Jake

Created/Initiated - 09/30/2015
Approved - 09/30/2015
Final Approval - 10/15/2015



STAFF REPORT

MAJOR SPECIAL EVENT REQUEST

REQUEST:	Lighthouse Loop Half Marathon & 5K
APPLICANT:	West Volusia Runners, Inc.
PROJECT LOCATION:	DJ's Deck – 79 E. Dunlawton Avenue. Panheads Pizzeria – 4085 Ridgewood Avenue.
STAFF CONTACT:	Deborah Faircloth, Code Enforcement Inspector
CITY COUNCIL DATE:	October 20, 2015

INTRODUCTION:

City staff has received a request from Jennifer Florida, race director, for the 4th Annual Lighthouse Loop Half Marathon & 5K, to hold a major special event at DJ's Deck located at 79 E. Dunlawton Avenue and Panheads Pizzeria located at 4085 Ridgewood Avenue. The proposed hours of the event are from 7:00 a.m. until 12:00 p.m. on October 25, 2015. The event is to raise money for ten Volusia County High School athletic programs. The event will start at DJ's Deck. Runners will proceed south to the Ponce Inlet Lighthouse and will then race back north and finish at Aunt Catfish Restaurant. There will be an awards ceremony after completion of the race to be held at Panheads Pizzeria. The ceremony will include designated areas for refreshments, a live DJ, and ten sponsor exhibit tents. There will be port-o-lets and trash receptacles on site for the ceremony events.

The event director has approval to use the privately owned properties on Halifax Drive in the Riverwalk area for overflow parking.

BACKGROUND:

The subject proposal has been reviewed by the Police, Fire, Public Works, and Community Development Departments. The race director has received estimates from the Police and Public Works departments for staff overtime costs to assist the event with traffic control, barriers and safety issues within the City of Port Orange. The race will be going through several jurisdictions. The race director is working with Daytona Beach Shores, Volusia County and Ponce Inlet for the approval of the event in those jurisdictions.

CODE VIOLATIONS

There were no apparent code violations on any of the proposed sites at the time of pre-inspection.

SPECIAL NOTES

The race director has requested that the surety bond fee be waived since this is a charitable/fundraising event and due to past good performance in clean-up after the last three events.

RECOMMENDATION

Staff recommends approval of the Lighthouse Loop Half Marathon subject to the following conditions:

1. Hours of the event shall be from 7:00 a.m. until 12:00 p.m.
2. Access shall be maintained for all emergency vehicles.
3. Applicant shall coordinate all vehicular traffic patterns and pedestrian concerns with the City of Port Orange Police Department and be responsible for any charges for Police services.
4. Event organizers are required to delineate the event area from the vehicular driving and parking area with cones, ropes and/or barricades where necessary.
5. All areas used for this function shall be handicapped-accessible. Handicapped parking is to remain open and accessible for the event.
6. A temporary sign permit shall be required for the one banner permitted for this event. Application shall be submitted at least two weeks prior to the event for permit approval.
7. All trash generated along the running route must be picked up and disposed of at the end of the event along with any debris at the event sites.
8. Amplified speaker systems must comply with the City noise ordinance (Code of Ordinances, Chapter 42, Article IV, Section 42 Noise regulations).



CITY OF PORT ORANGE

Department of Community Development
1000 City Center Cir.
Port Orange, FL 32129
Phone: (386) 506-5600 Fax: (386) 506-5699

DATE RECEIVED:

RECEIVED BY:

PERMIT NO:

9/24/15
JP
15-4211

SPECIAL EVENT PERMIT APPLICATION

City Ordinance No. 2013-16 & Fee Resolution No. 13-58 – Chapter 58 Article III, Code of Ordinances

Name of Business/Organization Hosting Event: West Volusia Runners, Inc.
Event Site Address: Start=79 E. Dunlawton Finish=4085 Ridgewood Ave
Event Contact Person: Jennifer Florida
Email Address: Jennifer@FinalMileRace.com Phone: 321-239-6077
Description of Event: Half Marathon + 5K - unchanged from
Last 2 years - See Attached

Dates of Event: Sunday, 10.25.2015

Repeat Event: YES ☒ NO ☐

Number of Temporary Merchants:

Signs: YES ☐ NO ☒

Temporary Power: YES ☐ NO ☒

Tents: YES ☐ NO ☒

SPECIAL EVENT APPLICATION REQUIREMENTS

Application for Major Special Events must be submitted at least forty-five (45) days in advance of the requested event. Minor Special Events must be submitted at least seven (7) days in advance. *See Email please*

Required Documents:

1. Letter of request
2. Proof of ownership, written lease, or notarized authorization form
3. Sketch of the event layout on the property
4. Completed application checklist (attached)

PERMIT APPLICATION FEES**

- ☐ MINOR SPECIAL EVENTS (Seven days or less)
\$100.00
- ☒ MAJOR SPECIAL EVENTS (Seven days or less)
~~\$300.00~~
- ☐ MAJOR SPECIAL EVENTS (More than seven days)
\$500.00*

* Repeat events on properties in good standing with City departments may be eligible for a reduced application fee.

** Additional fees may apply if City resources such as Public Works or Police Department are requested or required.

Revised 9/23/13



June 18, 2015

Dear City of Port Orange,

The 4th Annual Lighthouse Loop half Marathon & 5k will be on Sunday, October 25th 2015. With the success of past events we will start this year's race at 7:00 a.m. again. The 5k will start at 7:15 a.m. Attached, please find the Special Events Permit along with the map depicting the Half Marathon route through all jurisdictions and the 5k route through Port Orange. Everything is the same on the Half Marathon as in 2012 through 2014. Our start line festivities will occur at DJ's Deck. DJ's Deck is located at 79 E. Dunlawton Ave. The Half Marathon route has NOT changed.

The owners of DJ's Deck have granted us permission for use of their facilities outside starting with setup at 5:00 a.m. on Sunday, October 25th. Our volunteers will be cleaned up and off the property no later than 8:00 a.m. Please see the attached start line aerials for more specifics. The only cars allowed at this area will be pre-approved race officials and volunteers.

The Drop Off area and Shuttle Bus Loop is well defined also shown in the attached aerials. No parking will be allowed by runners or spectators in the start line area. Parking will be as the past years in public parking areas and we request the use of the River Walk Properties again and would like to request for council approval. We will be sure to advise runners to NOT park in boat trailer designated spots under the bridge. Additional parking with shuttles to the start line area will be utilized at Spruce Creek High School with their permissions.

The 5k route is the same. We will start the 5k race 15 minutes after the Half Marathon to allow adequate time for the lead motor officer to get in place to lead the runners.

The Dunlawton Bridge will have the outer eastbound lane closed and coned off by the Port Orange Authorities. The West Volusia Runners understand the FDOT permit will be once again handled by Port Orange and we will absorb the cost of the Public Works involved for closing the lane on the bridge. The runners participating in the Half Marathon this year have been advised of a minimum pace per mile of 14 minutes per mile. This will have the last runner over the Dunlawton Bridge no later than 10:00 a.m.

The Police OPS Plan will be coordinated through the four (4) Jurisdictions involved; Port Orange, Daytona Beach Shores, Volusia County and Ponce Inlet. We will be scheduling a meeting for all involved for the middle of August timeframe. The EMT will be contracted by the West Volusia Runners from 8:00 a.m. until 11:00 a.m. and will be stationed as shown at the Finish Line area. Those incidents that may occur out on the route, volunteers and bike marshals will be instructed to call 911 first.

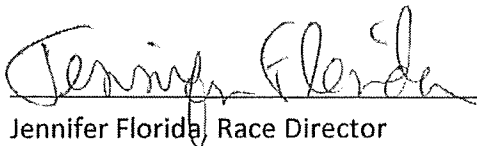
Four (4) Volunteer Bike Marshals will be riding bicycles along the Half Marathon route monitoring the runners safety and we will have two (2) on the 5k route.

The finish area is provided by Aunt Catfish on the River again this year with the party area moved to their property at 4085 Ridgewood Ave. This is the property being leased by PanHeads Pizza. PanHead's Pizza is closed on Sundays. See attached site map for the Finish Line Layout. Setup will begin at the Finish Line area starting on October 25th at 5:00 a.m. The DJ will not start to play music until 7:30 a.m. The Final Awards Ceremony will start at 10:15 a.m. and be completed by 10:30 a.m. We will start cleanup at this time and expect to be completely off the property no later than 12:00 p.m.

We will not have any temporary structures or canopies over 10x10. The vendors allowed at the finish line area will be placed according to the site map attached. We do not expect more than 10-12 tables. Aunt Catfish will be distributing the food in a buffet style as shown and 10 port-o-johns will be placed in the back corner of the property. These will be dropped off on Friday afternoon 10/23 and picked up on Monday morning 10/26.

Please let us know if you require anything further.

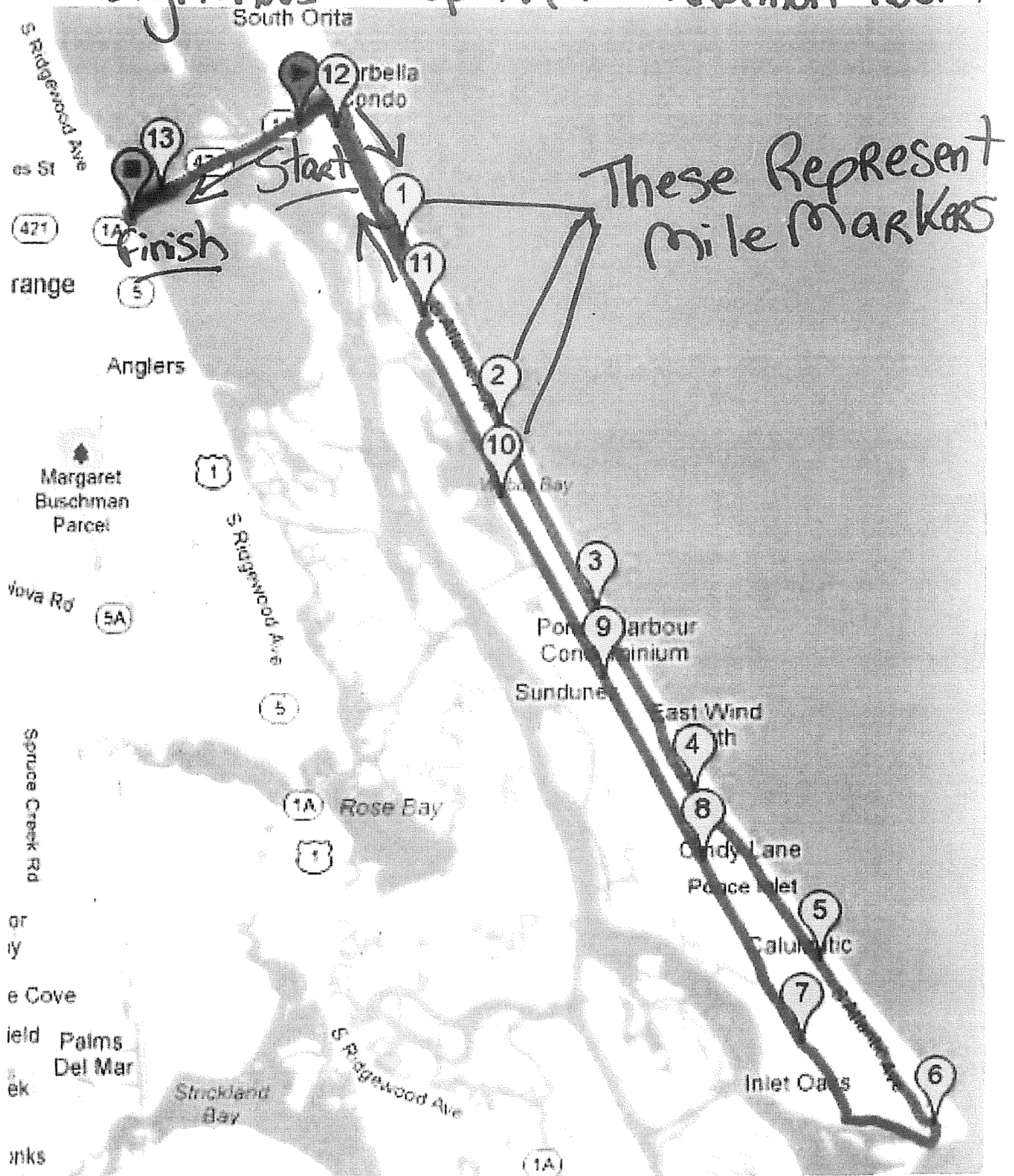
Cordially,



Jennifer Florida, Race Director
President, West Volusia Runners, Inc.
Jennifer@FinalMileRaceManagement.com
321-239-6077



Lighthouse Loop Half Marathon Route



Lighthouse Loop 5K Route

PI
C

HALI
ESTA

SU

Start

mile 1

Dunlawton Ave

Harbor Point St

Circle Dr

Finish

mile 3

ALLAN
PORT
ORANGE

INIA
HTS

RIDGEWOOD
HEIGHTS
ESTATES

RLEY
IGHTS

3ern St

Orange Ave

1st Street

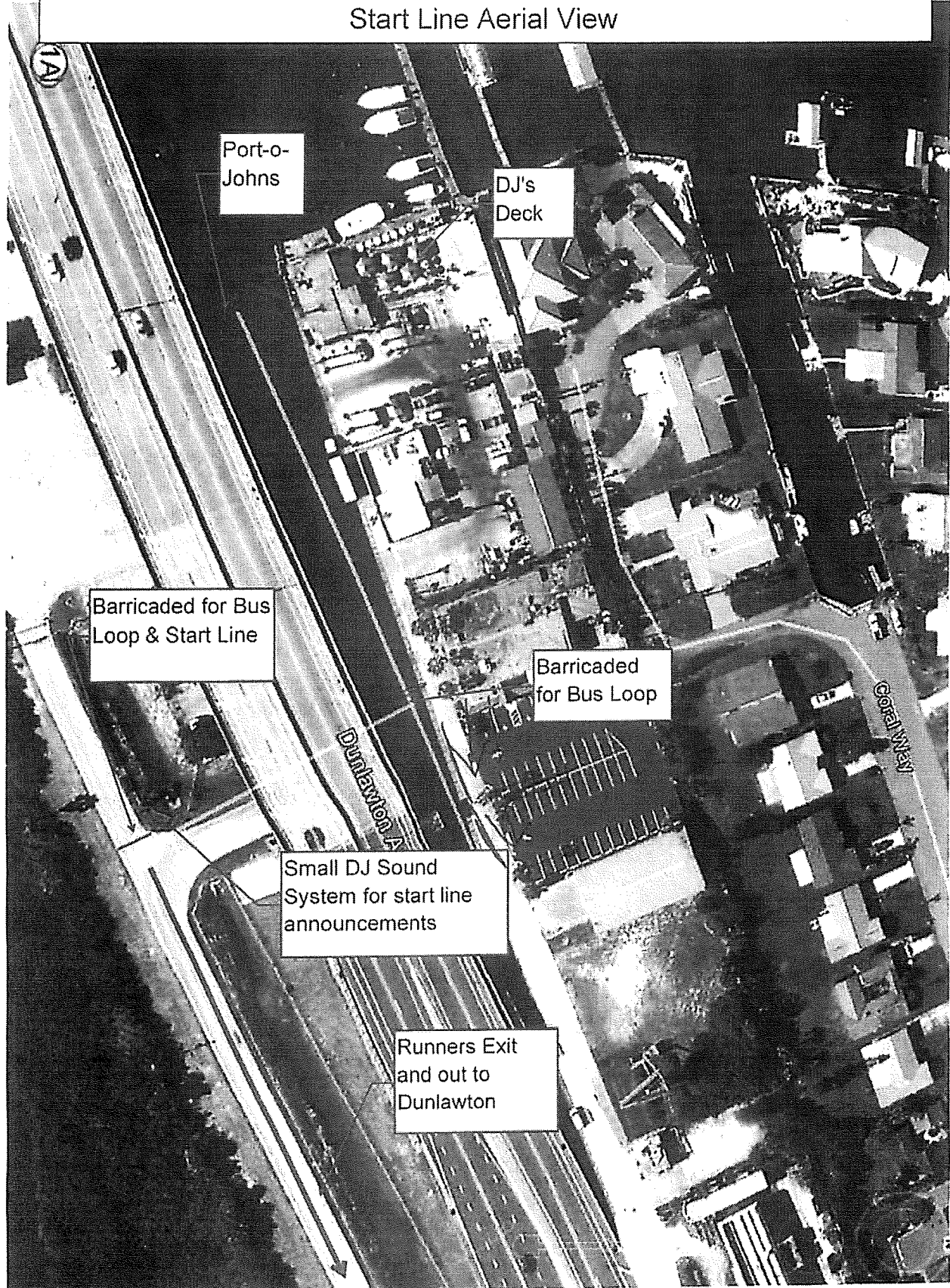
SOUTH
DAYTONA
BEACH

5

AIA

Side Dr

Lighthouse Loop Half Marathon & 5k Race Morning Start Line Aerial View





CITY COUNCIL AGENDA ITEM

REQUESTED COUNCIL MEETING DATE 10/20/2015

Consent item: Yes

SUBJECT: Approval of Task Authorization No 5, to the Master contract for Engineering Services with Kimley-Horn and Associates, Inc.

DEPARTMENT: Public Utilities

RECOMMENDED MOTION: Move to approve Task Authorization No 5 to the Master contract for Engineering Services with Kimley-Horn and Associates, Inc. for the Port Orange Wastewater Master Plan, for an amount not to exceed \$496,446.00; and to authorize the Mayor and City Clerk to execute all required contract documents.

SUMMARY:

On September 22, 2015, City Council approved the FY16-21 Capital Improvement budget which included a Wastewater Master Plan.

Kimley-Horn and Associates, Inc. has provided a proposal for master planning the City's wastewater collection, treatment, and reclaim water systems. This report will provide a review of the condition and capacity of the City's existing system and a long term system evaluation spanning a 20-year planning period. The report will provide a specific plan for modifications to the City's wastewater collection, treatment, and reclaimed water systems including the following:

Wastewater collection force main/transmission system analysis, hydraulic modeling and renewal and replacement needs identification Wastewater treatment facility evaluation and biological and hydraulic modeling to determine capacity and process improvement needs Reclaimed water system evaluation, hydraulic modeling and development of future renewal and replacement needs Capital project planning and long term financial planning

This master planning effort is consistent with The City Council adopted Strategic Plan dated March 18 and 19, 2015 to attain Goal 1, Infrastructure Preservation, Objective 2, Master Planning.

Kimley-Horn has proposed an amount of \$496,446.00 to develop the City's Wastewater Master Plan.

ATTACHMENTS:

1.	Task Authorization No 5 - includes scope and fee	Task Authorization No 5 - Port Orange Wastewater Master Plan.pdf
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Wiggins, Julia	Created/Initiated - 09/28/2015
Wilson, Rick	Approved - 09/28/2015
Neff, Andrew	Approved - 09/29/2015
Riehm, Tracey	Approved - 09/30/2015
Roberts, Margaret	Approved - 10/12/2015
Johansson, M. Jake	Final Approval - 10/15/2015

TASK AUTHORIZATION NO. 5

**Master contract for Engineering Services dated March 17, 2015
Between the City of Port Orange, Florida and Kimley-Horn and Associates, Inc.**

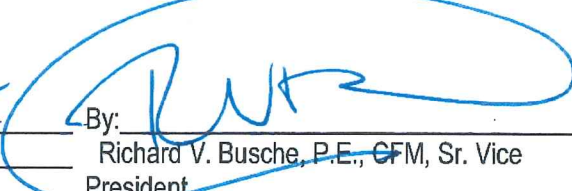
THIS Task Authorization is entered into by and between the **CITY OF PORT ORANGE, FLORIDA**, a chartered municipal corporation with its principal place of business at 1000 City Center Circle, Port Orange, Florida 32129 (the "City") and **KIMLEY-HORN AND ASSOCIATES, INC.**, a North Carolina corporation registered to transact business in Florida whose principal address is 3001 Weston Parkway, Cary, North Carolina 27513 ("Engineer"), and hereinafter collectively referred to as the "Parties," and is to that certain Master Contract for Engineering Services dated March 17, 2015, and any amendments thereto, hereinafter collectively referred to as the "Contract." The Parties, in exchange for the mutual covenants contained herein and in the Contract, agree as follows:

1. This Task Authorization expressly modifies the Contract and in the event of a conflict, the terms and conditions of this Task Authorization shall prevail.
2. In addition to all other terms and conditions contained in the Contract, Engineer shall provide services relating to Port Orange Wastewater Master Plan, as more particularly described in the Scope of Services attached hereto and incorporated herein as Task Authorization No. 5 Exhibit "A."
3. Engineer shall complete the services to be provided herein within 540 calendar days of the date of written notice by the City to the Engineer.
4. In return for the services identified above, the City agrees to compensate engineer at the prices set forth in Exhibit "A" attached hereto and made a part hereof for all purposes, subject to a limit up to but not to exceed Four Hundred Ninety-Six Thousand Four Hundred and Forty-six Dollars no cents (\$496,446.00). 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.
5. This Task Authorization 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 Task Authorization shall be deemed valid as if an original signature was delivered. No contract shall be formed between the Engineer and the City until the City signs this Task Authorization.

IN WITNESS WHEREOF, the Parties have made and executed this Task Authorization for the purposes herein expressed on the dates set forth below.

Witnesses:

KIMLEY-HORN AND ASSOCIATES, INC.

 10/14/15
Printed Name: Malcolm L. Bryant By: 
Richard V. Busche, P.E., CFM, Sr. Vice
President

 10/14/15
Printed Name: MATT TOBIN Date: 10/14/2015

Witnesses:

CITY OF PORT ORANGE

Printed Name: _____ By: _____
Allen Green, Mayor

Printed Name: _____ Date: _____

Witnesses:

ATTEST:

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

Printed Name: _____ Date: _____

[CA ____]



PORT ORANGE WASTEWATER MASTER PLAN

Describing a specific agreement between Kimley-Horn and Associates, Inc. (Kimley-Horn), and The City of Port Orange (the Client or the City) in accordance with the terms of the Water, Wastewater, and Reclaimed Water Continuing Engineering Consultant Master Agreement (RFSQ #14-23), which is incorporated herein by reference.

General Category of Services:

The scope of work presented below was prepared following a discussion with the City of Port Orange staff regarding master planning the City's wastewater collection, treatment, and reclaim water systems. The Report will provide a review of the condition and capacity of the City's existing system and an evaluation over a 20-year planning period. The Report will demonstrate a specific plan for modifications to the City's wastewater collection, treatment, and reclaim water systems. Demand projections for the 5, 10, and 20 year time periods will be provided by the City.

The master plan will consist of the following elements:

1. Wastewater collection/transmission system analysis and hydraulic modeling.
2. Wastewater treatment facility evaluation and biological/hydraulic modeling
3. Reclaim water system evaluation and hydraulic modeling
4. Capital project planning and revenue sufficiency analysis
5. Master plan report/Council presentation

The specific scope of services to be provided is described below.

Specific Scope of Basic Services:

Task 1 – Wastewater Collection System Evaluation

A. Data Collection, GIS Database Development, and Kickoff Meeting

1. Kimley-Horn will prepare for and attend a project kick-off meeting with the City staff. Project objectives, schedule, milestones, communication methods, and base information will be discussed.
2. The City will provide Kimley-Horn with the following information:
 - a. AutoCAD electronic and/or GIS files of the City's existing wastewater collection system mapping.
 - b. A complete inventory of the City's lift station equipment and physical data including existing pump curves, pump make and model, impeller diameter, wet well dimensions, invert depths, operating pressures, and forcemain sizes in MS Excel format. Kimley-Horn will provide the City with a formatted MS Excel spreadsheet to be used by the City to document the required data.
 - c. One year of lift station run-time history in MS Excel format (used for demand estimates).
 - d. One year of discharge monitoring reports (DMR) in MS Excel format.
 - e. GIS or electronic billing information relating active utility connections to Property Appraiser parcel number or physical address.
 - f. Water system demand projections for each parcel within the City's utility service area (to serve as the basis for wastewater demand projections).

- g. Current (within 3 months of model development) lift station drawdown test results. Kimley-Horn will provide the City with the draw-down test procedure and results log. The City will provide Kimley-Horn with drawdown test data in MS Word and Excel format. The drawdown test information will be used to calibrate the system model. Inaccurate test results may cause delays and additional work during model calibration. Such delays and additional work will be considered additional services subject to reimbursement per the "Additional Services" terms below.

- h. Copies of relevant system analyses and reports including the recent I&I evaluation.

B. Limited I&I Evaluation

1. Kimley-Horn will review the 2015 I&I evaluation report prepared by others. Kimley-Horn will consider the report findings in the collection system model demand allocations and calibration runs.
2. Kimley-Horn will consider the report findings in future system upgrade recommendations and capital improvement project identification.

C. Lift Station Drawdown Analysis

1. The City will provide Kimley-Horn with current (within 3 months of model development) lift station drawdown test results. Kimley-Horn will provide the City with the draw-down test procedure and results log. The City will provide Kimley-Horn with drawdown test data in MS Word and Excel format. The drawdown test information will be used to calibrate the system model. Inaccurate test results may cause delays and additional work during model calibration. Such delays and additional work will be considered additional services subject to reimbursement per the "Additional Services" terms below.

D. Wastewater Collection System Model

1. Kimley-Horn will create map of the existing wastewater system based on the electronic mapping files provided by the City. The mapping will include lift station service area boundaries. Kimley-Horn will print a hard copy wastewater system map for the City to review and correct with actual line locations, service area boundaries, and pipe sizes.
2. Kimley-Horn will revise the system map one time based on City comments. The system map will then be used as a base file for a SewerCAD lift station and forcemain system model.
3. Kimley-Horn will prepare a SewerCAD hydraulic model of the City's existing lift station and forcemain network.
4. The City's gravity system will not be included in the hydraulic model with the exception of the following specific sections.
 - a. Kimley-Horn will conduct a hydraulic capacity evaluation of the City's three 30-inch interceptor lines that feed the City's WWTF from Dunlawton Avenue, Spruce Creek Road, and Ruth Street. The hydraulic analysis will be based on assumed existing condition flow rates as provided by the City and future flow rates as determined by the wastewater demand estimates derived from the water system demand calculations (provided by others).
5. Kimley-Horn will create sewer shed service areas for master lift stations within the City's collection system. Associated wastewater demands will be assigned based on the water system demand allocations as prepared by others. The demand allocations will be compared to lift station run-time and pumping rate history along with measured wastewater treatment plant influent flows. The estimated demands will be verified by comparing the average per connection wastewater generation rate to the number of active connections within the lift station service area and wastewater treatment facility DMR reports.

6. Kimley-Horn will attempt to calibrate the model as close to measured field conditions as reasonably achievable. Generally, model predictions within 15% of observed pumping rates will be considered as acceptable. The City will be notified if this level of accuracy is not achieved with a reasonable amount of effort. If additional field data is required, Kimley-Horn will advise the City of those needs and re-calibrate the model until the system model is reasonably accurate. Additional services may be required to identify system problems that are contributing to prediction error and/or additional model calibration effort due to unforeseen conditions.
 7. Kimley-Horn will prepare recommended wastewater system hydraulic standards for acceptance by the City. The hydraulic standards will be established for the following parameters:
 - Minimum Forcemain Velocities
 - Maximum Forcemain Velocities
 - Maximum Gravity Pipe Capacity (expressed as % full flow)
 8. Kimley-Horn will prepare a hydraulic model of the City's existing lift station and forcemain network. The City will provide Kimley-Horn with a complete inventory of the City's lift station including existing pump curves, pump make and model, impeller diameter, wet well dimensions, invert depths and forcemain sizes. The City's gravity system will not be included in the hydraulic model. However, the City's three main interceptor lines and portions of the City's gravity system that convey wastewater from forcemains will be analyzed by estimating the gravity line capacity assuming minimum pipe slope.
 9. For each demand projection (present year, 5-year, 10-year, and 20-year) Kimley-Horn will make collection system improvement recommendations that are required for the system meet to the hydraulic standards. Kimley-Horn will review the initial improvement recommendations with City staff and include staff input for the final recommendations.
 10. Kimley-Horn will provide the City with up to three forcemain routing alternatives for contingency planning of the I-95 forcemain crossings. The alternative routing analyses will identify alternative forcemain routes available by valve manipulations and the hydraulic capacities/impacts of each selected route.
 11. Kimley-Horn will provide one day of SewerCAD on-site training for City staff. The on-site training will consist of modeling basics, scenario creation/management, and an overview of the model created for the utility master plan.
 12. Kimley-Horn will acquire from Bentley Systems, Inc. one license of "SewerCAD Standalone Unlimited Pipes" software including the first year of Bentley SELECT costs. The software will be licensed to The City of Port Orange. The City of Port Orange will agree to the Bentley Systems, Inc. License Agreement and/or SELECT Agreement. Upon expiration of the first year of Bentley SELECT, it can be renewed annually, if desired, at the cost of The City of Port Orange.
- E. Wastewater Collection System CIP Development
1. Kimley-Horn will work with City staff to identify capital projects for the 5-year, 10-year, and 20-year planning horizons.
 2. Kimley-Horn will prepare project descriptions, conceptual project sketch, and an opinion of probable construction cost for each project. The project information will be included in the Master Plan report.

Task 2 – Wastewater Treatment Facility Evaluation

The scope of work presented below is to prepare a BioWin wastewater biological process model and hydraulic model of the Port Orange wastewater treatment facility (WWTF). The models will be used to evaluate nutrient reduction enhancements and capacity constraints of the existing WWTF. The model will include enhanced nitrogen removal modifications, process control modifications, and process monitoring recommendations.

A. Existing Conditions Evaluation

1. Kimley-Horn will conduct one site visit to the Port Orange WWTF under this task to complete a preliminary assessment of the areas related to this scope of work and meet with engineering, operations and maintenance personnel to discuss operational and maintenance issues associated with the activated sludge, process control and nutrient removal process, and to gather and review additional information.
2. The City will provide Kimley-Horn the following:
 - a. *Plant Physical Data*: This includes existing as-built/design drawings and specifications, surveys, pump performance data, blower performance data, diffuser data, tank configurations and operation and maintenance (O&M) manuals.
 - b. *Plant Operating Data*: This includes the operating objectives (MLSS and DO concentration set-points, SRT, HRT, etc.). The City will provide Kimley-Horn the last 4 years of daily operations and process control data in electronic format (Excel), and plant operating and maintenance costs, including energy consumption and chemical costs.
 - c. *Plant Wastewater Characteristics*: Daily sampling of the following data for a period of 7 days:
 1. Existing capacity reservations
 2. Influent daily average and typical diurnal flow
 3. Influent total BOD, COD, and filtered COD (if available)
 4. Influent TSS and VSS (if available)
 5. Process MLSS and MLVSS (if available)
 6. DO in aerated zones
 7. Ammonia, Nitrite/Nitrate, and Phosphorus profiles in the aeration and anoxic zones
 8. Sludge blanket levels
 9. Return activated sludge, internal recycle, and waste activated sludge flow rates.

B. Configure and Calibrate Plant Biological Model

1. Kimley-Horn will develop and calibrate a plant process model based on the existing condition evaluation performed under Task 1 using a BioWin model. The model will be developed and calibrated to Level 1 standards, per *Methods for Wastewater Characterization in Activated Sludge* (WERF) 2003; to simulate the existing facilities and then project performance under future design conditions. The model will be calibrated to current steady state average annual and monthly conditions.
2. The calibrated model will be used to assist with evaluating the biological treatment capacity and hydraulic loadings of existing process equipment and tankage. .
3. Specific treatment component capacity concerns will be identified and discussed with operations staff.

C. Hydraulic Capacity Evaluation

1. Kimley-Horn will review as-built record drawings to determine pipe and component elevations, diameter, and tank volumes.
2. Kimley-Horn will verify record drawing information by conducting site observations and reviewing with plant operations staff.
3. Site survey by licensed surveyors is not included in this scope of work. If necessary, professional survey will be performed as an additional service.
4. Kimley-Horn will prepare a hydraulic model of the treatment plant based on the current operating configuration using hydraulic modeling software. The model will be calibrated using field measured data.
5. The hydraulic model will be used to conduct a hydraulic capacity evaluation for each step in the treatment process. The model scenarios will be limited to current and design capacity flow rates with historical surge loadings. The hydraulic modeling results will be summarized in an evaluation findings letter.

D. Analysis and Recommendations

1. The calibrated model will be used as the basis for process control and scenario analysis using the BioWin Controller module. The following scenarios will be evaluated for optimization at the present day flow rates (annual average, max day, and peak hour flows).
 - a. DO concentrations throughout the anoxic/aeration basins to improve nitrogen removal and reduce energy requirements. Includes evaluation of converting existing aeration basins to anoxic zones.
 - b. Internal recycle and return activated sludge rates for efficient nutrient reduction.
 - c. Methanol and Ferric Chloride feed rate and feed location for nitrogen and phosphorous removal.
2. After evaluation of the flow rate optimization recommendations, Kimley-Horn will analyze the optimized configuration at 9 MGD and 12 MGD. The intent is to discern if the recommendations based on the 2014 flow rates will be acceptable at the increased flow rates. If the recommendations are not appropriate for the increased flow rates, Kimley-Horn will run a model scenario at 9 MGD and 12 MGD with the treatment plant operating in the current configuration. The results of these analyses will be included in the letter report submittal. Additional optimization analyses at 9 MGD and 12 MGD are beyond the scope of this project but can be added as an additional service.
3. Kimley-Horn will meet with City staff at the Port Orange WWTF site to review the analysis and recommendations with the engineering, operations, and maintenance personnel. The BioWin computer model will be brought to the WWTF site for an interactive work session with City staff. Additional scenario analyses will be performed as requested by City staff during the work session. The optimization configuration recommendations will be finalized and accepted by City staff at the interactive work session.
4. Kimley-Horn will prepare a report summarizing this evaluation. The report will consist of analysis methodology, calibration results, analysis discussion and results, and improvement recommendations.

E. Biosolids Disposal Evaluation

1. Kimley-Horn will conduct a literature review of current biosolids stabilization and dewatering system options available to the City of Port Orange. The literature review will be limited to "main stream" processes currently used by the industry and widely accepted as a proven technology. The review will include a summary of stabilization classifications and available technology to reach each classification. Additionally, the review will include a summary of available dewatering systems and performance ranges of each system.
2. Kimley-Horn will identify available biosolids hauling/disposal companies able to serve the City of Port Orange. Kimley-Horn will identify stabilization requirements, disposal site limitations, and request budgetary hauling/disposal costs from available companies.
3. Kimley-Horn will prepare report describing biosolids stabilization and dewatering options including budgetary pricing, performance comparisons, and advantage/disadvantage identification. Kimley-Horn will meet with City staff to present the draft analysis and discuss staff comments.

F. Effluent Disposal Alternatives Analysis

1. Kimley-Horn will prepare an effluent disposal alternatives analysis the focused on the following disposal options.
 - a. Existing Reclaim Storage/Distribution System
 - b. Sprayfield
 - c. ASR Wells
 - d. Deep Well Injection

G. CIP Development

1. Kimley-Horn will work with City staff to identify capital projects and operational recommendations for the 5-year, 10-year, and 20-year planning horizons.
2. Kimley-Horn will prepare project descriptions, conceptual project sketch, and an opinion of probable construction cost for each project. The project information will be included in the Master Plan report.

Task 3 – Reclaimed Water System Evaluation

A. Data Collection & Analysis

1. Kimley-Horn will prepare for and attend a project kick-off meeting with the City staff. Project objectives, schedule, milestones, communication methods, and base information will be discussed.
2. The City will provide Kimley-Horn with the following information:
 - a. AutoCAD electronic and/or GIS files of the City's existing reclaimed water transmission system mapping.
 - b. Inventory of the City's reclaimed water storage, treatment, and pumping facilities including pump curves, filter capacities, record drawings.
 - c. One year of reclaim water system pumping information including all influent and discharge point flows.
 - d. One year of customer billing information relating active utility connections to Property Appraiser parcel number or physical address.

B. Reclaimed Water System Model

1. Kimley-Horn will create map of the existing reclaimed water system based on the electronic mapping files provided by the City. Kimley-Horn will print a hard copy reclaimed water system map for the City to review and correct with actual line locations, service area boundaries, and pipe sizes.
2. Kimley-Horn will revise the system map one time based on City comments. The system map will then be used as a base file for a WaterCAD system model.
3. Kimley-Horn will prepare a WaterCAD hydraulic model of the City's reclaimed water system network.
4. Reclaimed water demands will be assigned based on historical billing information and field measured pressure data (provided by the City).
5. Kimley-Horn will attempt to calibrate the model as close to measured field conditions as reasonably achievable. Generally, model predictions within 15% of observed pumping rates will be considered as acceptable. The City will be notified if this level of accuracy is not achieved with a reasonable amount of effort. If additional field data is required, Kimley-Horn will advise the City of those needs and re-calibrate the model until the system model is reasonably accurate. Additional services may be required to identify system problems that are contributing to prediction error and/or additional model calibration effort due to unforeseen conditions.
6. Kimley-Horn will prepare recommended reclaimed water system hydraulic standards for acceptance by the City. The hydraulic standards will established for the following parameters:
 - Minimum Reclaimed Water Velocities
 - Maximum Reclaimed Water Velocities
 - Minimum Reclaimed Water Service Pressure
 - Maximum Reclaimed Water Service Pressure
7. For each demand projection (present year, 5-year, 10-year, and 20-year) Kimley-Horn will make system improvement recommendations and operational configuration recommendations that are required for the system meet to the hydraulic standards. Kimley-Horn will review the initial improvement recommendations with City staff and include staff input for the final recommendations.

C. Reclaimed Water Storage Evaluation

1. Kimley-Horn will prepare a reclaimed water storage capacity evaluation of the existing 175 acre reservoir.
 - a. Kimley-Horn will evaluate the annual contributions to the reclaim storage reservoir including wastewater contributions, storm water contributions, exfiltration loss, and distribution system use.
 - b. Kimley-Horn will evaluate the daily diurnal variation and seasonal variations in reclaimed water demand and compare the demands to the daily and seasonal variation in reclaim water contributions to develop reclaim storage reservoir control level strategies. The control strategy recommendations are intended to optimize the usable capacity of the storage reservoir. The reclaimed water demands will include customer use and exfiltration/evapotranspiration estimates. The reclaimed water contributions will include wastewater effluent and stormwater contributions.

D. C CIP Development

3. Kimley-Horn will work with City staff to identify capital projects and operational recommendations for the 5-year, 10-year, and 20-year planning horizons.
4. Kimley-Horn will prepare project descriptions, conceptual project sketch, and an opinion of probable construction cost for each project. The project information will be included in the Master Plan report.

Task 4 – Capital Projects Planning and Revenue Sufficiency Financial Analysis

- A. Kimley-Horn will meet with City Staff to identify existing utility capital improvement projects intended to be undertaken by the City within the next five years. In addition, Kimley-Horn will combine the City's project list with those identified in Tasks 1, 2, and 3. Kimley-Horn will provide brief project narratives and develop opinions of probable construction costs for each project.
- B. Kimley-Horn will develop a five-year capital improvement plan (CIP) from the project list and the results of the wastewater system and reclaimed water system analyses. The list of projects will be prioritized jointly with City staff. Kimley-Horn will prepare for and attend up to two working meetings with staff to reach consensus on a draft CIP to present to the City Commission.
- C. Kimley-Horn will work with the City's utility system financial planner to provide capital improvement project estimates for inclusion in the City's revenue sufficiency analysis. Kimley-Horn will modify the 5-year CIP list based on the recommendations made by City staff and the City's financial planner.
- D. Kimley-Horn will prepare a 20-year long range CIP to identify improvements beyond the 5-year planning horizon. The 20-year CIP will identify potable water source, treatment, and storage requirements that are anticipated beyond the 5-year planning horizon.
- E. Kimley-Horn will contract directly with Burton & Associates to conduct a utility revenue sufficiency analysis for the water, wastewater, and reclaimed water systems (water system information to be provided by others). The revenue sufficiency analysis will consist of the input of all financial, statistical, capital, and operational data and assumptions into Burton & Associates financial model, preparation of a comparative rate survey, two interactive work sessions with City staff to review the results of the analysis and develop scenarios, individual presentations of the analysis to each Commissioner, participation at two public meetings, and preparation of a report documenting the results of the analysis.

Task 5 – Master Plan Report

- A. Kimley-Horn will summarize the work described in Tasks 1-6 in a draft Master Plan document. This draft Master Plan will be submitted for staff review and comment. Up to three hard copies of the Master Plan will be provided along with one electronic PDF copy.
- B. Kimley-Horn will revise the draft Master Plan document one time to incorporate staff comments. Kimley-Horn will provide up to three hard copies and one electronic PDF copy of the final Utility Master Plan.
- C. Kimley-Horn will prepare for and present a summary of the final Utility Master Plan report at a City Council workshop.

Additional Services if required:

Services requested that are not specifically included will be provided under a new and separate IPO agreement or can be performed on an hourly basis upon written authorization.

Schedule:

Kimley-Horn will begin services upon receipt of an executed agreement or written authorization from City staff. Kimley-Horn will provide a draft report within 365 calendar days of written authorization. The final report will be provided within 90 days of receipt of draft submittal comments.

Method of Compensation:

The Engineer will complete the above scope of services on a lump sum basis for a fee of \$496,446.00 (including expenses). A breakdown of fee by task is as follows:

Task	Labor Fee
Task 1 – Wastewater Collection System Evaluation	\$101,528.00
Task 2 – Wastewater Treatment Facility Evaluation	\$160,535.00
Task 3 – Reclaimed Water System Evaluation	\$177,265.00
Task 4 – Capital Projects Planning and Revenue Sufficiency Financial Analysis	\$34,257.00
Task 5 – Master Plan Report	\$22,861.00

Other Special Terms:

Services provided under this will be invoiced on a monthly basis. All invoices will include a description of services provided.

ACCEPTED:

CITY OF PORT ORANGE, FLORIDA

KIMLEY-HORN AND ASSOCIATES, INC

By: _____
(Signature)

By: 
(Signature)

(Print Name and Title)

M. Lewis Bryant, PE – Associate
(Print Name and Title)

Date: _____

Date: September 24, 2015

TABLE A
COST ESTIMATE FOR SERVICES

PROJECT:	Wastewater & Reclaimed Water System Master Plan	SHEET	1	OF	1
CLIENT:	City of Port Orange	FILE NO.			
KHA PM:	Lewis Bryant	DATE:	09/24/15		
	City of Port Orange Approved Rates				

		DIRECT LABOR (MAN-HOURS)							TOTAL
		Principal	Senior Professional	Professional	Technical	Clerical	SUB (\$)	Expense (\$)	
NO.	DESCRIPTION	\$245.00	\$197.00	\$135.00	\$113.00	\$65.00			
1.0	Task 1 - Wastewater Collection System Evaluation								
	Data Collection/IdI Report Review/Lift Station Data Review	5.0	20.0	50.0	50.0	15.0			\$18,540.00
	Collection System Modeling	5.0	80.0	150.0	150.0	15.0			\$55,160.00
	Collection System CIP Development	2.0	10.0	20.0	20.0	10.0			\$8,070.00
	SewerCAD Software/1-year Service Package							\$19,758.00	\$19,758.00
								Task 1 Total	\$101,528.00
2.0	Task 2 - Wastewater Treatment Facility Evaluation								
	Data Collection	8.0	55.0	60.0	40.0	20.0			\$26,715.00
	Biological/Hydraulic Modeling	8.0	90.0	195.0	195.0	15.0			\$69,025.00
	Biosolids & Effluent Disposal Evalation	8.0	80.0	195.0	175.0	15.0			\$64,795.00
								Task 2 Total	\$160,535.00
	Task 3 - Reclaimed Water System Evaluation								
	Data Collection	5.0	45.0	95.0	150.0	20.0			\$41,165.00
	Reclaimed Water System Model	5.0	80.0	160.0	175.0	15.0			\$59,335.00
	Reclaimed Water Storage Evaluation	8.0	90.0	195.0	125.0	15.0			\$61,115.00
	CIP Development	2.0	20.0	40.0	40.0	20.0			\$15,650.00
								Task 3 Total	\$177,265.00
	Task 4 - Capital Projects Planning/Revenue Sufficiency Analysis								
	CIP Development/Refinement	2.0	10.0	20.0	10.0	5.0			\$6,615.00
	Burton & Associates						\$25,000.00		\$25,000.00
	Staff Meetings		6.0	6.0		10.0			\$2,642.00
								Task 4 Total	\$34,257.00
	Task 5 - Master Plan Report								
	Prepare Draft and Final Report	8.0	20.0	60.0	10.0	15.0			\$16,105.00
	Staff Review Meetings		6.0	6.0					\$1,992.00
	Council Meeting/Presentation		12.0	12.0		12.0			\$4,764.00
								Task 5 Total	\$22,861.00
TOTALS		66.0	624.0	1264.0	1140.0	202.0	\$25,000.00	\$19,758.00	\$496,446.00



CITY COUNCIL AGENDA ITEM

REQUESTED COUNCIL MEETING DATE 10/20/2015

Consent item: Yes

SUBJECT: Approval of a Standard Contract for Services with Insight and Beyond, Inc. for Future Leadership Development and Succession Planning and grant application to CareerSource Flagler/Volusia for partial funding support for this initiative.

DEPARTMENT: Public Utilities

RECOMMENDED MOTION: Move to approve a Standard Contract for Services with Insight and Beyond, Inc. for Leadership Development in an amount not to exceed \$28,824.00 and apply for grant funding from CareerSource; and to authorize the Mayor and City Clerk to execute all required contract documents.

SUMMARY: In order to formulate a leadership development program as part of our training and succession planning for our employees, the Public Utilities Department has requested proposals for a leadership development program.

Insight and Beyond, Inc. has submitted an effective leadership program per the specifications of the City. One portion of the effort will be discussions with senior Public Utilities staff for leadership development training issues and progress and management process improvements in an amount not to exceed \$6,108.00. The second portion is for an 18 month (half day per month) successor workshops to provide leadership development for departmental mid-level staff to assist them in becoming ready to assume greater roles and responsibilities in the department and the City as a whole in an amount not to exceed \$22,716.00. The total contract amount is not to exceed \$28,824.00.

This effort will be paired with internal training from Human Resources and other departments (Purchasing, IT, etc.) to build fundamental competencies in key subject areas our supervisors and managers should acquire to be more effective.

CareerSource for Flagler/Volusia Counties offers financial assistance to organizations that conduct skill enhancement training. Discussions with CareerSource staff indicate this leadership skill development program is eligible for such financial assistance in an amount of up to \$20,000.

This request is consistent with City Council Strategic Plan Goal 6, Objective 2, to create a program for recruitment, retention and development of employees.

Staff recommends approval of both the contract with Insight & Beyond for \$28,824 and grant application to CareerSource to offset a portion of the cost of this initiative.

Project No.: none Funding Account No.: 40109005363113

ATTACHMENTS:

1.	Quote Wire JJ16-13 Supporting Documents	JJ16-13 Insight and Beyond.pdf
2.	Standard Contract for Services	Insight and Beyond, Inc. Standard Contract for Services with City of Port Orange.pdf
3.	CareerSource Grant Application	CT Agreement (rev2).doc

Wiggins, Julia	Created/Initiated - 09/30/2015
Wilson, Rick	Approved - 09/30/2015
Neff, Andrew	Approved - 10/02/2015
Riehm, Tracey	Approved - 10/07/2015
Roberts, Margaret	Approved - 10/12/2015
Johansson, M. Jake	Final Approval - 10/15/2015



WRITTEN REQUEST FOR PROPOSALS

NOTE: THIS IS NOT AN ORDER

Public Utilities Leadership Development Program

Quote Wire #: JJ16-13

Date Posted: 9/4/15

Due Date: 9/25/2015 at 5:00PM

City of Port Orange Contact: Julia Wiggins

Contact Phone Number: 386-506-5751

Contact Email: jwiggins@port-orange.org

The City of Port Orange, Public Utilities Department, requests proposals for a leadership development program.

Proposals and accompanying documents shall be sent to Julia Wiggins, Budget Analyst via email to: jwiggins@port-orange.org. Questions regarding this proposal shall be addressed in writing to:

Julia Wiggins, Budget Analyst
Public Utilities Department
1000 City Center Circle
Port Orange, FL 32129
E-Mail Address: jwiggins@port-orange.org

The City of Port Orange reserves the right to cancel any agreement, or any part thereof without obligation if the delivery is not made within the time specified. Any work performed after cancellation of order(s) may be returned at the buyer's expense. Figures proposed shall remain firm for ninety (90) days or until acceptance of the Offeror's quotation and subsequent Purchase Order is issued. This quotation may be awarded in part or whole. The City of Port Orange reserves the right to accept or reject any or all quotations in the best interest of the City. The City of Port Orange reserves the right to allow for clarification of questionable entries and for the corrections of obvious mistakes. The City of Port Orange is exempt from State sales tax and Federal Excise Tax. Do not include tax on quotation. Tax Exemption Certificate shall be furnished upon request. The pricing proposed shall remain firm. The City of Port Orange requires that any and all changes to the original Purchase Order or Contract shall be in writing and approved in advanced through a change order. The City is not obligated to issue an order as a result of this request for proposals and may reject any or all proposals for any reason.

INSURANCE REQUIREMENTS

Upon execution of a contract, the Bidder/Proposer shall maintain insurance during the life of the Contract. Bidder/Proposer 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/proposer'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. Bidder/Proposer shall not commence work under the contract until the City has received a certificate or certificates of insurance and endorsement evidencing the required insurance. Bidder/Proposer 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> <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>Limits:</u> <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) <u>Limits:</u>	Coverage- \$1,000,000 minimum	

SCOPE/SPECIFICATIONS:

Purpose: To increase the knowledge levels of mid-level managers and supervisors within the organization providing for improved succession planning and supervisor effectiveness. This solicitation will focus on the leadership development aspects of the program which will be combined with in-house training sessions conducted by Port Orange HR and other offices.

Anticipate 15-20 participants over a 12-24 month duration consisting of monthly meetings (all day).

Quote will be split into two sections. The first will be 6 sessions over the 1-2 year time period to cover progress with the mid-level managers and address emerging leadership and succession planning issues within the organization.

The second portion will provide the leadership training for the mid-level managers over the 1-2 year time period. The leadership training program will be interactive. A series of leadership topics, offered to and agreed by Public Utilities management, will cover such topics as communication, self-development, self-discipline, difference between leaders and managers, develop planning, time management, team building, risk/reward, how to negotiate, how to empower people, trading, and other topics agreed to. The quote should contain a full list of topics proposed. Additionally, assessments will be conducted of the people in the training program including Myers-Briggs Type Indicator and at least one other leadership style assessment.

Reading assignments and recommended literature will also be included. At least 3 books, approved by Public Utilities Management, will be part of the program.

Quotes will be lump sum for each portion and contain an outline of proposed activities, timelines, reading material and any other information relevant to the proposed training.

Quotes are due September 25, 2015 at 5:00 P.M.

TERMS AND CONDITIONS:

Proposer is must be familiar with and comply with all federal, state and local laws, ordinances, codes and regulations that may affect the services offered and is responsible for bearing all costs of permits, licenses, etc. No proposals received after the time and date specified in the proposal document will be considered. The City of Port Orange, Florida reserves the right to reject any and all proposals, to waive any and all non-substantial irregularity in proposals received, whenever such waiver or rejection is in the best interest of the City. The City is not obligated to issue an order as a result of this proposal request and may reject any or all proposals for any reason. Award will be based on the highest total proposal ranking.

SELECTION CRITERIA

The City's evaluation criteria will include consideration of, but will not be limited to the following:

- a. Qualifications and Experience
- b. Quality of Response (ability, capacity, skill)
- c. All-inclusive fee amount.

SUBMITTAL REQUIREMENTS

ONE (1) electronic copy shall be submitted. Proposals must:

- a. Provide a description of the Proposer's background, qualifications and experience, and the background and qualification of the staff to be assigned to the project;
- b. List of Previous Experience: Provide at least three (3) references within the last three (3) years of past client for whom work of an identical or similar nature was performed;
- c. Leadership Development Program Approach and Methodology: Describe the approach and methodology the Proposer will employ in carrying out the work described in the Specifications. Provide the timing and a detailed schedule of work to be performed, with a completion date for this project; anticipated workshops and locations. Attach proposed reading assignments and recommended literature. Include any services the Proposer may require from the City to perform the work described in the proposal;
- d. Public Entity Crime Statement, attached.
- e. Drug Free Preference Statement, attached.
- f. All applicable licenses/certifications.
- g. Fee Proposal. Provide an all-inclusive fee, attached.

Quote #JJ16-13 Public Utilities Leadership Development Program

Qty. Sessions	Description	Timeline	Lump Sum Price
6	Leadership and Succession Planning Sessions		\$ 6,108.00
18	Leadership Training Sessions		22,716.00
	GRAND TOTAL		\$ 28,824.00

The respondent shall identify in his/her proposal any deviations from the requirements of the specifications. The City shall determine equivalency. Any and all deviations from the requested specifications listed, shall be submitted in writing, with specification sheets of the proposed options to determine equivalency delivered by the City to the specified location.

The City of Port Orange further reserves the right to be the final judge of what is considered equal and hold the proposal open for a 90-day period or until an award is issued

I certify this proposal is made without prior understanding, agreement or connection with any corporation, firm, or person submitting a proposal for the same item and is in all respects fair and without collision or fraud. I agree to abide by all conditions of this proposal and certify that I am authorized to sign this proposal.

IT IS AGREED BY THE UNDERSIGNED PROPOSER THAT THE SIGNING AND DELIVERY OF THE PROPOSAL REPRESENTS THE PROPOSER'S ACCEPTANCE OF THE TERMS AND CONDITIONS OF THE FORGOING SPECIFICATIONS, PROPOSED CONTRACT AND PROVISIONS, AND IF AWARDED, THIS CONTRACT WILL REPRESENT THE AGREEMENT BETWEEN EACH OF THE GOVERNMENTAL PARTIES.

VENDOR: Include all requested information (COMPANY NAME, PHONE NUMBER, EMAIL, CONTACT PERSON) and Unit prices.

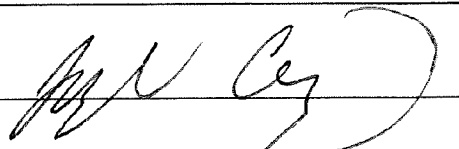
Company Name: Insight and Beyond Inc. DBA Joe Coury Effective Strategies

Contact Person / Title: Joe Coury

Mailing Address: 1648 Taylor Rd #208 Port Orange **State:** FL **Zip:** 32128

Phone: 386-761-9019 **Fax:** 888-863-0668 **FEIN:** 550891542

E-Mail: joe@joecoury.com

Signature:  **Submission Date:** 09/09, 2015.

Response time to this quotation is required by 9/25/2015 at 5:00PM

LISTING OF PREVIOUS EXPERIENCE

Client List

The bidder proposes that he/she is qualified to perform the referenced work and has successfully done so on recent projects similar in nature and size. A minimum of three (3) projects must be listed below. The Owner reserves the right to check references and confirm information provided herein.

List all clients to whom you currently provide, or have in the past provided **leadership development services** equal or similar to those required under the City's contract and as outlined in this bid package. A minimum of three (3) projects shall be listed below in order to bid on this contract. The Owner reserves the right to check references and confirm information provided herein.

	Contact Name	Phone	Current Client? Y or N	Number of years service provided	Description of service
1	Blake Thomas	386-760-2020	N	2	Employee training, Leadership coaching State Farm agent in Port Orange
2	Dave Mc Calister	386-847-3816	N	2	2 year leadership program for future leaders Fire departments in Volusia County
3	Richard DeLauter	312-567-2249	Y	2	12 Leadership development workshops for current and future leaders . DOD at Southcom

PUBLIC ENTITY CRIME STATEMENT

STATE OF FLORIDA §
COUNTY OF VOLUSIA §

Before me, the undersigned authority, personally appeared affiant JOSEPH CORY who being first duly sworn, deposes and says:

1. That the undersigned firm is furnishing this Public Entity Crime Statement pursuant to Section 287.133 of the Florida Statutes for the undersigned firm to receive a contract with the City of Port Orange, a public entity, for goods or services.

2. The firm acknowledges that "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, proposal, or reply on a contract to provide any goods or services to a public entity; may not submit a bid, proposal, or reply on a contract with a public entity for the construction or repair of a public building or public work; may not submit bids, proposals, or replies 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 in Section 287.017, Florida Statutes for CATEGORY TWO for a period of 36 months following the date of being placed on the convicted vendor list."

3. The firm warrants that none of its employees or affiliates are on the convicted vendor list kept and published by the State Department of Management Services.

FURTHER AFFIANT SAYETH NAUGHT

Name of Firm: Insight and Beyond Inc

By: Joseph Cory
Name and Title

Date: 09/09/2015

The foregoing instrument was acknowledged before me this 9th day of September, 2015, by Joe Cory/Angela Harrison Notary of State Farm and who:
☒ is personally known to me; or ☐ has produced _____ as identification.



Angela Michele Harrison
Notary Public, State of
Printed Name, Commission Seal and Term Expiration Date

DRUG FREE PREFERENCE STATEMENT

IDENTICAL TIE BIDS - Preference shall be given to businesses with drug-free workplace programs. Whenever two or more bids, proposals, 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 Firm: Insight and Beyond Inc

By: Joseph Coury Director
Name and Title

Date: 09/09/2015

The foregoing instrument was acknowledged before me this 9th day of September, 2015, by Joe Coury / Angela Harrison as Notary of State Farm and who: ☒ is personally known to me; or ☐ has produced _____ as identification.



Angela Michele Harrison
Notary Public, State of

Printed Name, Commission Seal and Term Expiration Date

User: Wiggins, Julia

Organization:

City of Port Orange - Finance Department

Logout | Help



My DemandStar	Buyers	Account Info
Log Bid	View Bids	Log Quote
[View Quotes]	Supplier Search	Build Broadcast List
Reports		

Quote Details

Quote Number	JJ16-13
Quote Name	Leadership Development Program
Broadcast Date	9/4/2015 10:12:01 AM Eastern
Date Due	9/25/2015 5:00:00 PM Eastern
Delivery Requirements	None specified
Shipping Notes	None specified
Additional Specifications	See attached.
Insurance & Additional Requirements	See attached. Insurance and additional requirements may apply.
Terms & Conditions	Net 30 upon receipt and approval.
Status Notes	
Broadcast List Filtered	No
Commodity Codes	View
Documents	View

Suppliers

Line Items

1 Supplier(s) found.

Response Status:

Submitted Quote

Search

Supplier	City	Attributes	Programs	Response Status	Quote Total ▲	Delivery (days ARO)	Complete / Partial	Actions
Joe Coury	Port Orange, FL			Submitted Quote	\$28,824.00	60	Complete	Details

Subtotals will be rounded up to the nearest cent

<< Return

JOE COURY EFFECTIVE STRATEGIES

2015 – 2016 Department Heads Leadership Development



Services to be delivered

Workshop(s) for team building and leadership training

Workshops

- 6 half day Department heads workshops

Department Heads workshops / curriculum:

The workshops have the same format that the department heads have recently completed with Effective Strategies. The training and consulting workshops will be supporting the Utilities Director, and when appropriate, the City HR training specialist agenda based on current events, to fit the real time needs of the information delivered. This will ensure customization to train what will be most needed and effective in real time.

The format of the workshop is highly interactive. The morning starts with an opening keynote dialog followed by a question and answer period. This sets the direction, delivers the theme, and provides the substance for the day.

Each training session includes an outline handout for use in taking notes. After the keynote the session begins with a Power Point presentation, exercises, and also includes a question and answer period. This will allow for all learning discussions to be done as an entire group. The sharing of information and thought provoking questions benefits everyone attending (each topic will have this same process). Adequate time for breaks

All materials for the workshop are provided by Effective Strategies and are included in the cost. The location, snacks, AV/ Tech equipment to view or to broadcast the PowerPoint's, videos, music, technology are provided by you. (Note; before you secure any equipment at an expense please speak with me first because I can help reduce your cost by bringing my equipment)

Suggested reading materials / Books

1. *** Wide Awake Leadership** (*The power to overcome mediocrity*)
2. **Who moved my cheese**
3. **The one minute manager**

Pricing Proposal

We can build any variation of the following services

Service or Product	Quantity	Rate	Total
Half day manager workshops	6	1000.00	6000.00
* Paper back books for students	9	12.00	108.00
			6108.00

Respectfully;
Joe Coury

CEO / Owner Effective Strategies

User: Wiggins, Julia

Organization:

City of Port Orange - Finance Department

Logout | Help



My DemandStar		Buyers	Account Info			
Log Bid	View Bids	Log Quote	[View Quotes]	Supplier Search	Build Broadcast List	Reports

Quote Details

Quote Number	JJ16-13
Quote Name	Leadership Development Program
Broadcast Date	9/4/2015 10:12:01 AM Eastern
Date Due	9/25/2015 5:00:00 PM Eastern
Delivery Requirements	None specified
Shipping Notes	None specified
Additional Specifications	See attached.
Insurance & Additional Requirements	See attached. Insurance and additional requirements may apply.
Terms & Conditions	Net 30 upon receipt and approval.
Status Notes	
Broadcast List Filtered	No
Commodity Codes	View
Documents	View

Suppliers

Line Items

1 Supplier(s) found.

Response Status: Submitted Quote ▼

Supplier	City	Attributes	Programs	Response Status	Quote Total ▲	Delivery (days ARO)	Complete / Partial	Actions
Joe Coury	Port Orange, FL			Submitted Quote	\$28,824.00	60	Complete	Details

Subtotals will be rounded up to the nearest cent

[<< Return](#)

JOE COURY EFFECTIVE STRATEGIES

2015 – 2016 Future Leadership Development Class



Services to be delivered

Workshop(s) for team building and leadership training

This is a leadership development program. The objective is train and development up to 20 hand picked individuals identified by the department heads as probable future leaders.

The City of Port Orange has recognized that a development program for leadership has been absent in the past. The development at the successor level is also a forward step to create a much-improved positive culture within the city to strive toward greatness.

At the draft of this proposal the program length is 18 months and will run concurrent to an HR policy and procedure training program for the attendees.

Workshops

- 18 half day successor workshops

Successor Workshops:

The format of the workshop is highly interactive. The morning starts with an opening keynote dialog followed by a question and answer period. This sets the direction, delivers the theme, and provides the substance for the day.

Each training session includes an outline handout for use in taking notes. After the keynote the session begins with a Power Point presentation, exercises, and also includes a question and answer period. This will allow for all learning discussions to be done as an entire group. The sharing of information and thought provoking questions benefits everyone attending (each topic will have this same process). Adequate time for breaks

All materials for the workshop are provided by Effective Strategies and are included in the cost. The location, snacks, AV/ Tech equipment to view or to broadcast the PowerPoint's, videos, music, technology are provided by you. (Note; before you secure any equipment at an expense please speak with me first because I can help reduce your cost by bringing my equipment)

Successor curriculum:

Assessments	Developmental plan	Training
Communications	Time Management	Development
Self Development	Team	Entrust / Empower
Self Discipline	Us vs. Them	Conclusion
Leadership	Risk Reward	
3 Maxims Leadership	Negotiations	
Leader/Manager/Tech	Five steps to empower	

Assessments

The Myers-Briggs Type Indicator will help you understand how you look at the world. You will also gain an in-depth understanding of the personalities of others. This knowledge is exponentially valuable in communication skills, and relationships with others.

The Leadership Style assessment tool reveals your preferred leadership style, your adapted leadership style, and your least employed leadership style. Knowing and understanding your leadership style helps you understand when your style is the best for a given situation and even when it's not. Not only do I teach your preferences I also teach all the sets of each preference of skills that every leader needs in their toolbox to be successful.

Suggested reading materials / Books

1. * **Wide Awake Leadership** (*The power to overcome mediocrity*)
2. **Who moved my cheese**
3. **The one minute manager**

Pricing Proposal

We can build any variation of the following services. Also important to note that since the program spans over more than one year the proposal can be written as this draft shows in it's entirety or in annual time frames to support the city's budget requirements.

Service or Product	Quantity	Rate	Total
Half day successor workshops	18	1000.00	18,000.00
* Paper back books for students	18	12.00	216.00
Leadership Style assessment (per person)	18	100.00	1800.00
Myers Briggs Type Indicator (per person)	18	150.00	2700.00
			22,716.00

Respectfully;
Joe Coury

CEO / Owner Effective Strategies



Joseph V. Coury
1648 Taylor Rd #208
Port Orange FL 32128
888-494-0050
Fax: 888-863-0668
www.joecoury.com



Joe Coury is the United States Department of Defense's leadership training expert, a national keynote speaker, a professional business coach, an author, a public speaker, an on-air talk show expert, and an instructor. He has nearly four decades of leadership expertise.

Notre Dame University, Mendoza College of Business Certifications

Executive Certificate in Leadership and Management

Executive Certificate in Negotiation

Certification in Effective Leadership

Negotiation Essentials

Certification in Teams and Organizations

Advanced Negotiations

Certification in Business Strategies

Strategies for Conflict Management

Villanova University - Green Belt Six Sigma

Warner University - Bachelors of Arts Degree Organizational Management

Myers-Briggs Type Indicator Psychological Testing

Founder of Joe Coury Effective Strategies, a leadership development and training company, Joe Coury helps both businesses and individuals develop the skills that can enhance their competitive edge. He has the ability to identify individual clients' needs in order to help them maximize their desired results.

Joe's leadership skills were recognized and rewarded early and then enhanced through formal curriculums. His intrinsic capabilities coupled with keen knowledge and insight have inspired and produced amazing results for those seeking to achieve the next level of success.

Joe Coury is a leader in the community. He works with multiple Chambers of Commerce, and served multiple tenures with Their Executive Board of Directors. He has also held multiple tenures in Vice President positions of Economic Development and Governmental Affairs, Special projects as well as Chairperson of Volusia Counties Space Port Team. Joe was also selected by the military for 2014, 2015, and 2016 as the Leadership Training Expert for the United States Department of Defense, Southern Command's Intelligence, Surveillance, and Reconnaissance Division.

As a former Fortune 500 company leader and business owner, Joe has spent the last 41 years developing winning practices for a multitude of diverse clients. He specializes in customization: from professional business coaching, training sessions, workshops, to keynote speaking and even long term leadership development programs. Joe doesn't teach his clients their professions; he, instead, teaches them the specific skills to make their professions more successful.



Joseph V. Coury
1648 Taylor Rd #208
Port Orange FL 32128
888-494-0050
Fax: 888-863-0668
www.joecoury.com



DATE: 10/01/15

Vendor #

Insight and Beyond

Ship to: WA

Central Stores

Requisition #:

Parts Inventory

Water Production/Distribution

SEE BELOW FOR ACCOUNT BREAKDOWN

Wastewater Collection/Treatment

FUND DEPT. *DIVISION

****Requisitions that are not properly filled out will be returned to the originating dept. for completion****

Quantity		Comm Code	Sub Com Code	Stock # C/S or Other	Unit of Measure	Unit Price	Total Cost	Elem. (Acc't)
1	2015-2016 Department Head				blk	\$ 6,108.00	\$ 6,108.00	
	Effective Strategues							
	Per Quote Wire #JJ16-13							
				PRJ		\$ 6,108.00	\$ 6,108.00	
				PRJ		\$ -	\$ -	
				PRJ		\$ -	\$ -	
				PRJ		\$ -	\$ -	
Grand Total							\$ 6,108.00	

Justification/Remarks

Posted on quote wire, only one vendor applied

Vendor Quotes - Prices Quoted Must Be FOB Port Orange, FL - \$2,000.00 To \$8,000.00 Must Be Attached.

Vendor Name	Terms	Total Amount	Delivery

Division Head or Project Manager

PU Budget Analyst

I herby certify that the Articles above specified are necessary
for use in this department, and that they are to be used solely for the
City.

City Manager (in applicable)

Department Head

Finance Department



CITY OF PORT ORANGE STANDARD CONTRACT FOR SERVICES

This Standard Contract for Services ("Contract") is entered into this ____ day of _____, 2015, 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 **INSIGHT AND BEYOND, INC.**, a Florida corporation, whose principal address is 6094 Pheasant Ridge Drive, Port Orange, Florida 32128 ("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 City of Port Orange, Public Utilities Department, "2015-2016 Future Leadership Development Class", 18 half day successor workshops for team building and leadership training and "2015-2016 Department Heads Leadership Development", six (6) half day department heads workshops/curriculum.
- (b) The time, manner and place for performance of such services shall be:

Term: The term of this Contract shall commence on the last date this Contract is signed by the Parties and shall continue until September 30, 2017 (the "Term").

Manner and Place: As outlined in Insight and Beyond, Inc. pricing proposals, attached hereto as Exhibit "1," and further specified in Quote Wire No. JJ16-13, attached hereto as Exhibit "2," in accordance with 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 Purchase Order(s) 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 written Purchase Order(s) 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 Contractor at the prices set forth in Exhibit "1," subject to a limit up to but not to exceed Twenty-Eight Thousand, Eight Hundred Twenty-Four and 00/100 Dollars (\$28,824.00). 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 Administration. The Public Utilities Director, Andrew Neff, shall perform contract administration of this Contract. For notice provisions, see the paragraph below entitled "Notice."

4. 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 19 of this contract concerning disputes.

5. 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.

6. 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.

7. 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.

8. 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.

9. 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.

10. 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 Bodily 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	

11. 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.

12. 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.

13. 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.

14. 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.

15. 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.

16. 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.

17. 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.

18. 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.

19. 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.

20. 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.

21. 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.**

22. Additional Provisions. As may have been outlined in Exhibit "1" and Exhibit "2" 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.

23. 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.

24. **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: Andrew Neff, Public Works Director
1000 City Center Circle
Port Orange, Florida 32129
(386) 506-5750

Contractor: Insight and Beyond, Inc.
Attention: Joe Coury, Director
6094 Pheasant Ridge Drive
Port Orange, Florida 32128
(386) 761-9019 – Telephone
(888) 863-0668 – Facsimile
joe@joecoury.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.

25. **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.

26. **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:

INSIGHT AND BEYOND, INC.

By: _____

Joseph V. Coury, Director

Printed Name: _____

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: _____

Date: _____

STATE OF FLORIDA
COUNTY OF VOLUSIA

The foregoing instrument was acknowledged before me this ____ day of _____, 2015, by Joseph V. Coury, as Director of Insight and Beyond, Inc., a Florida, 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

Printed Name:_____

By:_____
David T. Harden, Interim City Manager

Printed Name:_____

Date:_____

STATE OF FLORIDA
COUNTY OF VOLUSIA

The foregoing instrument was acknowledged before me this ____ day of _____, 2015, by David T. Harden, as Interim City Manager 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 _____, 2015, 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 5084]

JOE COURY EFFECTIVE STRATEGIES
2015 – 2016 Future Leadership Development Class



Services to be delivered

Workshop(s) for team building and leadership training

This is a leadership development program. The objective is train and development up to 20 hand picked individuals identified by the department heads as probable future leaders.

The City of Port Orange has recognized that a development program for leadership has been absent in the past. The development at the successor level is also a forward step to create a much-improved positive culture within the city to strive toward greatness.

At the draft of this proposal the program length is 18 months and will run concurrent to an HR policy and procedure training program for the attendees.

Workshops

- 18 half day successor workshops

Successor Workshops:

The format of the workshop is highly interactive. The morning starts with an opening keynote dialog followed by a question and answer period. This sets the direction, delivers the theme, and provides the substance for the day.

Each training session includes an outline handout for use in taking notes. After the keynote the session begins with a Power Point presentation, exercises, and also includes a question and answer period. This will allow for all learning discussions to be done as an entire group. The sharing of information and thought provoking questions benefits everyone attending (each topic will have this same process). Adequate time for breaks

All materials for the workshop are provided by Effective Strategies and are included in the cost. The location, snacks, AV/ Tech equipment to view or to broadcast the PowerPoint's, videos, music, technology are provided by you. (Note; before you secure any equipment at an expense please speak with me first because I can help reduce your cost by bringing my equipment)

Successor curriculum:

Assessments	Developmental plan	Training
Communications	Time Management	Development
Self Development	Team	Entrust / Empower
Self Discipline	Us vs. Them	Conclusion
Leadership	Risk Reward	
3 Maxims Leadership	Negotiations	
Leader/Manager/Tech	Five steps to empower	

Assessments

The Myers-Briggs Type Indicator will help you understand how you look at the world. You will also gain an in-depth understanding of the personalities of others. This knowledge is exponentially valuable in communication skills, and relationships with others.

The Leadership Style assessment tool reveals your preferred leadership style, your adapted leadership style, and your least employed leadership style. Knowing and understanding your leadership style helps you understand when your style is the best for a given situation and even when it's not. Not only do I teach your preferences I also teach all the sets of each preference of skills that every leader needs in their toolbox to be successful.

Suggested reading materials / Books

1. * Wide Awake Leadership *(The power to overcome mediocrity)*
2. Who moved my cheese
3. The one minute manager

Pricing Proposal

We can build any variation of the following services. Also important to note that since the program spans over more than one year the proposal can be written as this draft shows in it's entirety or in annual time frames to support the city's budget requirements.

Service or Product	Quantity	Rate	Total
Half day successor workshops	18	1000.00	18,000.00
* Paper back books for students	18	12.00	216.00
Leadership Style assessment (per person)	18	100.00	1800.00
Myers Briggs Type Indicator (per person)	18	150.00	2700.00
			22,716.00

Respectfully;
Joe Coury

CEO / Owner Effective Strategies

JOE COURY EFFECTIVE STRATEGIES
2015 – 2016 Department Heads Leadership Development



Services to be delivered

Workshop(s) for team building and leadership training

Workshops

- 6 half day Department heads workshops

Department Heads workshops / curriculum:

The workshops have the same format that the department heads have recently completed with Effective Strategies. The training and consulting workshops will be supporting the Utilities Director, and when appropriate, the City HR training specialist agenda based on current events, to fit the real time needs of the information delivered. This will ensure customization to train what will be most needed and effective in real time.

The format of the workshop is highly interactive. The morning starts with an opening keynote dialog followed by a question and answer period. This sets the direction, delivers the theme, and provides the substance for the day.

Each training session includes an outline handout for use in taking notes. After the keynote the session begins with a Power Point presentation, exercises, and also includes a question and answer period. This will allow for all learning discussions to be done as an entire group. The sharing of information and thought provoking questions benefits everyone attending (each topic will have this same process). Adequate time for breaks

All materials for the workshop are provided by Effective Strategies and are included in the cost. The location, snacks, AV/ Tech equipment to view or to broadcast the PowerPoint's, videos, music, technology are provided by you. (Note; before you secure any equipment at an expense please speak with me first because I can help reduce your cost by bringing my equipment)

Suggested reading materials / Books

1. * Wide Awake Leadership *(The power to overcome mediocrity)*
2. Who moved my cheese
3. The one minute manager

Pricing Proposal

We can build any variation of the following services

Service or Product	Quantity	Rate	Total
Half day manager workshops	6	1000.00	6000.00
* Paper back books for students	9	12.00	108.00
			6108.00

Respectfully;
Joe Coury

CEO / Owner Effective Strategies

DATE: 10/01/15

Vendor #

Insight and Beyond

Ship to: WA

Central Stores

Requisition #:

Parts Inventory

Water Production/Distribution

SEE BELOW FOR ACCOUNT BREAKDOWN

Wastewater Collection/Treatment

FUND DEPT. *DIVISION

****Requisitions that are not properly filled out will be returned to the originating dept. for completion****

Quantity		Comm Code	Sub Com Code	Stock # C/S or Other	Unit of Measure	Unit Price	Total Cost	Elem. (Acc't)
1	2015-2016 Department Head				blk	\$ 6,108.00	\$ 6,108.00	
	Effective Strategies							
	Per Quote Wire #JJ16-13							
				PRJ		\$ 6,108.00	\$ 6,108.00	
				PRJ		\$ -	\$ -	
				PRJ		\$ -	\$ -	
				PRJ		\$ -	\$ -	
Grand Total							\$ 6,108.00	

Justification/Remarks

Posted on quote wire, only one vendor applied

Vendor Quotes - Prices Quoted Must Be FOB Port Orange, FL - \$2,000.00 To \$9,000.00 Must Be Attached.

Vendor Name	Terms	Total Amount	Delivery

Division Head or Project Manager

FY Budget Analyst

I hereby certify that the Articles above specified are necessary for use in this department, and that they are to be used solely for the City.

City Manager (in applicable)

Department Head

Finance Department

EXHIBIT "1"



WRITTEN REQUEST FOR PROPOSALS

NOTE: THIS IS NOT AN ORDER

Public Utilities Leadership Development Program

Quote Wire #: JJ16-13

Date Posted: 9/4/15

Due Date: 9/25/2015 at 5:00PM

City of Port Orange Contact: Julia Wiggins

Contact Phone Number: 386-506-5751

Contact Email: jwiggins@port-orange.org

The City of Port Orange, Public Utilities Department, requests proposals for a leadership development program.

Proposals and accompanying documents shall be sent to Julia Wiggins, Budget Analyst via email to: jwiggins@port-orange.org. Questions regarding this proposal shall be addressed in writing to:

Julia Wiggins, Budget Analyst
Public Utilities Department
1000 City Center Circle
Port Orange, FL 32129
E-Mail Address: jwiggins@port-orange.org

The City of Port Orange reserves the right to cancel any agreement, or any part thereof without obligation if the delivery is not made within the time specified. Any work performed after cancellation of order(s) may be returned at the buyer's expense. Figures proposed shall remain firm for ninety (90) days or until acceptance of the Offeror's quotation and subsequent Purchase Order is issued. This quotation may be awarded in part or whole. The City of Port Orange reserves the right to accept or reject any or all quotations in the best interest of the City. The City of Port Orange reserves the right to allow for clarification of questionable entries and for the corrections of obvious mistakes. The City of Port Orange is exempt from State sales tax and Federal Excise Tax. Do not include tax on quotation. Tax Exemption Certificate shall be furnished upon request. The pricing proposed shall remain firm. The City of Port Orange requires that any and all changes to the original Purchase Order or Contract shall be in writing and approved in advanced through a change order. The City is not obligated to issue an order as a result of this request for proposals and may reject any or all proposals for any reason.

SCOPE/SPECIFICATIONS:

Purpose: To increase the knowledge levels of mid-level managers and supervisors within the organization providing for improved succession planning and supervisor effectiveness. This solicitation will focus on the leadership development aspects of the program which will be combined with in-house training sessions conducted by Port Orange HR and other offices.

Anticipate 15-20 participants over a 12-24 month duration consisting of monthly meetings (all day).

Quote will be split into two sections. The first will be 6 sessions over the 1-2 year time period to cover progress with the mid-level managers and address emerging leadership and succession planning issues within the organization.

The second portion will provide the leadership training for the mid-level managers over the 1-2 year time period. The leadership training program will be interactive. A series of leadership topics, offered to and agreed by Public Utilities management, will cover such topics as communication, self-development, self-discipline, difference between leaders and managers, develop planning, time management, team building, risk/reward, how to negotiate, how to empower people, trading, and other topics agreed to. The quote should contain a full list of topics proposed. Additionally, assessments will be conducted of the people in the training program including Myers-Briggs Type Indicator and at least one other leadership style assessment.

Reading assignments and recommended literature will also be included. At least 3 books, approved by Public Utilities Management, will be part of the program.

Quotes will be lump sum for each portion and contain an outline of proposed activities, timelines, reading material and any other information relevant to the proposed training.

Quotes are due September 25, 2015 at 5:00 P.M.

TERMS AND CONDITIONS:

Proposer must be familiar with and comply with all federal, state and local laws, ordinances, codes and regulations that may affect the services offered and is responsible for bearing all costs of permits, licenses, etc. No proposals received after the time and date specified in the proposal document will be considered. The City of Port Orange, Florida reserves the right to reject any and all proposals, to waive any and all non-substantial irregularity in proposals received, whenever such waiver or rejection is in the best interest of the City. The City is not obligated to issue an order as a result of this proposal request and may reject any or all proposals for any reason. Award will be based on the highest total proposal ranking.

SELECTION CRITERIA

The City's evaluation criteria will include consideration of, but will not be limited to the following:

- a. Qualifications and Experience
- b. Quality of Response (ability, capacity, skill)
- c. All-inclusive fee amount.



Date Received: _____

Customized Job Training Application
for

Flagler and Volusia County Businesses

CareerSource Flagler Volusia STAFF ONLY (check all that apply)

GREEN TRAINING: ☐ Yes ☐ No

WTP: ☐ **WIOA:** ☒ **OTHER:** _____

CareerSource Flagler Volusia is interested in assisting companies improve the skills of their employees.

The following criteria must be met and agreed upon prior to contract implementation:

1. The employee is not earning a self-sufficient wage as determined by Local Board policy.
2. The employee may receive promotion or wage increase within 30 days following training.
3. Training relates to the introduction to new technologies, introduction to new production or service procedures or upgrading to new jobs that require additional skills.
4. The employee receiving training must not supplant any currently employed individuals.
5. The company must contribute at least 50% of the training cost of the individuals.

If the company understands and agrees to the conditions of the training, the following application may be completed for eligibility.

Business Name: City of Port Orange Public Utilities

Primary Anticipated Outcome of Training (check all that apply)

***at least one of the criteria must be checked for training funds**

☒ Job Promotion and/or Pay increase (Increases skill levels of trained workers)

☐ Wage increase

Starting Wage: \$

Wage upon completion will be: \$

☐ Job Creation (Develops transferable skills to increase employee portability)

☐ Averts a layoff that may result in loss of job(s)

***at least one of the criteria must be checked for training funds** - Training is needed in order to obtain/retain employment or will bring underemployed employee (s) up appropriate competency level)

☒ Employee(s) will receive training which will create, update, or retain jobs in a labor demand occupation

☐ Employee(s) will receive training which will prevent job loss caused by obsolete skills, technological change, or national or global competition

☒ Training is High Skill/High Demand/ High Wage which will enhance the competitiveness of the business (Florida's Target Industry/ Infrastructure Clusters)

☐ Training for skills upgrade as required to operate new technology, new production or new services procedures.

☒ Training for skills needed to perform job duties more efficiently or to handle additional responsibilities.

☐ Other (describe)

SECTION 1. Training Project Information

Please describe and include justification for the proposed training project: Services to be delivered:

Workshop(s) for team building and leadership training

This is a leadership development program. The objective is train and development up to 20 hand picked individuals identified by the department heads as probable future leaders. The City of Port Orange has recognized that a development program for leadership has been absent in the past. The development at the successor level is also a forward step to create a much-improved positive culture within the city to strive toward greatness. At the draft of this proposal the program length is 18 months and will run concurrent to an HR policy and procedure training program for the attendees.

Workshops

- 18 half day successor workshops

Successor Workshops:

The format of the workshop is highly interactive. The morning starts with an opening keynote dialog followed by a question and answer period. This sets the direction, delivers the theme, and provides the substance for the day.

Each training session includes an outline handout for use in taking notes. After the keynote the session begins with a Power Point presentation, exercises, and also includes a question and answer period. This will allow for all learning discussions to be done as an entire group. The sharing of information and thought provoking questions benefits everyone attending (each topic will have this same process). Adequate time for breaks

All materials for the workshop are provided by Effective Strategies and are included in the cost. The location, snacks, AV/ Tech equipment to view or to broadcast the PowerPoint's, videos, music, technology are provided by you. (Note; before you secure any equipment at an expense please speak with me first because I can help reduce your cost by bringing my equipment)

Successor curriculum:

Assessments	Developmental plan	Training
Communications	Time Management	Development
Self Development	Team	Entrust / Empower

Self Discipline	Us vs. Them	Conclusion
Leadership	Risk Reward	
3 Maxims Leadership	Negotiations	
Leader/Manager/Tech	Five steps to empower	

Assessments

The Myers-Briggs Type Indicator will help you understand how you look at the world. You will also gain an in-depth understanding of the personalities of others. This knowledge is exponentially valuable in communication skills, and relationships with others.

The Leadership Style assessment tool reveals your preferred leadership style, your adapted leadership style, and your least employed leadership style. Knowing and understanding your leadership style helps you understand when your style is the best for a given situation and even when it's not. Not only do I teach your preferences I also teach all the sets of each preference of skills that every leader needs in their toolbox to be successful.

Suggested reading materials / Books

1. * **Wide Awake Leadership** (*The power to overcome mediocrity*)
2. **Who moved my cheese**
3. **The one minute manager**

Is training available in community?: yes

If so, do you have a training provider in mind?: yes
Can the training be administered by instructor(s) on your staff?: no

Do you need assistance in identifying training entity referrals?: no

Please indicate a date when representatives of CareerSource Flagler Volusia Center can meet with employees to take an application (approximately 45 minutes to one hour): TDB (november)

SECTION 2. Business Information

Business Name: City of Port Orange

Contact Person's Name & Title Andrew Neff, Public Utilities Director Phone: 386-506-5759 Fax: E-mail: aneff@port-orange.org

Street/Mailing Address: 1000 City Center Circle

City: Port Orange State: FL ZIP: 32129

Company Website: www.port-orange.org

Date of Business' Inception: 1867 Years in business: Number of Employees: 84 (Public Utilities only)

Legal Structure of Business: ☐ Sole Proprietor ☐ Partnership ☒ Corporation

Employer's Federal ID #: 596000412 Unemployment Comp. ID #:

Florida Sales Tax Reg. #:

Company's Industry: Local Government Primary NAICS/SIC Code(s):

Description of business: The City of Port Orange is a full service municipality. This training is focused on the Public Utilities Department, which provides safe drinking water to the citizens of the City/

Is the company current on all State of Florida tax obligations? ☒ YES ☐ NO

Total estimate the company will spend on training in the current fiscal year (do not include prospective funding from this grant program): \$ 20,000.00+

Is your business receiving or applying for other public training funds? ☐ YES ☒ NO

If yes, write explanation:

How did you learn about the Customized Job Training Program? Joe Coury.

SECTION 3. Training Provider Information

Summary of Proposed Training: *(Provide brief narrative of proposed training)* This training will provide mid-level manager, supervisors and other employees interested in advancement within the department the skill set needed to perform effectively in the organization. This training involves an 18-month course in leadership development combined with core competency training in key areas of the City including human resources, purchasing, budgeting, etc. The training is intended to advance the skill set of these employees to provide for future succession planning and career pathing.

Training Start Date: Dec 2015 **Training End Date:** May 2017 **Total Training Hours: 72**
hours per person x number of participants 20 x72=1440

Please check all that apply:

- ☐ We intend to use a public training organization.
- ☒ We will use a private training organization.
- ☐ We will use a private instructor.
- ☒ We will use a trained/certified staff member to train our employees.
- ☒ Training will be delivered on-site.
- ☐ Training will be delivered at an educational institution.
- ☐ Training will be delivered at a remote location.
- ☐ Computer Based Training through the Internet

Location of training: City of Port Orange

Training Provider: City HR and Insight & Beyond Inc

Authorized Training Provider Representative: Jamie Miller/Joe Coury

Trainer's Address: 6094 Pheasant Ridge Dr

City: Port Orange State: FL ZIP: 32128

Phone: 386-761-9019 Fax: 888-8630668 E-Mail: joe@joecoury.com

SECTION 4. Training Program Participant Information & Budget

Name of Participant: Last, First	Last Four SSN#	Salary Pre- Training	Salary Post- Training	Job Title Pre –Training	Job Title Post –Training
		\$	\$		
		\$	\$		
		\$	\$		
		\$	\$		
		\$	\$		
		\$	\$		
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		\$	\$		

Add more sheets as necessary.

Please use a guide. You may include other items for consideration as required. Show all formulas below used to calculate totals as indicated. BE SPECIFIC.

Training funds cannot be used to reimburse any training organization.

BUDGET CATEGORY	AMOUNT ASSISTANCE REQUESTED	EMPLOYER CONTRIBUTION	TOTAL
Instructor Wages (Break out costs for individual programs including total hours and instructor wages)	\$20,000	\$22,716.00	\$42,716.00
Curriculum Development	Not Reimbursable	\$	\$
materials/Supplies Textbooks (itemize)	\$	\$	\$
Training Equipment Purchase (itemize)	Not Reimbursable		
	\$	\$	\$
	\$	\$	\$
Other Direct Costs (describe)			
	\$	\$	\$
	\$	\$	\$
Travel	Not Reimbursable	\$	\$
Training Wages	Not Reimbursable	\$	\$
Sub Total	\$20,000	\$22,716	\$42,716
Indirect Costs	Not Reimbursable	\$	\$
Total	\$20,000	\$22,716	\$42,716

Each recipient of federal funds under Title I of the *Workforce Innovation and Opportunity Act* (WIOA) must assure that it complies with the nondiscrimination laws under the WIOA. Federal regulations under the WIOA require the following nondiscrimination assurance language appear in certain documents, as explained in more detail below, as required by 29 CFR 37.20:

As a condition to the award of financial assistance from the Department of Labor under Title I of the WIOA, the grant applicant assures that it will comply fully with the nondiscrimination and equal opportunity provisions of the following laws:

Section 188 of the Workforce Innovation and Opportunity Act of 1998 (WIOA), which prohibits discrimination against all individuals in the United States on the basis of race, color, religion, sex, national origin, age, disability, political affiliation or belief, and against beneficiaries on the basis of either citizenship/status as a lawfully admitted immigrant authorized to work in the United States or participation in any WIOA Title I-financially assisted program or activity;

Title VI of the Civil Rights Act of 1964, as amended, which prohibits discrimination on the bases of race, color and national origin;

Section 504 of the Rehabilitation Act of 1973, as amended, which prohibits discrimination against qualified individuals with disabilities;

The Age Discrimination Act of 1975, as amended, which prohibits discrimination on the basis of age; and

Title IX of the Education Amendments of 1972, as amended, which prohibits discrimination on the basis of sex in educational programs.

The grant applicant also assures that it will comply with 29 CFR part 37 and all other regulations implementing the laws listed above. This assurance applies to the grant applicant's operation of the WIOA Title I-financially assisted program or activity, and to all agreements the grant applicant makes to carry out the WIOA Title I-financially assisted program or activity. The grant applicant understands that the United States has the right to seek judicial enforcement of this assurance.

CareerSource Flagler Volusia

ON-THE-JOB TRAINING (OJT) and CUSTOMIZED TRAINING (CT) CONTRACT ASSURANCES

DEFINITIONS

On The Job Training Definition: On-the-Job Training (OJT) means training by an employer in the public, private nonprofit or private sector given to a WIOA registered customer who, after comprehensive assessment, is provided to a paid customer while engaged in productive work in a job that:

- a. Provides knowledge or skills essential to the full and adequate performance of the job;
- b. Provides reimbursement to the employer of up to 50 percent of the wage rate of the customer; for the extraordinary costs of providing the training and additional supervision related to the training; and
- c. Is limited in duration as appropriate to the occupation for which the customer is being trained, taking into account the content of the training, the prior work experience of the customer, and the service strategy of the customer, as appropriate.

Specific Vocational Preparations (SVP): (Pertains to OJT only) SVP is the amount of training time required by a typical worker to learn the techniques, acquire the information, and develop the competencies needed for the average performance in a specific job-worker situation. An SVP level is based on the job seekers applicable transferable skills and therefore the actual training period may be less than the SVP training period.

Eligible OJT Customer: A WIOA client who has completed the comprehensive assessment process and received an appropriate Occupational Skills Profile that indicates the training activity will result in a successful outcome.

Employer of Record: An employer of record is the actual entity paying the wage. For example, an employment agency can be the employer of record if the WIOA customer's wage is paid by the employment agency. For the purpose of federal reporting requirements, the exact name of the employer of record is required. If the employer of record is actually doing business as under another name, that name should also be identified.

On-the-Job Training Provisions:

OJT is provided under a contract with an employer in the public, private non-profit, or private sector. Through the OJT contract, occupational training is provided for the WIOA customer in exchange for the reimbursement of up to 50 percent of the wage rate to compensate for the employer's extraordinary costs of training.

An OJT contract must be limited to the period of time described in the procedure below and based on Specific Vocational Preparation (SVP) times and the previous experience of an individual.

An OJT Training Plan must be written in the contract for skills the trainee does not already possess. Care must be given to check the trainee's work history and document the new skills to be learned are different, more difficult, and/or unique to the new job, and are therefore necessary to perform the new job tasks.

Customized Training Definition: Under WIOA and its guiding regulations customized training of an eligible employed individual may be provided for an employer or group of employers when:

- a. The employee is not earning a self-sufficient wage as determined by Local Workforce Investment Board policy and;
- a. The employee has been determined to be unable to obtain or retain employment without the customized training. The upgrading of skills must be documentable and necessary so the workers remain skilled, employed, and competitive in the workplace.

Customized Training (CT) will be understood in an Agreement to mean training:

- a. That is designed to meet the special requirements of an employer (including a group of employers);
- b. That is conducted with a commitment by the employer to employ, or continue to employ the trained individual upon successful completion of the training; and
- c. For which the employer pays for not less than fifty percent (50%) of the cost of the training.

Customized Training Provisions

Customized training relates to:

- Introduction of new technologies;
- Introduction of new production or service procedures;
- Upgrade to new position that requires additional technical skills;
- Training that results in improved self-sufficiency of participants;
- Training results in transferable skills within the industry in which the worker is currently employed, and/or other growing industries within the LWIOA;
- Determine whether the training is for an occupation with a high potential for sustained demand or growth in the local workforce development area, as determined by the Local Workforce Investment Board (LWIB) and allowed by WIOA §134(d)(4)(G)(iii); and
- Afford each participant the opportunity to become self-sufficient.

Customized Training Protections:

1. Customized training participant **shall not** displace (including a partial displacement, such as a reduction in the non-overtime work, wages, or employment benefits) any currently employed employee (as of the participation);
2. Customized training activities **shall not** impair an existing contract for services or collective bargaining agreement, and **no such activity** that would be consistent with the terms of a collective bargaining agreement shall be undertaken **without the written concurrence of the labor organization and employer concerned**;
3. A participant **shall not** be employed in a job if:
 - Any other individual is on layoff from the same or any substantially equivalent job;
 - The employer has terminated employment of any regular employee, or otherwise, reduces the workforce of the employer with the intention of filling the vacancy so created with the participant;
 - The job is created in a promotional line that will infringe in any way upon the promotional opportunities of currently employed individuals (as of the date of the participation); and
4. **No funds** will be used for customized training for any business that has relocated until 120 days after the date on which such business commences relocation, if the relocation of such

business or part of a business results in the loss of employment for any employee at the original location and such original location is within the United States.

EMPLOYER RESPONSIBILITIES

1. No employer entering in an OJT/CT or contract shall have permanently laid off employees within the past 180 days.
2. No person may be hired under this contract unless certified eligible by CareerSource Flagler Volusia.
3. Employer agrees to hire or continue to employ the participant at the beginning of his/her training period as a member of the employer's regular workforce and to retain the trainee at the conclusion of his/her training period, provided that the trainee successfully completes designated training program. The trainee will receive a wage within the OJT or CT guidelines and will be given an increase in pay in cases for which such increases are awarded other employees in like positions.
4. Employer agrees to provide the trainee under the same terms of employment, working conditions, worker's compensation insurance, pay and fringe benefits accorded to other employees on employer's workforce.
5. Where an OJT or CT trainee is not covered under a state worker's compensation law, they will be provided with adequate on site medical and accident insurance. Income maintenance coverage is not required.
6. Employer shall provide the necessary instruction, supervision, other personnel, and equipment necessary to train the participant.
7. Employers will receive preprinted OJT or CT reimbursement invoice from CareerSource Flagler Volusia 's Business Services Unit. The employer must complete and return these invoices where indicated on a timely basis. Prompt payment shall be made upon submission of properly completed invoices.
8. In no event shall the total reimbursement payments for an OJT training exceed the maximum amount per occupation or the total cost of the agreement unless properly amended.
9. No payment shall be made for days occurring during a period of work stoppage.
10. OJT or CT employees shall receive paid holidays and other benefits, at the same level and same extent as other employees working a similar length of time and doing the same type of work. Periods of non-training hours (such as new employee orientation), and periods of absence during an OJT contract (such as holidays, jury duty, sick leave, business closures), and any other form of absences shall not be compensated to the contracted employer.
11. Unsatisfactory OJT trainees may be terminated. The employer must notify their designated Business Services Representative prior to the termination. Failure to adhere to this assurance may cause cancellation of the OJT Agreement.
12. The employer will be responsible for keeping proper records documenting the time and attendance for all trainees. All trainee records must be maintained for a period of three (3) years from the date of obligation for funds for the OJT or CT Agreement.

13. All trainee records must be retained beyond the three (3) year period, if any litigation or audit is begun, or if a claim is instituted involving the OJT or CT Agreement covered by these records.
14. The employer agrees to allow authorized CareerSource Flagler Volusia staff to make on-site visits with trainees. Advance notification will be given prior to such visits.
15. No currently employed worker shall be displaced by any OJT or CT participant; this includes partial displacements such as reduction of hours or non-overtime work, wages or employment benefits.
16. No participant will be employed or job opening filled through the OJT or CT program when any other individual is on lay-off status from the same or substantially equivalent job. No jobs shall be created in a promotional line that will infringe upon the promotional opportunities of currently employed individuals.
17. The OJT participants enrolled cannot represent a disproportionate share of the employer workforce.
18. The OJT or CT employer agrees to give LET, United States Department of Labor (USDOL), and the Comptroller General, through any authorized representative, access to and the right to examine all records, books, papers, or documents related to the contract.
19. An authorized representative of CareerSource Flagler Volusia shall have access to, at all reasonable times, the records maintained for the OJT or CT Agreement to review and evaluate contractual performance.
20. All employers/immediate supervisors, who will be responsible for training and supervision of trainee, must understand and adhere to conditions of the OJT or CT Agreement.
21. OJT or CT employers shall have a grievance procedure relating to the terms and conditions of employment. If no grievance procedures are in effect CareerSource Flagler Volusia's grievance procedure will prevail. The employer shall inform the OJT or CT trainee of the grievance procedures they are to follow.
22. Employer shall be in compliance with all applicable business licensing, taxation and insurance requirements.
23. If, as a result of financial and compliance audits, any amounts found not to have been expended in accordance with regulations shall be repaid by the employer.
24. To the extent permitted by law, the employer agrees to hold harmless and, if necessary, defined and indemnify the State of Florida from all claims, liabilities, suits of any nature whatsoever arising out of, because of, or due to any breach related to the implementation to this contract.
25. Employer shall be subject to debarment/suspension if found to be in violation of agreement requirements.
26. Employment of an OJT participant with the participant's previous employer in the same, a similar, or an upgraded job is not permitted.

CareerSource Flagler Volusia Responsibilities

1. Designated staff will refer eligible screened applicants to the employer, to meet employer needs.
2. Designated staff will perform monthly follow-up during the OJT or CT time period to interview employer and trainee and provide any technical assistance required by the employer.
3. Designated staff and Business Services Unit staff reserve the right to terminate the On-The-Job or Customized Training Agreement if the employer fails to provide proper training or otherwise fails to abide by the terms of the On-The-Job or Customized Training Agreements. Previous performance will be reviewed prior to any new agreements.
4. Designated staff may unilaterally amend the On-The-Job or Customized Training Agreement to conform to changes in federal, State, or local laws, rules and regulations.
5. All funding is contingent upon CareerSource Flagler Volusia receiving Workforce Investment Act or Welfare Transition Program funds from the State of Florida.
6. Payments for On-The-Job or Customized Training shall not exceed 50% of the total wages paid by the employer to each participant during the contracted period of training.
7. Designated staff will assure that the OJT training does not exceed the justified allowable time for each occupation based upon the Specific Vocational Preparation (SVP) levels and the applicant's special needs.
8. Designated staff is responsible for tracking outcomes of training provided through OJT or CT.

GENERAL ASSURANCE

1. No funds received under an On-The-Job Training or Custom Training Agreement may be used to promote or discourage union organizing.
2. No funds received under an On-The-Job Training or Custom Training Agreement shall be used to promote political activities.
3. No funds shall support any religious or anti-religious activities. Trainee will not be employed on the construction, operation or maintenance of that part of any facility which is used for religious instruction or worship.
4. No trainees may be hired who are members of the employer's immediate family or who serve in an administrative capacity at CareerSource Flagler Volusia
5. Appropriate standards for health and safety in work and training sites will be maintained. Trainees will not be required or permitted to work, to be trained, or receive services under working conditions which are unsanitary, hazardous or dangerous to the trainee's health and safety.
6. The employer shall comply with all applicable laws, orders, and codes of the federal, State, and local government as they pertain to the OJT or CT Agreement.

7. Funds are not to be used to assist in relocating establishments from one area to another if such relocation will result in an increase in unemployment in the area of original location or in any other area.
8. The employer understands and agrees that verbal communication between the parties will not be accepted in any audit determination or other matter involving interpretation of the rules, policy directives and regulations governing the implementation of program activities under this contract.
9. No funds received will be used as contributions to retirement plans.
10. An OJT or CT contract shall not be offered to or entered into with an employer who has had two or more previous contracts and exhibited a pattern of failing to provide participants with long term employment (minimum of 6 months) as regular employees with wages and working conditions at the same level and to the same extent as similarly situated employees.

EQUAL OPPORTUNITY EMPLOYER ASSURANCE

Each recipient of federal funds under Title I of the *Workforce Investment Act* (WIOA) must assure that it complies with the nondiscrimination laws under the WIOA. Federal regulations under the WIOA require the following nondiscrimination assurance language appear in certain documents, as explained in more detail below, as required by 29 CFR 37.20:

As a condition to the award of financial assistance from the Department of Labor under Title I of the WIOA, the grant applicant assures that it will comply fully with the nondiscrimination and equal opportunity provisions of the following laws:

Section 188 of the Workforce Investment Act of 1998 (WIOA), which prohibits discrimination against all individuals in the United States on the basis of race, color, religion, sex, national origin, age, disability, political affiliation or belief, and against beneficiaries on the basis of either citizenship/status as a lawfully admitted immigrant authorized to work in the United States or participation in any WIOA Title I-financially assisted program or activity;

Title VI of the Civil Rights Act of 1964, as amended, which prohibits discrimination on the bases of race, color and national origin;

Section 504 of the Rehabilitation Act of 1973, as amended, which prohibits discrimination against qualified individuals with disabilities;

The Age Discrimination Act of 1975, as amended, which prohibits discrimination on the basis of age; and

Title IX of the Education Amendments of 1972, as amended, which prohibits discrimination on the basis of sex in educational programs.

The grant applicant also assures that it will comply with 29 CFR part 37 and all other regulations implementing the laws listed above. This assurance applies to the grant applicant's operation of the WIOA Title I-financially assisted program or activity, and to all agreements the grant applicant makes to carry out the WIOA Title I-financially assisted program or activity. The grant applicant understands that the United States has the right to seek judicial enforcement of this assurance.

Updated: February 5, 2014

SECTION 5.

As an authorized representative of the company referenced herein, I hereby certify that the information listed above and attached to this application is true and accurate and I am aware that any false information or intended omissions may subject me to civil or criminal penalties for filing of false public records and/or forfeiture of any training award approved through this program.

I will also notify the Business Services Unit within 1 business day of any employee participating in the training who has left the company.

Signature

Title

Name

Date

If application downloaded from our Web site, please mail to:

**Business Services Unit
CareerSource Flagler Volusia
329 Bill France Blvd.
Daytona Beach, FL 32114**

**Please call our Business Services Unit for additional information
(386) 323-7079**

*An equal opportunity employer/program. Auxiliary aids and services are available upon request to individuals with disabilities.
All voice and telephone numbers in this document may be reached by persons using TTY/TDD equipment via the Florida Relay
Service at 711.*

CareerSource Flagler Volusia Use Only

Final Approval Granted By: _____ Date: _____

**CareerSource Flagler Volusia
Customized Training Certification/Invoice**

Employer:

Address:

City, St, Zip

Trainees: (Add fields as needed)

Name & SSN	Hourly Wage Pre- Trng.	Hourly Wage Post- Trng.	Job Title Pre-Training	Job Title Post-Training

Training Dates: From: To:

Overall number of Training Hours:

Unit cost per employee requested \$

Total amount requested \$

Certification

Amounts requested are in accordance with the term of the agreement.

(Employer's Signature)

(Title)

(Date)

(Human Resource Contact)

(Phone Number)

Submit to: CareerSource Flagler Volusia

For more information please contact the Business Services Manager at (386) 323-7094

For CareerSource Flagler Volusia Office Use Only – Payment Approval

(Business Service's Manager Signature)

(Date)

(Finance Department)

Funding Source(s): WTP \$ _____ WIA \$ _____ OTHER \$ _____



CITY COUNCIL AGENDA ITEM

REQUESTED COUNCIL MEETING DATE 10/20/2015

Consent item: Yes

SUBJECT: Approve the two year option for insurance coverage for property, crime, excess crime, inland marine and equipment breakdown

DEPARTMENT: Administrative Services

RECOMMENDED MOTION: Move to approve the option for a 2-year rate guarantee with Brown and Brown for property, crime, excess crime, inland marine and equipment breakdown insurance coverage from 10-1-2015 through 09-30-2017.

SUMMARY: At the Council meeting on September 22, 2015, Council approved a split in insurance coverage between Florida Municipal Insurance Trust (FMIT) and Brown and Brown. Council awarded property, inland marine and crime coverage with Preferred Governmental Insurance Trust (PGIT); Excess crime coverage with Travelers Casualty and Surety of America; and Equipment Breakdown coverage with Federal Insurance Company (all through Brown and Brown).

Brown and Brown's original RFP response offered an option for a two year rate guarantee on all coverages provided with the following conditions: the premium for the second year policy period will be determined based upon updated exposures for this period. Rates for the second year policy period will be identical to those for the period commencing with premiums subject to changes to scheduled property, crime and inland marine.

On September 22, 2015, when the Council approved the award of RFP#15-27, the motion did not include the approval of the option for the 2-year rate guarantee. A positive motion on this item will approve the 2-year rate guarantee.

The rates for the current year are listed below:

Premiums as Proposed	Cost
Property	\$277,327
Inland Marine	\$10,420
Crime	\$924
Excess Crime	\$1,400
Equipment Breakdown	\$6,364
Total Premium	\$296,435

Attached to this agenda item is a snapshot of the document from Brown and Brown summarizing the current coverage, cost and 2-year rate guarantee.

Project Funding Account

No.: No.:

ATTACHMENTS:

1.	Summary of Insurance Coverage	Summary of 2 year coverage from B and B.pdf
----	-------------------------------	---

DiChiara, Paula	Created/Initiated - 09/30/2015
Rosen, Alan	Approved - 10/09/2015
Gomez, Joseph	Approved - 10/12/2015
Roberts, Margaret	Approved - 10/14/2015
Johansson, M. Jake	Final Approval - 10/15/2015

THE CITY OF PORT ORANGE

APPROVED PROPERTY, CRIME, INLAND MARINE AND EQUIPMENT BREAKDOWN COVERAGES

RFP 15-27
Dated 9-23-15

Effective: 10/01/2015 – 10/01/2017

Presented By:

Alan Florez
Executive Vice President

Bobbi P. Barlow, CPCU
Vice President



The City of Port Orange

Preferred Governmental Insurance Trust

PROPERTY COVERAGE

Client ultimately chooses value insured

Description of Coverage:

Building & Personal Property Coverage Form
Causes of Loss – Special Form Excluding Equipment Breakdown and anything specifically excluded

Location of Premises:

See Proposed Schedule of Property Values and Locations

Description of Property:	Limits of Coverage:
Building & Contents Total Insured Values – Blanket	\$117,873,468
Flood Limit – Per Occurrence and Aggregate Excess of NFIP, whether purchased or not	\$2,000,000
Earth Movement Limit – Per Occurrence and Aggregate	\$1,000,000
TRIA (Including Inland Marine)	\$5,000,000

Deductibles:	
Per Occurrence Building & Contents / Extensions of Coverage	\$25,000
Named Windstorm, Per Occurrence	3%
Subject to a Minimum Per Occurrence of:	\$35,000
Per Flood, Per Any One Occurrence Except Property designated as being with Flood Zone A or Flood Zone V to include “will have a deductible equal to all flood insurance available for such property under the NFIP, whether purchased or not or 5% of the Total Insured Value at each affected location whichever is the greater.”	\$25,000
Per Earth Movement	\$25,000

Coinsurance:

No Coinsurance Provision

Valuation:

Replacement Cost Coverage
Limits are Blanket subject to limits shown in the policy declaration at time of loss.

25% Minimum Earned Premium

NOTE:

Detached walls, fences, free-standing property improvements such as athletic equipment, windscreens, light poles, or signs are not covered unless specifically scheduled on the policy.

The City of Port Orange

Preferred Governmental Insurance Trust

PROPERTY COVERAGE (*Continued*)

Client ultimately chooses value insured

Property Not Covered:

- Animals, Water, Land Including Land on Which the Property is Located, Shrubs, Trees, Lawns, Growing Crops or Standing Timber
- Aircraft
- Vehicles licensed or designed for highway use, unless shown on the Property Schedule excluding collision with another object. The Named Storm deductible from PGIT 122 applies per vehicle rather than per location. This coverage is paid at actual cash value at time of loss
- Property You Sold Under Conditional Sale, Trust Agreement, Installment Payment, or Other Deferred Payment Plan After Such Property Has Been Delivered to the Customer
- Caves, Caverns, Mines of Any Type or Any Property Contained Within Them
- Accounts, Records, Bills, Valuable Papers, Abstracts, Deeds, Manuscripts, Currency, Evidence of Debt, Money Notes or Securities, Unless Scheduled in the Declarations
- Dams, Dikes or Levees
- Contraband or Property in the Course of Illegal Transportation or Trade
- Property Covered Under Import or Export Ocean Cargo Policies
- Property You Transport as a Common Carrier
- Property Shipped by Mail, Unless Sent Registered or Certified
- Watercraft, unless loss is from a specified peril

Exclusions Include (but are not limited to):

- War, Military Action and Terrorism
- Pollution
- Nuclear Reaction
- Utility Failure, Except as Provided Under Special Property Coverages
- Demolition and Increased Cost of Construction, Except as Provided Under Special Property Coverages
- Building Ordinance Enforcement
- Mold/Fungus
- Water, Except as Provided Under Extensions of Coverage
- Asbestos
- Inventory Shortage
- Damage from Offshore Oil Well, Oil Shipping/Tanker Incident, Oil Spill
- Equipment Breakdown

APPRAISALS: *Preferred* will be appraising all property currently value at \$100,000 or higher. At time of finalization of appraisal, building values are to be adjusted accordingly or Stated Value Endorsement will be applied with immediate effect.

The City of Port Orange

Preferred Governmental Insurance Trust

COVERAGE ENHANCEMENTS

Client ultimately chooses value insured

Extensions of Coverage:

Accounts Receivable	\$500,000
Additional Expense	\$1,000,000
Animals	\$1,000/\$5,000
Loss of Business Income	\$1,000,000
Debris Removal, Whichever is Greater, Per Occurrence	\$250,000/25% of Loss
Demolition, Ordinance and ICC	\$500,000
Expediting Expense	\$5,000
Fire Department Charges	\$25,000
Fungus Cleanup Expense	\$10,000/\$20,000
Lawns, Plants, Trees and Shrubs	\$25,000
New Locations (*See below)	\$2,000,000
Personal Property of Employees	\$25,000/\$50,000
Pollution Cleanup Expense	\$25,000/\$50,000
Preservation of Property	\$250,000
Recertification	\$10,000
Service Interruption Coverage	\$100,000
Transit	\$250,000
Errors and Omissions	\$250,000
Vehicle Property Coverage	\$ 0
Buildings Under Construction Schedule	If Shown on Property

*Newly acquired locations added during the proposed Coverage Agreement period will be added at no charge. If the location was owned prior to inception, the additional annual premium will be in voiced by endorsement.

The City of Port Orange

Federal Insurance Company

EQUIPMENT BREAKDOWN COVERAGE

Client ultimately chooses value insured

Description of Coverage:	Limits of Coverage:
Blanket Limit	
Property Damage	\$120,000,000
Business Income/Extra Expense – Extended Period Unlimited	\$1,000,000
Ammonia Contamination	\$100,000
Debris Removal	\$100,000
Dependent Business Premises	\$100,000
Electronic Data	\$1,000,000
Fungus Cleanup or Removal	\$50,000
Loss of Utilities	\$1,000,000
Off Premises Property Damage	\$100,000
Pair and Set	\$50,000
Pollutant Cleanup or Removal	
Property Damage	\$250,000
Business Income	\$250,000
Preparation of Loss Fees	
Property Damage	\$50,000
Business Income	\$50,000
Unintentional Errors or Omissions Property Damage	\$1,000,000

\$250,000 Blanket Limit of Insurance:

Electronic Data
Expediting Expenses
Public Safety Service Charge
Spoilage – Scheduled Locations & Utility Owned Equipment
Water Damage

Deductibles:

Property Damage	\$25,000
Business Income	24 Hours
Dependent Business Premises	24 Hours
Loss of Utilities	24 Hours

Forms & Endorsements Include (but are not limited to):

Standard Policy Forms & Endorsements as issued by ISO or Carrier
Chubb Equipment Breakdown Defender Policy Form
Cap on Certified Terrorism Losses

Exclusions Include (but are not limited to):

Standard Policy Exclusions as issued by ISO or Carrier

Federal Insurance Company

EQUIPMENT BREAKDOWN COVERAGE *(Continued)*

Additional Features:

Alternative Power Generating Systems Included in Business Income
Alternative Water Systems Included in Business Income
Brands & Labels Included in Property Damage
Civil Authority Included – 30 Days
Diagnostic Equipment Included
Elevators, Escalators, Conveyors & Hoist Equipment Included
Enhanced Safety Valuation – 25% of the loss amount to repair or replace
Existing Green Standards Included
Extended Warranties Valuation Included
Joint Loss Agreement Included
Newly Acquired Premises – 365 Days Included
Notice of Cancellation – 60 Days, except 20 days for non-payment of premium
Ordinance or Law Valuation Included
Pollutants (Hazardous Substances) Included
Replacement Cost Included

The City of Port Orange

Preferred Governmental Insurance Trust

INLAND MARINE COVERAGES

Client ultimately chooses value insured

Description of Coverage:

Description of Property:	Limits of Coverage:
Blanket Unscheduled Inland Marine –Subject to \$25,000 Maximum Per Item	\$1,526,703
Scheduled Inland Marine – See Schedule	\$2,055,842
Valuable Papers & Records	\$500,000
Total	\$4,082,545

Deductibles:	
Per Occurrence	Varies: See Schedule

Valuation:

Actual Cash Value - Replacement Cost of the Property less Depreciation
Subject to a Maximum Valuation of
\$25,000 per item for Unscheduled Inland Marine
Scheduled Inland Marine: Agreed Value

Forms & Endorsements Include (but are not limited to):

Standard Policy Forms & Endorsements as issued by ISO or Carrier
25% Minimum Earned Premium

Exclusions Include (but are not limited to):

Standard Policy Exclusions as issued by ISO or Carrier

NOTE:

Blanket Unscheduled Inland Marine items are insured with a limit of \$1,526,703. This covers any item valued at \$25,000 or less. Because this coverage is blanket, full limits are not necessary. The limit should be based on the probable maximum loss per location. This coverage also applies to Electronic Data Processing items.

The City of Port Orange

Preferred Governmental Insurance Trust

CRIME COVERAGE

Higher limits may be available upon request

Description of Coverage:	Limits of Coverage:
Forgery and Alteration	\$0
Theft, Disappearance or Destruction	\$25,000
Computer Fraud Including Funds Transfer Fraud	\$500,000
Employee Dishonesty, Including Faithful Performance, Per Loss	\$250,000

Deductibles:	
Forgery and Alteration	\$0
Theft, Disappearance or Destruction	\$1,000
Computer Fraud Including Funds Transfer Fraud	\$2,500
Employee Dishonesty, Including Faithful Performance, Per Loss	\$1,000

Forms & Endorsements Include (but are not limited to):

Standard Policy Forms & Endorsements as issued by ISO or Carrier
Commercial Crime Form
25% Minimum Earned Premium

Exclusions Include (but are not limited to):

Standard Policy Exclusions as issued by ISO or Carrier

Other Coverages Available:

Robbery and Safe Burglary
Premises Burglary
Extortion
Premises Theft and Robbery Outside
Lessees of Safe Deposit Boxes
Securities Deposited with Others
Social Engineering

The City of Port Orange

Travelers Casualty and Surety Company of America

EXCESS CRIME COVERAGE

Higher limits may be available upon request

Description of Coverage:	Limits of Coverage:
Employee Dishonesty	\$750,000
On Premises	\$25,000
In Transit	\$25,000
Computer Fraud	\$500,000
Funds Transfer Fraud	\$500,000
Claim Expense	\$5,000

Retentions:	
Employee Dishonesty	\$251,000
On Premises	\$26,000
In Transit	\$26,000
Computer Fraud	\$502,500
Funds Transfer Fraud	\$502,500
Claim Expense	\$0

Forms & Endorsements Include (but are not limited to):

Standard Policy Forms & Endorsements as issued by ISO or Carrier
Commercial Crime Form
Insuring Agreement as Excess Insurance Endorsement
Government Entity Crime Endorsement – Faithful Performance of Duty
Government Entity Crime Endorsement Including Coverage for Treasurers and Tax Collectors

Exclusions Include (but are not limited to):

Standard Policy Exclusions as issued by ISO or Carrier

Terms & Conditions Include (but are not limited to):

This quote is contingent upon receipt of a completed, signed and dated Travelers crime application for government entities.

SUMMARY OF APPROVED PREMIUMS & RELATED INFORMATION

Premiums as Proposed:	
Property	\$ 277,327.00
Equipment Breakdown	\$ 6,364.00
Inland Marine	\$ 10,420.00
Crime	\$ 924.00
Excess Crime	\$ 1,400.00
Total Premium	\$ 296,435.00

Line of Coverage:	Carrier:	Billing:	Payment Options:
Equipment Breakdown	Federal Insurance Company	Direct Bill	• Quarterly Installments
Excess Crime	Travelers	Agency Bill	• Annual premium is due in full at time of binding coverage
Property, IM, Crime	<i>Preferred</i> Governmental Insurance Trust	Agency Bill	• Quarterly Installments

Terms & Conditions Include (but are not limited to):

1. The Coverage Agreement shall be 25% minimum earned as of the first day of the "Coverage Period."
2. Deletion of any coverage presented, Package/Workers' Compensation, will result in re-pricing of account.
3. Coverage is not bound until confirmation is received from a licensed representative of Public Risk Underwriters.

SUMMARY OF APPROVED PREMIUMS & RELATED INFORMATION (Continued)

TWO-YEAR COVERAGE AGREEMENT OPTION:

Option covers two (2) annual twelve month periods. The following conditions apply in addition to all other conditions of this quote:

- The Premium for the second year policy period will be determined based upon updated exposures for this period.
- Rates for the second year policy period will be identical to those for the period commencing with premiums subject to the following:
Changes to Scheduled Property, Inland Marine, and Automobile
- In the event of cancellation of any line of business prior to the Expiration date of the second policy period, a penalty equal to 60 days premium of such lines of business shall become earned, any provision of the agreement to the contrary notwithstanding. The penalty is earned and payable regardless of when notice of such cancellation is given, or effective date of such cancellation.

BINDING INSTRUCTIONS

Line of Coverage:	Carrier:	Items Needed to Bind Coverage:
Equipment Breakdown	Federal Insurance Company	Signed Acord Application If Rejecting Terrorism, Signed Terrorism Rejection Form
Excess Crime	Travelers	Completed & Signed Travelers Application
Property, IM, Crime	Preferred Governmental Insurance Trust	Signed first page of PGIT Application Signed PGIT Participation Agreement Signed Signature Page

Additional coverages may be available and may not be included in this renewal quote.

Please refer to the individual proposed coverage parts for terms and conditions that this proposal may be subject to. This proposal is based upon the exposures to loss made known to the Agency. Any changes in these exposures (i.e., new operations, new products, additional states of hire, etc.) need to be promptly reported to us in order that proper coverage(s) may be put into place.



CITY COUNCIL AGENDA ITEM

REQUESTED COUNCIL MEETING DATE 10/20/2015

Consent item: Yes

SUBJECT: Piggyback Agreement and Purchase Order for Ten-8 Fire Equipment

DEPARTMENT: Fire/Rescue Services

RECOMMENDED MOTION: Move approval for expenditures with Ten-8 Fire Equipment and a blanket purchase order in the amount of \$79,000.00 for fiscal year 2015/2016 to cover purchases and repairs.

SUMMARY: The City has a renewed contract with Ten-8 Fire Equipment pursuant to a Piggyback Agreement dated December 9, 2014. Ten-8 Fire Equipment is the major vendor used by the Fire Department to purchase and repair equipment. Ten-8 is the sole source vendor for Mine Safety Appliance (MSA), Fire-Dex Bunker Gear, Key Fire Hose and Fire-Com Communication equipment. The above mentioned vendor supplies our Self Contained Breathing Apparatus (SCBA), Air Monitors, Radio Head Sets, Bunker Gear and Fire Hose. Ten-8 also conducts the required annual Flow Test on our SCBAs and proper face piece fittings for all employees. The Fire Department also purchases bunker boots, helmets, fire gloves, brush gear, nozzles, and station boots from Ten-8. These items and services are piggybacked off of the Lake County contract. The Lake County contract number is 12-0806 it expires June 30, 2016.

The Fire Department estimates a need to purchase approximately \$79,000 in items from Ten-8 this fiscal year. By issuing a single purchase order, the Fire Department can better track all expenditures with this vendor and reduce the use of purchasing cards.

This amount does not include the purchase of the new Self Contained Breathing Apparatus, this is a Capital Improvement Item. The cost for the new SCBAs is \$283,000.00

Public Works also uses Ten-8 for repairs of Fire Department vehicles in the amount of \$15,000.00, which would be under a different purchase order/purchasing cards.

Project	Funding Account
No.:	No.:

ATTACHMENTS:

1.	Lake County Contract	Lake County Contract.pdf
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Burgman, Ken
Irby, Skip

Created/Initiated - 10/06/2015
Approved - 10/06/2015

Gomez, Joseph	Approved - 10/13/2015
Riehm, Tracey	Approved - 10/15/2015
Roberts, Margaret	Approved - 10/15/2015
Johansson, M. Jake	Final Approval - 10/15/2015



LAKE COUNTY FLORIDA

MODIFICATION OF CONTRACT

1. Modification No.: 3 Effective Date: July 1, 2015	2. Contract No.: 12-0806O Effective Date: June 12, 2012
3. Contracting Officer: Donna Villinis Telephone Number: (352) 343-9765	5. Contractor Name and Address: Ten-8 Fire Equipment Inc. 2904 59 th Avenue Drive East Bradenton FL 34203 Attn: Monte Sims
4. Issued By: Procurement Services Lake County Administration Building 315 W. Main St., Suite 441 Tavares, Florida 32778-7800	
6. SPECIAL INSTRUCTIONS: Contractor is required to sign Block 8 showing acceptance of the below written modification and <u>return this form to address shown in Block 4 within ten (10) days after receipt</u> , preferably by certified mail to ensure a system of positive receipts. Retain a photocopy of the signed copy of this modification and attach to original of contract, which was previously provided.	
7. DESCRIPTION OF MODIFICATION: Contract modification to extend contract one (1) year, expiring June 30, 2016.	
8. Contractor's Signature REQUIRED Name: <u>Finis Leader</u> Title: <u>INSIDE SALES REPRESENTATIVE</u> Date: <u>2/17/2015</u>	9. Lake County, Florida By: <u>[Signature]</u> Senior Contracting Officer <u>2-17-2015</u> Date
10. Distribution: Original: Bid File No. 12-0806 Cc: Vendor, Department	

FISCAL AND ADMINISTRATIVE SERVICES/PROCUREMENT SERVICES
P.O. BOX 7800 • 315 W. MAIN ST., TAVARES, FL 32778 • P 352.343.9839 • F 352.343.9473
Board of County Commissioners • www.lakecountyfl.gov

TIMOTHY I. SULLIVAN
District 1

SEAN M. PARKS, AICP, QCP
District 2

JIMMY CONNER
District 3

LESLIE CAMPIONE
District 4

WELTON G. CADWELL
District 5



CITY COUNCIL AGENDA ITEM

REQUESTED COUNCIL MEETING DATE 10/20/2015

Consent item: Yes

SUBJECT: Ratify purchases against Purchase Order No 069715 for Florida Detroit Diesel-Allison c/o Stewart & Stevenson.

DEPARTMENT: Public Utilities

RECOMMENDED MOTION:

Move to approve a change order to Purchase Order No 069715 with Florida Detroit Diesel-Allison c/o Stewart & Stevenson for maintenance and emergency repairs to the Public Utilities generators in the amount of \$7,331.00 for a new purchase order amount not to exceed \$32,331.00; and to authorize the Mayor and City Clerk to execute all required contract documents.

SUMMARY:

On October 30, 2014, the City issued Purchase Order No 069715 to Florida Detroit Diesel-Allison c/o Stewart & Stevenson in the amount of \$25,000 for the preventative maintenance and emergency repairs to the Public Utilities generators. This was based on a three quote process per the purchasing policy. During the year, maintenance and repair charges against this Purchase Order were made totaling \$24,397.02 not including the following two emergency repairs.

On July 20, 2015, the vendor was notified of an emergency repair to a generator located at the Garnsey Water Plant. The cost of this repair was unknown until the invoice was received on September 25, 2015 (invoice # F68830, dated September 21, 2015). for \$4,338.48.

On September 8, 2015, the vendor was notified of another emergency repair to a generator located at Well #12. The cost of this repair was also unknown until the job was completed and the invoice was received on September 30, 2015 (invoice #F69004, dated September 25, 2015 for a total of \$3,595.00.

In the future, staff will obtain estimates from vendors as quickly as possible as emergencies are responded to in the field.

Since the invoices must be paid, this ratification is needed increasing Purchase Order No 069715 by \$7,331.00 for a total of \$32,331.00 (FY15 funding).

Project No.: none Funding Account No.: 40106005364610

ATTACHMENTS:

1.	Purchase Order 069715	PO 069715.pdf
2.	Maintenance Agreement	Maintenance Agreement.pdf
3.	Invoices for Emergency Repairs	FY2015 Invoices.pdf

Wiggins, Julia	Created/Initiated - 10/01/2015
Wilson, Rick	Approved - 10/02/2015
Neff, Andrew	Approved - 10/02/2015
Riehm, Tracey	Approved - 10/15/2015
Roberts, Margaret	Approved - 10/15/2015
Johansson, M. Jake	Final Approval - 10/15/2015



CITY OF PORT ORANGE

PURCHASE ORDER

PAGE 1

P.O. NUMBER

069715

PLEASE SEND INVOICE IN DUPLICATE TO:

ACCOUNTS PAYABLE

P.O. BOX 291759

PORT ORANGE, FL 32129-1759

TELEPHONE 386-506-5500

FAX 386-506-5711

THIS NUMBER MUST APPEAR ON ALL
PACKING LISTS, LABELS, BILL OF LADING
CORRESPONDENCE.

DATE: 10/30/14

STATE TAX EXEMPT #85-8012621673C-3

FED. EXCISE TAX #59-80-0185K

REQUISITION # 0000134151

VENDOR:

FLORIDA DETROIT DIESEL-ALLISON

C/O STEWART & STEVENSON

FDDA LLC

PO BOX 865016

ORLANDO

FL 32886-5016

(904) 730-4205 FAX: (940) 730-2958

SHIP TO:

CITY OF PORT ORANGE

PUBLIC UTILITIES

MAINTENANCE

4400 WELLFIELD RD

PORT ORANGE

FL 32129

VENDOR#: 252598

DATE NEEDED:

9/30/15

FOB:

#	QTY	UOM	COMMODITY # / DESCRIPTION	ACCOUNT #	UNIT PRICE	TOTAL COST
125000		BLK	BLANKET PURCHASE ORDER FOR THE ANNUAL MAINTENANCE OF ALL PUBLIC UTILITIES GENERATORS AND ADDITIONAL FUNDING FOR EMERGENCY REPAIRS AS NEEDED. ANNUAL MAINTENANCE - \$12, 556.00 EMG REPAIRS AS NEEDED - \$ 12,444.00	40106005364610	1.00	25000.00
REMARKS PUBLIC UTILITIES GENERATOR MAINTENANCE/REPAIRS						TOTAL 25000.00

CONDITIONS:

1. The right is reserved to cancel this order if not filled within the contract time.
2. The conditions of this order are not to be modified by any verbal understanding.
3. Acceptance of this order includes acceptance of all terms, prices, delivery instructions, specifications and conditions as stated.
4. The purchase order number must appear on ALL packages, invoices, and correspondence.
5. The CITY ASSUMES NO RESPONSIBILITY FOR GOODS DELIVERED WITHOUT THE AUTHORITY OF A PROPERLY EXECUTED PURCHASE ORDER.
6. Please forward all invoices to Accounts Payable at the above listed address.
7. As per additional terms and conditions on vendor application.

PURCHASING

X

DATE

10/30/14

IMPORTANT - TO RECEIVE PAYMENT ALL INVOICES AND SHIPPING LABELS MUST SHOW PURCHASE ORDER NUMBER & DATE



FLORIDA
DETROIT DIESEL-ALLISON
Your Total Power Solution™



Scheduled Maintenance Price Proposal Agreement

Date: 9/4/2014

This proposal is made subject to buyer's acceptance within thirty (30) days from the above date. Signing of this proposal authorizes Stewart & Stevenson FDDA LLC d/b/a Florida Detroit Diesel Allison to perform services described below. Stewart & Stevenson FDDA LLC will perform periodic maintenance on all equipment listed and will provide a written report of all maintenance to the buyer within ten (10) business days. This is a pricing proposal between named customer and Stewart & Stevenson FDDA LLC. This is not a binding contract.

Account No: F102052

Customer Name: City of Port Orange - Public Utilities

Address/Location: 1000 City Center Circle

City: Port Orange State: FL Zip: 32129

Tel: _____ Secondary Tel: _____

Fax No: _____ Mobile No: _____

Contact Name: Bill Latham Title: Utilities Supervisor Email: blatham@port-orange.org

Title: _____ Email: _____

Title: _____ Email: _____

For your convenience there are several programs available to best suit your needs. Listed below is a brief explanation of the services provided.

Scope of Work to be Completed on Generator Sets

Annual PM Service

SERVICE:

- Analysis of engine lube oil. (Analysis of oil is maintained on record for future comparison, copies of record are provided on request at no additional charge.)
- Change all lube oil and fuel oil filters.
- Drain and replenish engine lube oil.
- Testing coolant solution for proper freeze protection and corrosion inhibitors and recording results.
- Service battery(s) checking battery set(s) for proper electrolyte levels and replenishing as needed.
- Verifying specific gravity of battery(s) (lead acid only), Al-cad/ Ni-cad batteries will be checked for proper volts per cell with results recorded.
- Inspect and clean battery connections and coat connections with applicable corrosion inhibitor.
- Verify proper operation of battery charger and record voltage and charging rate.
- Inspect and lubricate generator bearings.
- Inspect and lubricate airflow louvers.
- Clean dirt and dust from unit.

VISUAL CHECKS:

- Inspect radiator/ heat exchange assemblies (condition and leaks).
- Inspecting air cleaner assemblies (cost of replacing air cleaners IS NOT INCLUDED should it be necessary).
- Inspect air inlet piping.
- Inspect exhaust manifold and piping.
- Inspect water hoses for pliability, tighten clamps as needed.
- Inspect engine mounts, vibration isolators.
- Inspect electrical wiring for loose connections, frayed wires.
- Inspect fuel system, which includes verification of proper day tank operation, priming pump operation, and fuel injection system (condition and leaks).
- Inspect and adjust all belts (cost of replacing belts IS NOT INCLUDED should it be necessary).
- Inspect and clean crankcase breather.
- Inspect generator field and stator windings (megaohm testing of windings can be done at additional cost).
- Clean and inspect rectifier bridge.

PERFORMANCE EVALUATION:

- Check operation of starter motor (cranking ability, voltage drop on start).
- Check engine smoke at start and during operation.
- Verify proper operation of gauges, metering, indicators (operation, condition and adjustments as needed).
- Check and record battery charge rate from unit mounted alternator (if applicable).
- Check fuel transfer pump (PSI, valves, conditions, and leaks).
- Check lubrication system (leaks, PSI).
- Check Jacket water heater (operation/condition).
- Check temperature regulators (operation, record temperature).
- Verify governor settings (operation, stability, and response).
- Check turbocharger (operation).
- Check aftercooler (condition, leaks).
- Verify safety devices (operation, condition, record results).
- Check control panel (operation, condition).
- Test electric power generation via Automatic Transfer Switch (operation, record voltage, amperage, and frequency).
- Perform fuel testing

Visual Inspection**SERVICE:**

- Verify proper oil level in sump. (Make up oil in excess of 1 gallon will be invoiced as an additional charge.)
- Testing coolant solution for proper freeze protection and corrosion inhibitors and recording results.
- Service battery(s) checking battery set(s) for proper electrolyte levels and replenishing as needed.
- Verifying specific gravity of battery(s) (lead acid only), Al-cad/ Ni-cad batteries will be checked for proper volts per cell with results recorded.
- Inspect and clean battery connections and coat connections with applicable corrosion inhibitor.
- Verify proper operation of battery charger and record voltage and charging rate.
- Clean dirt and dust from unit.

VISUAL CHECKS:

- Inspect radiator/ heat exchange assemblies (condition and leaks).
- Inspecting air cleaner assemblies (cost of replacing air cleaners IS NOT INCLUDED should it be necessary).
- Inspect air inlet piping.
- Inspect exhaust manifold and piping.
- Inspect water hoses for pliability, tighten clamps as needed.
- Inspect engine mounts, vibration isolators.
- Inspect electrical wiring for loose connections, frayed wires.
- Inspect fuel system, which includes verification of proper day tank operation, priming pump operation, and fuel injection system (condition and leaks).
- Inspect and adjust all belts (cost of replacing belts IS NOT INCLUDED should it be necessary).
- Inspect and clean crankcase breather.
- Inspect generator field and stator windings (megaohm testing of windings can be done at additional cost).
- Clean and inspect rectifier bridge.

PERFORMANCE EVALUATION:

- Check operation of starter motor (cranking ability, voltage drop on start).
- Check engine smoke at start and during operation.
- Verify proper operation of gauges, metering, indicators (operation, condition and adjustments as needed).
- Check and record battery charge rate from unit mounted alternator (if applicable).
- Check fuel transfer pump (PSI, valves, conditions, and leaks).
- Check lubrication system (leaks, PSI).
- Check Jacket water heater (operation/condition).
- Check temperature regulators (operation, record temperature).
- Verify governor settings (operation, stability, and response).
- Check turbocharger (operation).
- Check aftercooler (condition, leaks).
- Verify safety devices (operation, condition, record results).
- Check control panel (operation, condition).
- Test electric power generation via Automatic Transfer Switch (operation, record voltage, amperage, and frequency).

Scope of Work to be Completed on Diesel Fire Pump

Annual PM Service

SERVICE:

- Analysis of engine lube oil. (Analysis of oil is maintained on record for future comparison, copies of record are provided on request at no additional charge.)
- Change all lube oil and fuel oil filters.
- Drain and replenish engine lube oil.
- Testing coolant solution for proper freeze protection and corrosion inhibitors and recording results.
- Service battery(s) checking battery set(s) for proper electrolyte levels and replenishing as needed.
- Verifying specific gravity of battery(s) (lead acid only), Al-cad/ Ni-cad battery's will be checked for proper volts per cell with results recorded.
- Inspect and clean battery connections and coat connections with applicable corrosion inhibitor.
- Verify proper operation of battery charger and record voltage and charging rate.
- Inspect and clean cooling loop strainer
- Inspect and lubricate pump bearings.
- Inspect and lubricate air flow louvers
- Clean dirt and dust from unit.

VISUAL CHECKS:

- Inspect radiator/ heat exchange assemblies (condition and leaks).
- Inspecting air cleaner assemblies (cost of replacing air cleaners IS NOT INCLUDED should it be necessary).
- Inspect air inlet piping.
- Inspect exhaust manifold and piping.
- Inspect water hoses for pliability, tighten clamps as needed.
- Inspect engine mounts, vibration isolators.
- Inspect electrical wiring for loose connections, frayed wires.
- Inspect fuel system, which includes verification of proper day tank operation, priming pump operation, and fuel injection system (condition and leaks).
- Inspect and adjust all belts (cost of replacing belts IS NOT INCLUDED should it be necessary).
- Inspect and clean crankcase breather.
- Inspect and adjust pump shaft packing glands.
- Police engine room for trash/loose debris.

PERFORMANCE EVALUATION:

- Check operation of starter motor (cranking ability, voltage drop on start).
- Check engine smoke at start and during operation.
- Verify proper operation of gauges, metering, indicators (operation, condition and adjustments as needed).
- Check and record battery charge rate from unit mounted alternator (if applicable).
- Check fuel transfer pump (PSI, valves, conditions, and leaks).
- Check lubrication system (leaks, PSI).
- Check Jacket water heater (operation/condition).
- Check temperature regulators (operation, record temperature).
- Verify governor settings (operation, rpm).
- Check turbocharger (operation).
- Check aftercooler (condition, leaks).
- Verify safety devices (operation, condition, record results).
- Check control panel (operation, condition).
- Test automatic start sequence via test switch in pump control panel.

Visual Inspection

SERVICE:

- Verify proper oil level in sump. (Make up oil in excess of 1 gallon will be invoiced as an additional charge.)
- Testing coolant solution for proper freeze protection and corrosion inhibitors and recording results.
- Service battery(s) checking battery set(s) for proper electrolyte levels and replenishing as needed.
- Verifying specific gravity of battery(s) (lead acid only), Al-cad/ Ni-cad battery's will be checked for proper volts per cell with results recorded.
- Inspect and clean battery connections and coat connections with applicable corrosion inhibitor.
- Verify proper operation of battery charger and record voltage and charging rate.
- Inspect and air flow louvers
- Clean dirt and dust from unit.

VISUAL CHECKS:

- Inspect radiator/ heat exchange assemblies (condition and leaks).
- Inspecting air cleaner assemblies (cost of replacing air cleaners IS NOT INCLUDED should it be necessary).
- Inspect air inlet piping.
- Inspect exhaust manifold and piping.
- Inspect water hoses for pliability, tighten clamps as needed.
- Inspect engine mounts, vibration isolators.
- Inspect electrical wiring for loose connections, frayed wires.
- Inspect fuel system, which includes verification of proper day tank operation, priming pump operation, and fuel injection system (condition and leaks).
- Inspect and adjust all belts (cost of replacing belts IS NOT INCLUDED should it be necessary).
- Inspect and clean crankcase breather.
- Inspect and adjust pump shaft packing glands.
- Police engine room for trash/loose debris.

PERFORMANCE EVALUATION:

- Check operation of starter motor (cranking ability, voltage drop on start).
- Check engine smoke at start and during operation.
- Verify proper operation of gauges, metering, indicators (operation, condition and adjustments as needed).
- Check and record battery charge rate from unit mounted alternator (if applicable).
- Check fuel transfer pump (PSI, valves, conditions, and leaks).
- Check lubrication system (leaks, PSI).
- Check Jacket water heater (operation/condition).
- Check temperature regulators (operation, record temperature).
- Verify governor settings (operation, rpm).
- Check turbocharger (operation).
- Check aftercooler (condition, leaks).
- Verify safety devices (operation, condition, record results).
- Check control panel (operation, condition).
- Test automatic start sequence via test switch in pump control panel.

Customer Name: City of Port Orange - Public Utilities Contact: Bill Latham

Equipment Information:

Unit ID/Location	kW (if applicable)	Make	S/N	G / FP	Visual Inspection	Annual PM Service	Load Bank
Well #8	MTU	230		G		\$586.00	
	Port Orange				# of services per year X	# of services per year X 1	Length (in hrs)
	Totals					\$586.00	
Well #12	MTU	230		G		\$586.00	
	Port Orange				# of services per year X	# of services per year X 1	Length (in hrs)
	Totals					\$586.00	
Well #23	MTU	230		G		\$586.00	
	Port Orange				# of services per year X	# of services per year X 1	Length (in hrs)
	Totals					\$586.00	
Christiancy Lift Station	Spectrum	80		G		\$495.00	
	Port Orange				# of services per year X	# of services per year X 1	Length (in hrs)
	Totals					\$495.00	
Countryside Taylor Rd LS	Onan	60		G		\$495.00	
	Port Orange				# of services per year X	# of services per year X 1	Length (in hrs)
	Totals					\$495.00	
Onan Portable #1	Onan	60		G		\$495.00	
	Port Orange				# of services per year X	# of services per year X 1	Length (in hrs)
	Totals					\$495.00	
Onan Portable #2	Onan	60		G		\$495.00	
	Port Orange				# of services per year X	# of services per year X 1	Length (in hrs)
	Totals					\$495.00	
Kohler Portable #1	Kohler	60		G		\$480.00	
	Port Orange				# of services per year X	# of services per year X 1	Length (in hrs)
	Totals					\$480.00	
Kohler Portable #2	Kohler	60		G		\$480.00	
	Port Orange				# of services per year X	# of services per year X 1	Length (in hrs)
	Totals					\$480.00	
Peninsula	MTU	180		G		\$554.00	
	Port Orange				# of services per year X	# of services per year X 1	Length (in hrs)
	Totals					\$554.00	
Oceans	MTU	180		G		\$554.00	
	Port Orange				# of services per year X	# of services per year X 1	Length (in hrs)
	Totals					\$554.00	
Herbert and Nova	Kohler	150		G		\$554.00	
	Port Orange				# of services per year X	# of services per year X 1	Length (in hrs)
	Totals					\$554.00	
Ponce Inlet	CAT	100		G		\$554.00	
	Port Orange				# of services per year X	# of services per year X 1	Length (in hrs)
	Totals					\$554.00	
Artesian Way Well # C17	Marathon	215		G		\$554.00	
	Port Orange				# of services per year X	# of services per year X 1	Length (in hrs)
	Totals					\$554.00	
Drema Way Well #20	Katolight	215		G		\$554.00	
	Port Orange				# of services per year X	# of services per year X 1	Length (in hrs)
	Totals					\$554.00	
Cypress Head	Marathon	215		G		\$554.00	
	Port Orange				# of services per year X	# of services per year X 1	Length (in hrs)
	Totals					\$554.00	

Well #15	MTU	180		G		\$554.00	
	Port Orange				# of services per year X	# of services per year X 1	Length (in hrs)
	Totals					\$554.00	
Clarke Reg. LS	CAT	260		G		\$581.00	
	Port Orange				# of services per year X	# of services per year X 1	Length (in hrs)
	Totals					\$581.00	
Oak St. North	Spectrum	900		G		\$935.00	
	Port Orange				# of services per year X	# of services per year X 1	Length (in hrs)
	Totals					\$935.00	
Oak St. South	Spectrum	900		G		\$935.00	
	Port Orange				# of services per year X	# of services per year X 1	Length (in hrs)
	Totals					\$935.00	
Garnsey Plant	Spectrum	1250		G		\$975.00	
	Port Orange				# of services per year X	# of services per year X 1	Length (in hrs)
	Totals					\$975.00	
					# of services per year X	# of services per year X	Length (in hrs)
	Totals						
					# of services per year X	# of services per year X	Length (in hrs)
	Totals						
					# of services per year X	# of services per year X	Length (in hrs)
	Totals						

Agreement Start Date: 9/4/2014

Annual Service Month: May

Valid Through: 09/03/2017

Annual Total \$12,556.00

Visual Total

L/B Total

Yearly Total \$12,556.00

Taxes Not Included

☐ Option to Extend Agreement

Initial below: An extension option is provided with this "Scheduled Maintenance Price Proposal Agreement", which allows for an extension of this agreement beyond its initial terms. By checking the box for extension, pricing (based on "Yearly Total") will increase by the percentage listed below, on a yearly basis, until such time as either party cancels this agreement.

Yearly Percentage Increase for this agreement

3.0%

**This is a price agreement between above named customer and Stewart & Stevenson FDDA LLC d/b/a Florida Detroit Diesel Allison. This is not a binding contract and services can be cancelled by either party at anytime with out penalty or fault. Stewart & Stevenson FDDA LLC agrees to hold above listed pricing for the period listed in the "Valid Through" section of this agreement.

I hereby authorize the above maintenance work to be done along with the necessary materials. Stewart & Stevenson FDDA LLC d/b/a Florida Detroit Diesel Allison and it's employees may operate the above equipment for the purpose of testing, inspection or delivery at my risk. An expressed mechanics lien is acknowledged on equipment to secure the cost of all repairs thereto. Stewart & Stevenson FDDA LLC is not responsible for loss or damage to equipment in case of fire, theft, accident, or any other cause beyond our control. Replaced parts will be held for a period of ten (10) business days after completion of services. The cost of labor and parts in determining any estimate shall be borne by the customer.

Customer signature: [Signature]

Sales Rep.: Jimmy Jacobs

Print Customer Name: River T. Wilson

Sales Rep. Signature: Jimmy Jacobs

Date: 11/6/14

Date: 9/4/2014

Please sign and return via email or fax to:
Fax: 866-902-4064 / Email: jjacobs@fdda.com / Cell: 407-948-7402

**RECEIVING REPORT
BLANKET PURCHASE ORDER
CITY OF PORT ORANGE
PUBLIC UTILITIES DEPARTMENT**

Can PO be closed out yet?

☐ **Yes** ☒ **No**

Date Received: 9-30-15

Division: 0600

Purchase Order #: 069715

Received From: FDDA

Unpacked & Counted by: B LATHAM

Written by: B LATHAM

Items Purchased:[illegible]

Total: \$3595.00

Remaining balance of PO after receipt of this order: \$

Lightning Strucks

FLORIDA DETROIT DIESEL - ALLISON

BRANCHES:

REMIT PAYMENT TO:
STEWART & STEVENSON FDDA LLC
P.O. Box 865016
ORLANDO, FL 32886-5016

2308 ROCKFELL ROAD
(239) 532-3100
FAX: (841) 332-4857

3885 SEVILTZ ROAD
(772) 772-0600
FAX: (772) 485-2163

4141 S.W. 30TH AVE
(954) 327-1440
FAX: (954) 327-4529

2277 N.W. 14TH ST.
MIAMI, FL 33125
(305) 638-6300
FAX: (305) 637-1576

Repair Order Invoice
F69004

SOLD TO

CITY OF PORT ORANGE
PUBLIC UTILITIES
1000 CITY CENTER CIRCLE
PORT ORANGE FL 32129

CUSTOMER'S
PHONE NO.

386-506-5782

Florida Registration # MV89967
DATE OPENED: 9/08/15
DATE INVOICED: 9/25/15

CUSTOMER'S
ORDER NO.
PER REQUEST

LABOR HOURS RATE TOTAL

COMPLAINT

BLOWN ATS

PRIMARY CAUSE

POWER SURGE

CORRECTIONS

TRAVEL TO CITY OF PORT ORANGE-WELL 12. FOUND ATS
CONTROLLER BLOWN UP. REMOVED CONTROLLER. VERIFIED
ALL CONTACTS ARE OPENING AND CLOSING PROPER. INSTALLED
NEW CONTROLLER AND PROGRAMED AS NEEDED. FOUND UNIT
WILL NOT START IN AUTO MODE. DIAGNOSED SYSTEM AND FOUND
GENERATOR CONTROL BOARD ACCEPTING SIGNAL BUT WON'T
ACTIVATE RELAY. CUSTOMER OK'D REPAIR. ORDER NEW CONTROL
BOARD. RETURN TO SITE, DISABLE UNIT, REMOVE AND REPLACE
CONTROL BOARD. TEST SYSTEM FOR PROPER OPERATION,
ALL SYSTEMS FUNCTIONS ARE NORMAL.
CLEAN UP WORK AREA, DEPART JOBSITE.
HOURS ON UNIT 617

SERIAL No. RG6081A170689
2034929

MODEL No. 6081AF001
230DSEJB

EQUIP No. WELL FIELD #12
230 KW

MILES OR HOURS
617

MAKE OF EQUIP
JOHN DEERE

ASSEMBLY No.

DELIVERY DATE
6/06/06

AUTHORIZATION

I, the undersigned, warrant that I am authorized to create a lien against the equipment on which the work shown herein is to be performed, as well as for any parts furnished, and I acknowledge a lien against the equipment. In the event of any legal action to enforce the lien, the undersigned shall be entitled to recover reasonable attorney fees including services of its attorneys at trial and all appellate levels. If this invoice is not paid within thirty (30) days, the undersigned shall be entitled to an 18% annual interest rate charge on unpaid balances. Lien shall be foreclosed in a similar manner as liens are generally foreclosed under the laws of the state in which the work is performed. I further agree that Florida Diesel is not responsible for any down time resulting from the failures of any work performed by them and grant to them permission to test any equipment on which work is done without responsibility on their part.

Customer or Agent SIGNATURE ON FILE

Date 9/25/15

LABOR

PARTS

TAX

TOTAL 3595.00

FOR INFORMATION REGARDING THIS WORKORDER/INVOICE
PLEASE CALL BETTY AT 407-888-1700

**WARRANTY INFORMATION
APPEARS ON BACK**

RECEIVED
SEP 30 2015
CITY OF PORT ORANGE
PUBLIC UTILITIES

FLORIDA DETROIT DIESEL - ALLISON

P.O. Box 16595
Jacksonville, FL 32245-6595
904-730-4227 Fax 904-730-2958

Parts Supplement

PAGE 1

DATE 9/25/15

CITY OF PORT ORANGE
PUBLIC UTILITIES
1000 CITY CENTER CIRCLE
PORT ORANGE FL 32129

CUST # F102052

WORKORDER # F69004

PART NUMBER	PART CODE*	DESCRIPTION	QTY	UNIT PRICE	EXT. PRICE
GM64497		PCB ASSY, DEC3 + MAIN	0		
GM64497		PCB ASSY, DEC3 + MAIN	1		
PD GM73449		MPAC LOGIC 1500	1		

CUSTOMER COPY

TOTAL CHARGES

3595.00

**RECEIVING REPORT
BLANKET PURCHASE ORDER
CITY OF PORT ORANGE
PUBLIC UTILITIES DEPARTMENT**

Can PO be closed out yet?

☐ **Yes** ☒ **No**

Date Received: 9-30-15

Division: 0600

Purchase Order #: 069715

Received From: FDDA

Unpacked & Counted by: B LATHAM

Written by: B LATHAM

Items Purchased:[illegible]**Total: \$4338.48**

Remaining balance of PO after receipt of this order: \$

FLORIDA DETROIT DIESEL - ALLISON

BRANCHES:

REMIT PAYMENT TO:
STEWART & STEVENSON FDDA LLC
P.O. Box 865016
ORLANDO, FL 32886-5016

2395 ROCKELL ROAD
ORLANDO, FL 32816
FAX: (941) 332-4857
224 S.W. 52ND AVE.
OCALA, FL 34474
(352) 237-7977
FAX: (352) 237-4566

2885 SELVITZ ROAD
ORLANDO, FL 32816
FAX: (772) 466-2163
8411 ADAMO DR.
TAMPA, FL 33619
(813) 621-5651
FAX: (813) 628-0807

4141 S.W. 30TH AVE
FT. LAUDERDALE, FL 33312
(954) 327-4440
FAX: (954) 327-4529
6850 PRESIDENT'S DR.
ORLANDO, FL 32809
(407) 888-1700
FAX: (407) 888-0100

2277 N.W. 14TH ST.
MIAMI, FL 33125
(305) 638-6300
FAX: (305) 637-1576
P.O. BOX 16595
JACKSONVILLE, FL 32245
(904) 737-7330
FAX: (904) 730-2958
1128 CHESTNUT AVE.
PANAMA CITY, FL 32401
(850) 763-7658
FAX: (850) 784-6019

Repair Order Invoice
F68830
Florida Registration # MV89967
DATE OPENED: 7/20/15
DATE INVOICED: 9/21/15

SOLD TO
CITY OF PORT ORANGE
PUBLIC UTILITIES
1000 CITY CENTER CIRCLE
PORT ORANGE FL 32129
F102052
CUSTOMER'S PHONE NO. 386-506-5782
CUSTOMER'S ORDER NO.
PER REQUEST

LABOR	HOURS	RATE	TOTAL	COMPLAINT
				EMERGENCY SERVICE CALL/FAN BELT CAME APART
				PRIMARY CAUSE
				TENSIONER PULLEY
				CORRECTIONS
SERIAL No. 5262000438 0665388				TRAVEL TO CITY OF PORT ORANGE, BELT CAME APART. ARRIVE ON SITE AND REMOVE THE REST OF THE FAN BELT FROM ENGINE. INSPECT ALL COMPONENTS, IT APPEARS THE IDLER MAY HAVE CAUSED THIS ISSUE. RETURN TO SHOP WITH OLD BELT TO TRY AND SOURCE A NEW BELT. HAD TO ORDER BELT FORM FACTORY. RETURN TO SITE TO INSPECT IDLER WHILE WAITING ON BELT. INSPECTION FOUND THE PULLEY SURFACE HAS BEEN TAPERED FROM BELT WEAR. NEED TO ORDER NEW PULLEY. AS TEMPORARY REPAIRS, HAD THE PULLEY MACHINED STRAIGHT UNTIL THE NEW PULLEY ARRIVES. PICK UP PULLEY FROM MACHINE SHOP, TRAVEL TO SITE WITH NEW BELT AND GAIN ACCESS. INSTALL BELT AND ASSEMBLE TENSIONER. INSTALL AND ALIGN USING PLUMB BOB TO HELP ALIGNMENT. START AND WATCH BELT STILL WALKING OFF PULLEY. CONTINUED TO MAKE ADJUSTMENTS TO TENSIONER UNTIL THE BELT RODE ON ALL PULLEYS STRAIGHT. START AND RUN ENGINE, BELT NOW RIDING PROPERLY WITH NO MORE ISSUES. REINSTALL BELT GUARDS AND RUN UNIT AGAIN. AFTER 30 MINUTES, NO MORE ISSUES AT THIS TIME. PUT UNIT BACK IN AUTO AND DEPART SITE. CUSTOMER HAS BACK UP BELT AND PULLEY.
MODEL No. T123-7K36 1250DS4				
EQUIP No. GARNSEY 1250 KW				
MILES OR HOURS				
MAKE OF EQUIP SPECTRUM				
ASSEMBLY No.				
DELIVERY DATE				

AUTHORIZATION

I, the undersigned, warrant that I am authorized to create a lien against the equipment on which the work shown herein is to be performed, as well as for any parts furnished, and I acknowledge a lien against the equipment. In the event of any legal action to enforce the terms of this agreement, Florida Diesel will be entitled to recover reasonable attorney fees including services of its attorneys at trial and all appellate levels. If this invoice is not paid within thirty (30) days, Florida Diesel reserves the right to sell the equipment and/or parts thereof without notice to the customer. The customer agrees that Florida Detroit Diesel is not responsible for any down time resulting from the failure of any work performed by them and grant to them permission to test any equipment on which work is done without responsibility on their part.

Customer or Agent SIGNATURE ON FILE Date 9/21/15

FOR INFORMATION REGARDING THIS WORKORDER/INVOICE
PLEASE CALL BETTY AT 407-888-1700

LABOR 2795.00
PARTS 1248.48
FRT/MILEAGE 295.00
TAX
TOTAL 4338.48

RECEIVED
SEP 2 5 2015
CITY OF PORT ORANGE
PUBLIC UTILITIES

**WARRANTY INFORMATION
APPEARS ON BACK**



CITY COUNCIL AGENDA ITEM

REQUESTED COUNCIL MEETING DATE 10/20/2015

Consent item: Yes

SUBJECT: Change Order No 1 to the Standard Contract for Services with Rexel, Inc. dated 2/10/2015

DEPARTMENT: Public Utilities

RECOMMENDED MOTION: Move to approve Change Order No 1 to the Standard Contract for Services with Rexel, Inc. in an amount not to exceed of \$27,898.23 and to move the Final Complete Date from September 30, 2015 to December 29, 2015; and to authorize the Mayor and City Clerk to execute all required contract documents.

SUMMARY: On February 10, 2015, the City entered into a Standard Contract for Services with Rexel, Inc. for the Garnsey Water Plant's Telemetry Upgrade includes the upgrade of the existing plant telemetry and server, program services for the integration of all our internal and large plant metering and certain process control elements into the plant telemetry system.

This improvement is intended to increase plant metering accuracy and further enhance process control and data logging capabilities. Some of the preparation such as wiring of meters, power supplies, and BLOC terminal block were to be performed in house by our two Instrument & Control Technicians. Due to the retirement and transfer of our Instrument & Control staff we have a temporary institutional knowledge deficit that necessitates adding this preparation work to the scope of Rexel, Inc. services and extending the contract period by 90 days in order to complete this project.

Change Order No 1 is for an amount not to exceed \$27,828.93, for a revised contract amount of \$113,397.68. This change order will also provide the final completion date to be moved from September 30, 2015 to December 29, 2015.

Project No.: WWP003 Funding Account No.: 40302005336397

ATTACHMENTS:

1.	DRAFT Change Order No 1 documents	Change Order No 1 to Rexel, Inc..pdf
2.	Rexel Addendum Request	PortOrange_MeterVFDIntegration_09302015_r1.pdf

Wiggins, Julia
Wilson, Rick
Neff, Andrew

Created/Initiated - 10/08/2015
Approved - 10/08/2015
Approved - 10/09/2015

Riehm, Tracey
Roberts, Margaret
Johansson, M. Jake

Approved - 10/15/2015
Approved - 10/15/2015
Final Approval - 10/15/2015

CHANGE ORDER NO. 1
To the Standard Contract for Services dated February 10, 2015
Rexel, Inc., Contractor

Project: Provide proprietary upgrades of operator interface and internal telemetry software to the Factory Talk System and programming, to integrate new meters installed during the Garnsey Water Plant Large Meter Replacement and Upgrade Project.

The following changes are hereby made to the Contract Documents:

CHANGE IN CONTRACT PRICE:	CHANGE IN CONTRACT TIMES:
Original Contract Price: \$85,568.75	Original Contract Times Substantial Completion: ____ days Final Completion 232 days (September 30, 2015)
Net changes from previous Change Order: \$ 0	Changes in contract time from previous Change Orders: 0 days
Contract Price prior to this Change Order: \$85,568.75	Contract Completion Date prior to this Change Order: Final Completion: September 30, 2015
Net Increase (decrease) of this Change Order No 1: \$ 27,828.93	Changes in contract time requested this Change Order No. 1 : (Requires Council Approval) 90 days
Contract Price with all approved Change Orders: \$ 113,397.68	Contract Times with all approved Change Orders: Final Completion: December 29, 2015

CHANGES ORDERED:

- I. GENERAL: This Change Order is necessary to cover the work to be performed under the Standard Contract for Services entered into by and between parties on February 10, 2015.
- II. REQUIRED CHANGES: To provide necessary scope and extension of time changes to the original contract. No goods shall be delivered nor services commenced hereunder until this Change Order has been fully executed by all parties.
- III. JUSTIFICATION: Change Order No 1 is necessary for the vendor to complete the work relating to the Garnsey Water Plant Telemetry Upgrades. Vendor has also requested a time extension for an additional 90 days. Total change of scope is not to exceed \$27,828.93, for a new contract amount of \$113,397.68.
- IV. PAYMENT: Payment for this Change Order shall be made in accordance with the terms of the Agreement for Construction subject to a limit up to but not to exceed **One Hundred Thirteen Thousand Three Hundred Ninety-seven dollars and sixty-eight cents (\$113,397.68)**. All payments shall be governed by the Local Government Prompt Payment Act as set forth in Florida Statutes Section 218.70 through 218.79, as amended.

Acknowledgments:

The aforementioned change, and work affected thereby, is subject to all provisions of the original contract not specifically changed by this Change Order;

It is expressly understood and agreed that the approval of the Change Order shall have no effect on the original contract other than matters expressly provided herein;

The prices quoted are fair and reasonable and in proper ratio to the cost of the original work contracted for under competitive bidding; and,

The change in price and/or delivery date described is considered to be fair and reasonable and has been mutually agreed upon in full agreement and final settlement of all claims arising out of this modification including all claims for delays and disruptions resulting from, caused by, or incident to such modifications and change orders.

RECOMMENDED BY:
STEVE MILLER
Department Project Manager

ACCEPTED BY:
REXEL, INC.
Contractor

By: _____
Steve Miller, Chief Plant Operator

By: _____
Mark Daniel, Sr. VP & General Manager

Date Signed: _____

Date Signed: _____

RECOMMENDED BY:

City's Representative

RECOMMENDED BY:

Engineer of Record

By: _____
Printed Name
Title: _____

By: _____
Printed Name: _____
Title: _____

Date Signed: _____

Date Signed: _____

APPROVED BY:
CITY OF PORT ORANGE
Department Head

By: _____
Andrew Neff, Public Utilities Director

Date Signed: _____

City Manager

By: _____
Michael H. Johansson, City Manager

Date Signed: _____

If Council approval is required:

Affirmed:

By: _____
Printed Name: _____
Title: _____

Robin L. Fenwick, CMC, City Clerk

Date Signed: _____

Date Signed: _____

CITY OF PORT ORANGE
PORT ORANGE, FL

FLOW METER ADDITIONS
ADDENDUM TO PO 070052

FIXED
SOUPAC0221



Global Solutions & Services

Bringing You a World of Experience

9/22/2015

PRESENTED TO: City of Port Orange
4400 Well Field Drive
Port Orange, FL

PROPOSED BY: Rexel
740 Fentress Blvd
Daytona Beach, FL 32114

Rockwell Automation
5820 W Cypress St., Suite E
Tampa, FL 33607

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REVISION HISTORY			
Date:	Description of change:	Edited by:	Revision:
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Executive Summary

This proposal for a Rockwell Automation Flow Meter Integration is offered by Rexel for resale to City of Port Orange.

For more than a century, Rockwell Automation has developed technologies and provided services that leading companies around the world use to their competitive advantage. Whether running a single machine or an entire supply chain, these companies rely on our automation, power control, and conversion products and services to run their businesses better.

The Rockwell Automation Solutions & Services Business designs and implements customized product and service solutions to tackle your toughest challenges. With over 2500 employees globally, averaging 13 years of experience, we have the right mix of domain knowledge and industry expertise to deliver the right solution to meet your unique needs. These solutions can provide:

- Managed information flow from production level to front office
- Faster speed to market
- Optimized operation for reduced costs
- World class quality systems to drive continuous improvement
- World class Health and Safety Management Systems (HSMS) to keep employees – ours and yours – safe during all stages of the project

The Solutions & Services Business employs project management and engineering processes that are effective and efficient. We continually assess and improve our processes to ensure our corporate quality objectives are achieved using the best possible methods. The objectives of the project quality process are:

- To deliver a system that achieves the stated objectives of the project
- To deliver a system that is safe for-people and the environment
- To deliver a system that meets or exceeds customer requirements and specifications, as well as all applicable regulatory requirements
- To provide traceability of the data used to create the solution
- To engender a quality culture in our employees

The Rockwell Automation Solutions & Services Business has prepared the Statement of Work set forth in section 1 below for resale by its authorized distributor; Rexel.

1 Rockwell Automation Statement of Work

Rockwell Automation will provide control wiring terminations, PLC programming and HMI integration for 16 new flow meters and 350 High Service Pump.

The Garnsey Water Plant is a transition phase does not have personnel available to perform the work required to complete the meter and high service pump installation. The City of Port Orange has requested Rockwell Automation to fill the void they are currently experiencing. Rockwell Automation will perform on the job training for the new I&C technician.

1.1 Basis for Statement of Work

The following details the information used as a basis for this Statement of Work.

- Email Correspondence

1.2 Solution Description

The solution provided will be based on Rockwell Automation's standard system and services deliverables.

- Provide Analog Input locations for the 16 new meters
- Provide two Analog input cards required for LCP4 and LCP5 for additional analog inputs required
- Terminate 16 Meters at the at the PLC Inputs
- Test all analog inputs
- Provide start-up services for 5 mag meter transmitters
- Scale analog inputs for meters as specified by the City of Port Orange
- Provide code for totalizers for meter flows to be reset daily
- Add meter flows to FactoryTalk View SE
- Assist in the startup for the new 350 HP service pump (drive programming by others)
- Provide Analog locations for speed reference input and commanded speed output.
- Provide digital inputs and outputs for Start, Stop and Fault
- Provide PLC code Start, Stop, Manual Speed input, Fault
- Add pump controls to HMI
- Chlorine Pump modifications
 - o Review existing control wiring
 - o Modify wiring for Auto/Manual/Off Control
 - o Verify Automatic control
 - o Verify HMI control and indications
- Provide informal training to I&C technician during the installation process

1.2.1 Equipment

Qty 2- 1746-NI4 SLC 5/05 Analog Input Card

1.2.2 System Documentation

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Rockwell
Automation

Rockwell Automation will provide the following:

- No system documentation will be provided

1.2.3 *Requirements Schedule*

At release of order, City of Port Orange will provide:

- User manuals for flow meter transmitters, mag meters and VFD
- Schematics for Chlorine Pump sleds
- Scaling for flow meters

1.2.4 *Services*

1.2.4.1 *Factory Acceptance Testing*

No Factory Acceptance Test (FAT) is included.

1.2.4.2 *Start-Up Services*

Onsite start-up and commissioning support of the Rockwell Automation-supplied control system is included.

1.2.4.3 *Services Not Covered*

The following items are NOT included in this statement of work.

- Installation Engineering
- Installation work of any kind
- Full time site assistance during installation
- Structural, civil, piping, or mechanical designs and installation

1.3 *Customer Responsibilities*

1.3.1 *Single Point of Contact*

The customer will designate a representative authorized to act on the plant's behalf with respect to this project. This representative should have a working knowledge of the machinery and process and be available to Rockwell Automation personnel during working hours.

1.3.2 *Maintenance, Electrical, and Operations Staff*

The customer will provide appropriate personnel knowledgeable in the process, operation and control system supplied to assist Rockwell Automation personnel.

1.3.3 *Access to the System*

The customer will make the process available to Rockwell Automation personnel during the mutually agreed upon schedule for the purpose of implementing the services and equipment described in this proposal.

1.4 *Assumptions, Clarifications and Exceptions*

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The following assumptions, clarifications and exceptions have been made by Rockwell Automation in the development of this Statement of Work:

Reference	Assumptions
A1	All mechanical and electrical installation of the supplied hardware is to be provided by others.
A2	All aspects of mechanical, electrical and process safety are requirements of the customer.
A3	The functionality of any existing operator devices and machine-mounted devices is the responsibility of the customer.
A4	All mechanical work is to be installed and managed by the customer and their selected Mechanical Contractor.
A5	High Service Pump VFD programming by others
A6	
A7	
A8	
A9	
A10	
A11	
A12	
	Clarifications
C1	Rockwell is not responsible for network wiring modifications.
C2	Extended warranties, training, additional engineering support and other services are available upon request and are not included in this proposal.
C3	Spares parts are not included in this proposal.
C4	The statement of work is valid for 30 days from date of issue.
C5	All documentation will be furnished in electronic format unless otherwise stated.
C7	No connections to 3rd party equipment are included in this proposal.
C8	Rockwell Automation is not responsible for electrical/mechanical adjustments, or changes/replacements to existing equipment required advancing the process into a production status. This includes system performance consulting and support of equipment supplied by others that affects the performance of Rockwell Automation supplied equipment.
C9	Rockwell Automation is a manufacturer of industrial control equipment that is component parts on machines or manufacturing systems designed by others. As the provider of control equipment or engineering services related to that equipment, Rockwell Automation's description of responsibility is limited to the individual controls of the system only. The overall performance and overall design of the machine or manufacturing system, including safety features and failure modes, are the responsibility of others and are not included in Rockwell Automation's description of work.
C10	Rockwell Automation is not responsible for the removal or protection from hazardous materials.
C11	This proposal does not include Customer specific requirements or on-site activities such as customer or site specific safety training, background checks, international work visas, and copies of expense receipts. Rockwell must be made aware of any such requirements prior to contract award. Costs for associated time and expenses incurred while complying with such requirements will be at customer expense.
C12	The customer represents that all existing field devices that are in use or that are to be reused are in good working order and will be repaired or replaced by the customer when required. Repair and/or replacement of damaged field devices is not in Rockwell Automation's Statement of Work
C13	The control system supplied by Rockwell Automation is not specifically designed to meet any Safety Integrity Level in accordance with international standard IEC-61508. Accordingly it is therefore the responsibility of the customer to ensure that other measures - separate and distinct from the Rockwell

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	Automation statement of work - are in place to ensure that the overall system operation is not impaired in the event of a failure of the Rockwell Automation control system.
C14	
C15	Customer is responsible for assuring a safe and secure work environment and for providing personal protection in connection with the work (including at the work site, transportation to and from the work site, and any necessary stay in the vicinity of the worksite in connection with work) at a safety.
C13	Rigging and handling to receive, store, move and set the Rockwell Automation supplied equipment is the responsibility of the customer. The equipment will be stored at the customer's facility in a mutually agreed upon area. A secure and dry area is required.
C14	Additional hardware and/or software may be required and is not included in the statement of work.
	Exceptions
E1	All demolition, installation and wiring requirements not included in this proposal. Rockwell Automation Installation Services can be offered upon request at an additional expense.
E2	No operator, maintenance or electrical training is included.
E3	Rockwell Automation is not supplying network media between enclosures, buildings and process areas.
E4	
E5	
E6	
E7	.
E8	

Table 1: Assumption, Clarifications, and Exceptions

1.5 Rockwell Automation Commitment for System Sales Through Distribution

General. This Commitment ("Commitment") covers purchase by Distributor's customer ("Customer") from Distributor of the hardware, software, and/or services (individually a "Product" and collectively "Products") described and integrated pursuant to this Statement of Work (collectively as integrated pursuant to the Statement of Work, the "WORK") to be provided by Rockwell Automation, Inc. and/or its affiliates ("Rockwell Automation"). Its terms are integral to the Statement of Work. In other words, Customer purchases the Work subject to the terms contained in this Commitment (as well as other terms that may be included elsewhere in the Statement of Work). These terms apply directly to Customer and Rockwell Automation. Previously negotiated and signed terms and conditions with Customer that include provisions between Rockwell Automation and Customer for sale of systems through distribution supersede these terms.

Warranty. (a) *Warranty:* Rockwell Automation warrants to Customer for the lesser period of 18 months from delivery or 12 months from startup, that the WORK will perform as stated in the Statement of Work and the Products will be free of defects in material, fabrication, and workmanship provided that: (1) the operating conditions and use of the WORK are in accordance with any standards set forth in the Statement of Work, Rockwell Automation's published specifications, and applicable recommendations of Rockwell Automation; and (2) the installation, adjustment, tuning, and start-up of the WORK have been properly performed in accordance with Rockwell Automation's published specifications and any applicable recommendations of Rockwell Automation. Repaired or replacement Products provided pursuant to subparagraph (b) below are similarly warranted for the longer period of six months from date of shipment or the remainder of the original warranty term.

(b) *Remedies:* Remedies under this warranty will be limited to, at Rockwell Automation's discretion, replacement, repair, re-performance, modification, or issuance of a credit for the purchase price of the Products involved, but only after the return of

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such Products pursuant to Rockwell Automation's instructions. Replacement Products, at Rockwell Automation's discretion, may be new, remanufactured, refurbished, or reconditioned. If the repair, re-performance, or replacement does not cure the defective performance, Customer may request emergency on-site service, which will be at Rockwell Automation's expense (consisting of time, travel, and expenses incurred by Rockwell Automation related to such services). If the defective performance is not due to warranted defects in the WORK or Products, the on-site service will be at Customer's expense. On-site warranty services performed at Rockwell Automation expense shall not include removal or reinstallation costs related to large-scale assemblies such as motors or transformers. The foregoing will be the exclusive remedies for any breach of warranty or breach of contract arising from warranted defects.

(c) *General*: Warranty satisfaction is available only if (a) Rockwell Automation is provided prompt written notice of the warranty claim, and (b) Rockwell Automation's examination discloses that any alleged defect has not been caused by misuse, neglect, improper installation, operation, maintenance, repair, alteration, or modification by other than Rockwell Automation, accident, or unusual deterioration or degradation of the Products or parts thereof due to physical environment or electrical or electromagnetic noise environment.

(d) *Services*: Rockwell Automation warrants that service (including, but not limited to, training, installation, modifications, additions, software programming, engineering, startup, or repairs) shall be performed in a workmanlike manner conforming to standard industry practice. Rockwell Automation must receive written notification of non-conforming services within 30 days after the services are provided. If such services are confirmed to be non-conforming, Rockwell Automation will, at its option, re-perform the service or provide a refund or credit to Customer in the amount paid for the service. The foregoing will be the exclusive remedies for any breach of warranty or breach of contract arising from warranted non-conforming services.

(e) THE ABOVE WARRANTIES ARE IN LIEU OF ALL OTHER WARRANTIES AND CONDITIONS, WHETHER EXPRESSED, IMPLIED OR STATUTORY, INCLUDING IMPLIED WARRANTIES OF MERCHANTABILITY, INFRINGEMENT, OR FITNESS FOR A PARTICULAR USE.

Disclaimer and Limitation of Liability. NEITHER ROCKWELL AUTOMATION NOR CUSTOMER WILL BE LIABLE TO THE OTHER FOR BUSINESS INTERRUPTION OR LOSS OF PROFIT, REVENUE, MATERIALS, OR THE LIKE (WHETHER DIRECT OR INDIRECT) OR FOR ANY INCIDENTAL, INDIRECT, OR CONSEQUENTIAL DAMAGES. EACH PARTY'S MAXIMUM CUMULATIVE LIABILITY TO EACH OTHER FOR ALL OTHER CLAIMS AND LIABILITIES WILL NOT EXCEED THE LESSER OF \$1,000,000 OR THE COST OF THE WORK. ROCKWELL AUTOMATION DISCLAIMS ALL LIABILITY FOR TO GRATUITOUS ASSISTANCE PROVIDED BY ROCKWELL AUTOMATION BUT NOT REQUIRED BY THE STATEMENT OF WORK. THESE DISCLAIMERS AND LIMITATIONS OF LIABILITY WILL APPLY REGARDLESS THE FORM OF ACTION, WHETHER CONTRACT, TORT, OR OTHERWISE, AND EXTEND TO THE BENEFIT OF ROCKWELL AUTOMATION'S VENDORS AND APPOINTED DISTRIBUTOR.

Intellectual Property. (a) *Firmware and Packaged Software.* Software comprised of firmware or packaged software is subject to Customer's acceptance of additional terms and conditions set forth in separate Rockwell Automation or third-party license agreements. In the absence of a separate Rockwell Automation license agreement, Rockwell Automation hereby grants Customer a non-exclusive, non-transferable license to use such firmware or packaged software only in object code form and solely in conjunction with the WORK, without the right to sublicense, disclose, disassemble, decompile, reverse engineer, or otherwise modify the firmware or software. Ownership of the respective Rockwell Automation or third-party firmware or packaged software shall remain with Rockwell Automation or the third party.

(b) *Documentation and Other Software.* Rockwell Automation hereby grants to Customer a non-exclusive, non-transferable license to modify and use solely in conjunction with the WORK all documentation and any software created by Rockwell Automation as specified in the Statement of Work.

(c) *Ownership of Pre-existing Intellectual Property.* Each party shall continue to own all right, title, and interest in all patents, trademarks, copyrights, confidential information, and other intellectual property rights as it owned on the Effective Date of this Commitment.

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(d) No Other Licenses. Except as expressly set forth herein, no license under any patents, trademarks, copyrights, confidential information, or other intellectual property rights is granted or implied under this Commitment by either party.

Government Clauses and Contracts. No government contract clauses, specification, or regulations apply to the WORK, Products, or otherwise to this Statement of Work except to the extent agreed in writing by Rockwell Automation.

Confidentiality. (a) During the term of this Commitment and for a period of three years thereafter, each party will maintain in strict confidence all technical and business data and information disclosed by one party to the other that is marked "Confidential" and will not use or reveal such information without the prior written authorization of the other.

(b) The obligations of confidentiality and non-use will not apply to information (i) that is published or becomes part of the public domain other than by means of a breach of this Commitment; (ii) that a party can prove by written documentation was known to it prior to disclosure by the other party; (iii) that a party subsequently rightfully receives from a third party without an obligation of confidentiality; (iv) that a party discloses to a third party on a non-confidential basis; or (v) that was independently developed by the receiving party.

(c) Each party will take reasonable precautions to instruct its employees and consultants of its obligation under this section. Additionally, each party shall protect the exchanged information of the other against unauthorized use or disclosure with the same degree of care as it accords its own proprietary information of a similar type, but not less than reasonable care.

(d) Disclosure of confidential information will not be precluded if it is: (i) in response to a valid order of a court or governmental body of the United States or any political subdivision thereof; provided, however, that the disclosing party will first have made a reasonable effort to obtain a protective order requiring that the confidential information be used only for the purpose for which the order was issued; or (ii) otherwise required by law.

Independent Terms. Rockwell Automation is not a party to or bound by any contract between Customer and Distributor, including by Distributor's acceptance of a Customer purchase order. Distributor is an independent enterprise, not an agent or representative of Rockwell Automation, and is not authorized to bind Rockwell Automation.

Effective Date. This Commitment will become effective when Customer purchases the WORK from Distributor. Customer agrees that by purchasing the WORK it accepts the Statement of Work and Commitment. Absent such purchase, this Commitment will become null and void. No addition or modification to the Commitment and Statement of Work, including terms appearing in Customer's purchase order or requisition, will bind Rockwell Automation unless mutually agreed to in writing.

Delivery. Ex Works Rockwell Automation's plant or warehouse (per current Incoterms) or as otherwise specified in the Statement of Work (Delivery). In all cases, title transfers to Customer upon the earlier of Rockwell Automation's delivery to Customer or receipt by the first carrier for transport to Customer, except that title to all intellectual property rights associated with the WORK remains with Rockwell Automation or its suppliers and licensors.

Acceptance. (a) Acceptance occurs (i) on the date the WORK conforms to acceptance criteria in the Statement of Work or is otherwise beneficially used by Customer, but in no event later than 120 days following Delivery; or (ii) if otherwise unspecified, upon Delivery.

(b) *Interim Approvals.* Any Rockwell Automation submittal or deliverable requiring Customer approval pursuant to the Scope of Work will be deemed accepted if formal Customer approval, written or as otherwise required, is not received by Rockwell Automation within two calendar weeks after the date submitted.

Changes. Any change resulting from any of the following circumstances is subject to equitable adjustments to price, scheduling, and other affected terms and conditions: (a) Customer requested changes, including those affecting the identity, scope, and delivery of the WORK or Products; (b) physical conditions differing materially from those indicated or anticipated in the Statement of Work or that otherwise differ materially from those ordinarily found under similar circumstances; (c) delays caused by Customer, its employees, affiliates, other contractors to Customer, or any other party within Customer's reasonable control; and (d) an emergency endangering persons or property; in such emergency circumstances, Rockwell Automation may act at its discretion to prevent damage, injury, or loss.

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All changes, except actions necessitated by emergencies as provided in (d) above, must be executed by a written change order signed or otherwise definitively authorized by both parties, and Rockwell Automation will not begin work on a change until it is authorized. All claims must be made within a reasonable time after the occurrence giving rise to the claim.

Safety and Standards. Rockwell Automation is responsible for compliance of the WORK with laws, regulations, and standards, including safety regulations and standards, of the country where the WORK will be located that are applicable to the WORK at the effective date of this Agreement. Customer must inform Rockwell Automation of any other laws, regulations, or standards that may apply to the WORK. Rockwell Automation will be responsible for compliance with such other safety or other standards only if documented in the Statement of Work. Rockwell Automation is not responsible for laws, regulations, or standards that apply to Customer's (or end user's, if different from Customer) facility, equipment, process, information system, or data.

Site Rules, Licenses, Permits, Site Preparation. (a) Rockwell Automation agrees to comply with all applicable posted site rules of Customer (unless inconsistent with the obligations set forth in the Statement of Work) and any additional Customer's site rules that have been incorporated into the Statement of Work.

(b) Customer is responsible for: (1) all licenses, permits, clearances, and site access rights; (2) all sites being ready and equipped with all necessary Customer furnished equipment and facilities; (3) any required customer fixtures or facilities being hazard free, structurally sound, and sufficient; and (4) reasonable access to the worksite as required for installing, commissioning or using the WORK.

Customer Specification. Unless otherwise specified in the Statement of Work, Rockwell Automation will not be liable for (i) design, materials, or construction criteria furnished or specified by Customer and incorporated into the WORK or Products, (ii) products made by or sourced from other manufacturers or vendors specified by Customer; or (iii) commercially available computer software, hardware, and electrical components. (Such Customer-specified products shall include but not be limited to any identified in the Statement of Work.)

Customer Information. Customer warrants that access and use of information made available by Customer to Rockwell Automation, including technical specifications, drawings, source code, application code, communication interfaces, protocols, and other documentation, will not infringe or violate any intellectual property rights of the original vendor or other third party.

RoHS. 1. Customer-Furnished Equipment (CFE) will meet all applicable material restrictions as defined in RoHS. If it does not, customer will notify Rockwell Automation prior to shipment of the CFE to Rockwell Automation. Customer will defend, indemnify, and hold harmless Rockwell Automation, its distributors, representatives, agents and employees from and against all claims, damage, losses and expenses, including attorney fees, associated with any requirements or regulations requiring these material restrictions for products or solutions.

2. The EU RoHS regulation takes effect July 22, 2017. Prior to this date, [Distributor] reserves the right to submit a change order proposal to customer for any requirements for RoHS-compliant products or solutions imposed on [Distributor] or Rockwell Automation from customer or any third parties empowered to do so.

2 Change Order Procedure

Changes to the above statement of work requested by City of Port Orange throughout the duration of the project are identified and communicated through project management at Rockwell Automation. This prevents schedule overruns due to unnoticed changes in scope of work. Estimates of the cost, scope and schedule of the changes will be provided when a change in scope is identified.

Design Change Requests (DCR) detailing additional costs and/or schedule revisions associated with changes in the funded statement of work will be presented to City of Port Orange for approval prior to the work being performed. In addition, except in

an emergency endangering persons or property, any changes requested after acceptance of this proposal, will require written approval from City of Port Orange and a change amendment to the contract in order to proceed.

All DCR's initiated by City of Port Orange must be submitted in writing to the Rockwell Automation project manager. Rockwell Automation will review the request and issue a change proposal to distributor for resale to City of Port Orange, within an agreed to time. All change orders are subject to the Commitment for System Sales through Distribution in Section 1.5 above.

3 Distributor Commercial Terms

3.1 Pricing Summary

Distributor's price is based on the Statement of Work set forth in Section 1 above. All prices are in U.S. dollars. Proposal is valid for 30 days from date of issue.

TOTAL PRICE: \$27,828.93

Additional on-site Start-Up/Commissioning Services are offered on a per diem basis at the start-up service rate in effect at the time the service is provided. The standard (Monday - Friday, first 8 hours/day) field service rate is the rate shown below plus all travel and living expenses. Overtime (in excess of 8 hours/day) and Saturday (all hours) rates are one and one-half times the stated standard field service rate. Sunday and Holiday (all hours) rates are two times the stated standard field service rate. Travel time to and from the jobsite is billed at the stated standard field service rate. Transportation, auto rental, lodging, meals, phone, and miscellaneous expenses are billed at cost plus a 10% administrative handling fee. Auto mileage (local service) is billed at \$0.75/Mile. The minimum billing charge for field service work is four hours at the appropriate base rate plus expenses.

Current Standard Rate: \$ 210.00 per Straight Time Hour

3.2 Invoicing Schedule

Invoicing milestones are detailed below.

Milestone	Payment Percent
Upon Completion	100%
Milestone #2:	
Milestone #3:	
Milestone #4: Final Customer Acceptance*	

* Final customer acceptance of the system is considered received if 1) The system operates as sold 2) Customer notifies Rockwell Automation of final acceptance 3) if start-up is complete or 4) 60-days from the start-up .

3.3 Purchase Order Instructions

Please send revised PO to: Ken Jackson, Kenneth.jackson@rexelusa.com (386) 527-4122 Cell

3.4 Distributor Terms and Conditions of Sale

Rexel Terms and Conditions Apply. See: www.rexelusa.com/terms



CITY COUNCIL AGENDA ITEM

REQUESTED COUNCIL MEETING DATE 10/20/2015

Consent item: No

SUBJECT: Award Bid #15-32 to MCG Services for Mockingbird Drive Pipe Replacement in Cypress Cove Subdivision

DEPARTMENT: Public Works

RECOMMENDED MOTION: Move to award Bid #15-32 to MCG Services for the replacement of the failing equalizing pipe in the Cypress Cove Subdivision and to authorize the Mayor and City Clerk to execute all required documents.

SUMMARY: Bid #15-32 for the contract replacement of the failing equalizing pipe between two ponds near Mockingbird Drive in the Cypress Cove Subdivision were opened on August 27, 2015. MCG Services provided the lowest, responsive, and responsible bid with a total base bid of \$246,402 and alternate bid of \$10,000 for a grand total of \$256,402.

All City related purchasing policies and requirements were followed and/or met. Accordingly, it is requested that Bid #15-32 for \$256,402 be awarded to MCG Services for the replacement of the failing equalizing pipe between two ponds near Mockingbird Drive in the Cypress Cove Subdivision. Work is anticipated to begin by December 1, 2015, barring delays in the relocation of underground utilities in the vicinity.

Project No.: DIP063 Funding Account No.: 41218005416397

ATTACHMENTS:

1.	Bid Package 15 32 Mockingbird Dr Pipe Replacement in Cypress Cove	BID PACKAGE Bid 15 32 Mockingbird Drive Pipe Replacement.pdf
2.	Addendum 1 Bid 15-32 Mockingbird Dr Pipe Replacement	ADDENDUM 1 Bid 15 32 Mockingbird Drive Pipe Replacement.pdf
3.	Bid 15 32 BID TAB	BID TAB from Demandstar Bid 15 32 Mockingbird Drive Pipe Replacement.pdf
4.	EJCDC Agreement	MCG EJCDC Agreement.pdf

Adumuah, Branford	Approved - 10/08/2015
Riehm, Tracey	Approved - 10/15/2015
Gomez, Joseph	Approved - 10/15/2015
Roberts, Margaret	Approved - 10/15/2015
Johansson, M. Jake	Final Approval - 10/15/2015

CITY OF PORT ORANGE, FLORIDA

Mockingbird Drive Pipe Replacement at Cypress Cove

BID #15-32



Prepared by:
City of Port Orange Purchasing Division
July 2015

Bid Release Date: July 24, 2015

Mandatory Pre-Bid Meeting Date & Time: August 4, 2015 **at 8:30 a.m.**

Last Day for Questions: August 11, 2015 **by 5:00 p.m.**

Bid Due Date & Time Envelope: August 27, 2015 **at 2:30 p.m.**

City of Port Orange, Florida
1000 City Center Circle
Port Orange, FL 32129
(386) 506-5704
purchasing@port-orange.org
www.port-orange.org



SECTION 00020

Legal Notice to Bidders

Bid #15-32 Mockingbird Drive Pipe Replacement at Cypress Cove

Notice is hereby given that the City of Port Orange is accepting bids for Mockingbird Drive Pipe Replacement at Cypress Cove. Bids will be accepted in the City Clerk's Office, Port Orange City Hall, 1000 City Center Circle, Port Orange, Florida until **2:30 P.M. on August 27, 2015** 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 MANDATORY pre-bid meeting for the project at **8:30 A.M. (local time) on August 4, 2015**. All bidders must attend. Failure to sign in and attend the entire mandatory pre-bid meeting shall result in disqualification of bid. The Mandatory pre-bid shall require attendance at city hall and **site visit**. The representative of each bidder shall be an authorized employee of the bidder and shall sign in accordingly before and after the site visit. The meeting will be held in the council chambers located on the first floor of City Hall, 1000 City Center Circle, Port Orange, Florida. Only bidders attending a mandatory pre-bid meeting will be eligible to submit a bid.

DESCRIPTION: Excavate and remove 400LF of 15 inch CMP and replace with 400LF of ~~18-inch~~ 15 inch RCP at Mockingbird Drive in Cypress Cove, Port Orange, FL 32127.

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, and at www.municode.com. Local vendors may be given a local preference of three percent 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 or from Joseph A. Gomez, Purchasing Manager, 1000 City Center Circle, Port Orange, Florida 32129 via email jgomez@port-orange.org. All questions shall be directed **in writing** to the Purchasing Manager, Joseph A. Gomez, jgomez@port-orange.org and reference "Questions on Bid #15-32 Mockingbird Drive Pipe Replacement at Cypress Cove" in the subject line. Last day for questions will be **August 11, 2015 at 5:00PM**.

A certified check or bank draft, payable to the City of Port Orange, Florida or a satisfactory **bid bond** executed by the Bidder and an acceptable surety, in an amount equal to five percent (5%) of the bid shall be submitted with each bid.

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. All bidders are required to complete and submit an original or certified copy of Certificate of Liability Insurance, the Public Entity Crime Statement, the Anti-Collusion Statement, the Drug Free Tie Bid Preference Statement, Trench Safety Affidavit, and any other document as requested in the solicitation.

No bids received after the time and date specified in the bid document 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 addressed to Joseph A. Gomez, Purchasing Manager, Finance Department, City Hall, 1000 City Center Circle, Port Orange, Florida 32129, in **SEALED ENVELOPE** plainly marked on the outside: "Bid #15-32 –Mockingbird Drive Pipe Replacement at Cypress Cove".

Joseph A. Gomez, Purchasing Manager,
Legal Ad - First Time – **July 17, 2015.**
Legal Ad and Release– Second Time: - **July 24, 2015**

SECTION 00025

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CITY OF PORT ORANGE
BID #15-32**

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SECTION 00030



City of Port Orange

Purchasing Division
1000 City Center Circle
Port Orange, Florida 32129
Telephone (386) 506-5704
Fax (386) 506-5711

BID #15-32

BIDDER ACKNOWLEDGEMENT FORM

THIS FORM MUST BE COMPLETED AND RETURNED WITH YOUR BID

BID TITLE: Mockingbird Drive Pipe Replacement at Cypress Cove

BID RELEASE DATE: July 24, 2015

MANDATORY PRE-BID MEETING DATE & TIME: August 4, 2015 at 8:30 A.M. City Hall Chambers

BID DEADLINE FOR QUESTIONS: August 11, 2015 at 5:00 p.m.

BID DUE DATE & TIME: August 27, 2015 at 2:30 P.M. City Hall, City Clerk's Office

If returning as a "No Bid," please state reason (s): _____

Proposals Received After the Due Date And Time Will Not Be Accepted.

BIDDER'S COMPANY NAME: _____

BIDDER'S COMPANY MAILING ADDRESS: _____

CITY-STATE-ZIP: _____

PHONE NUMBER: _____ **EMAIL:** _____

ACKNOWLEDGMENT OF ADDENDA: 0 1 2 3 4 5

(You must circle the correct # of addenda issued)

I certify that this bid is made without prior understanding, agreement, or connection with any corporation, firm, or person submitting a bid for the same materials, supplies, or equipment, and is in all respects fair and made without collusion or fraud. I agree to abide by all conditions of this bid and certify that I am authorized to sign this bid for the bidder. In submitting a bid to the City of Port Orange, the bidder offers and agrees that if the bid is accepted, the bidder will convey, 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 Antitrust 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 bidder.

X _____
AUTHORIZED SIGNATURE (MANUAL)

NAME (TYPED)

TITLE

DATED

SECTION 00040



City of Port Orange

Purchasing Division
1000 City Center Circle
Port Orange, Florida 32129
Telephone (386) 506-5704
Fax (386) 506-5711

BIDDER'S CHECKLIST

The 10 Most Critical Things to Keep in Mind When Responding to a Bid for the City of Port Orange

1. _____ **Read the entire document.** Note critical items such as: mandatory requirements; Supplies and/or services required; submittal dates; number of copies required for submittal; funding amount and source; contract requirements (i.e., contract performance security, insurance requirements, performance and/or reporting requirements, etc.).
2. _____ **Note the Purchasing Manager's name, address, phone numbers and e-mail address.** This is the only person (or his designee) you are allowed to communicate with regarding the BID and is an excellent source of information for any questions you may have.
3. _____ **Attend the pre-bid conference** if one is offered. These conferences provide an opportunity to ask clarifying questions, obtain a better understanding of the project, or to notify the City of any ambiguities, inconsistencies, or errors in the Bid.
4. _____ **Take advantage of the "question and answer" period.** Submit your questions to the Purchasing Manager by the due date listed in the Bid and view the answers given in the formal "addenda" issued for the bid. All addenda issued for a Bid are posted on www.demandstar.com website and will include all questions asked and answered concerning the bid. It is the bidder's responsibility to be sure all addenda were received.
5. _____ **Follow the format required in the Bid** when preparing your response. Provide point-by-point responses to all sections in a clear and concise manner.
6. _____ **Provide complete answers/descriptions.** Read and answer **all** questions and requirements. Don't assume the City or evaluator/evaluation ranking committee will know what your company capabilities are or what items/services you can provide, even if you have previously contracted with the City. The proposals are evaluated based solely on the information and materials provided in your response.
7. _____ **Use the forms provided**, i.e., cover page, bid acknowledgment form, exhibits, etc.
8. _____ **Check the website for Bid addenda's.** Before submitting your response, check the DemandStar website at www.demandstar.com to determine whether any addenda were issued for the Bid. If so, you must circle for each addenda issued on the "Bidder acknowledgment form."
9. _____ **Review and read the Bid document again** to make sure that you have addressed all requirements. Your original response and the requested copies must be identical and be complete.
10. _____ **Submit your response on time.** Note all the dates and times listed in the Bid and within the document, and be sure to submit all required items on time. Late proposal responses are never accepted.

SECTION 00050

BIDDER'S SUBMITTAL CHECKLIST



City of Port Orange

Purchasing Division
1000 City Center Circle
Port Orange, Florida 32129
Telephone (386) 506-5704
Fax (386) 506-5711

This checklist is for the Bidder's use in preparing their Bid. It is not intended to include all details necessary to prepare a bid and it is not intended as a substitute for the requirements of the Specifications. Use of this checklist does not relieve the Bidder from the responsibility of meeting all requirements of the Specifications concerning the preparation of an acceptable bid.

Bidder's Submittal Checklist:

1. _____ **Envelope:** (1) original, (2) copies and (1) CD or flash drive version of the bid tabbed, indexed, and placed in the following order:

Forms:

- ☐ 1. Bidder Acknowledgement Form: (Section 00030)
- ☐ 2. Insurance certificates: Submit a copy (Section 00080)
- ☐ 3. Statement of Bidder's Qualifications (Section 00130)
- ☐ 4. Listing of Previous Experience: (Section 00140)
- ☐ 5. Subcontractors List: (Section 00150)
- ☐ 6. Bid Bond (Section 00160)
- ☐ 7. Public Entity Crime Statement: (Section 00170)
- ☐ 8. Anti-Collusion Statement (Section 00180)
- ☐ 9. Drug Free/Tie Preference Statement (Section 00190)
- ☐ 10. Trench Safety Affidavit: (Section 00195)
- ☐ 11. Florida General Contractor's License (Section 00080)
- ☐ 12. Total Base Bid: (Section 00120)
- ☐ 13. Local Business Affidavit (Section 00125 -optional)

SECTION 00060

CITY OF PORT ORANGE PURCHASING DIVISION

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 means a written instrument issued by the Contract Awarding Authority that modifies or clarifies the Solicitation prior to the Due Date. "Addenda" is the plural form of the word.
2. Alternate Bid means multiple Bids with substantive variations from the same Bidder in response to a Solicitation.
3. 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.
4. Bid is a complete, properly signed response to an invitation for bid, which if accepted, would bind the Bidder to perform the resultant Contract.
5. Bidder is a person, firm, or entity that submits a Bid in response to a Solicitation. Any Bidder may be represented by an agent after submitting evidence demonstrating the agent's authority. The agent cannot certify as to his own agency status.
6. Bid Guaranty 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
7. Bids are responses to an Invitation for Bids.
8. City means the City of Port Orange.
9. Construction means the construction, repair, rehabilitation, alteration, conversion or extension of building, parks, utilities, streets or other improvements or alterations to real property.
10. Contractor means the person, firm or entity selling goods or services to the City under a Contract.
11. Deliverables means the goods, products, materials, and/or services to be provided to the City by a Bidder.
12. Due Date means the date and time specified for receipt of Bids.
13. Goods are supplies, materials, or equipment.
14. Invitation for Bid (IFB) or Bid means a Solicitation requesting pricing for a specified Good or Service which has been advertised for Bid in a newspaper.
15. Lowest Responsible Bid means the Bid meeting all requirements of the specifications, terms, and conditions of the Invitation for 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.
16. Lowest Responsible Bidder means the Bidder submitting Lowest Responsible Bid.
17. Non-Professional Services are services performed that are not of a professional nature such as lawn care, security, janitorial, etc.
18. 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 for Bid, a proposal submitted in response to a Request for Proposal, a quote submitted in response to a Request for Quotation, or a statement of qualifications and interest submitted in response to a Request for Qualifications.
19. Pre-Bid Conference means a conference conducted by the Purchasing Office, held in order to allow Bidders to ask questions about the proposed Contract and particularly the Contract specifications.
20. 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."
21. 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.
22. Services include all work or labor performed for the City on an independent contractor basis other than construction.
23. Solicitation means, as applicable, an Invitation for Bid, Request for Proposal, Request for Qualifications or a Request for Quotation.
24. Subcontractor means a person, firm or entity providing goods or services to a Bidder to be used in the performance of the Bidder's obligations under the Contract.
25. 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.

SECTION 00070

CITY OF PORT ORANGE PURCHASING DIVISION

GENERAL REQUIREMENTS FOR BIDS

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 bids; 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 bid 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. ADDENDA

When specifications are revised, the CITY of PORT ORANGE Purchasing Division will issue an addendum addressing the nature of the change. Bidders should acknowledge all addenda by circling the quantity of addenda received on the "bidder acknowledgment form" and include it in the returned bid package. Failure to acknowledge the correct number of addenda issued may result in rejection of the bid. It is the responsibility of the bidder 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 will issue responses to inquiries and any other corrections or amendments it deems necessary in written addenda issued prior to the Proposal Due Date. Proposers should not rely on any representations, statements or explanations other than those made in this RFP or in any addendum to the BID/RFP. Where there appears to be a conflict between the BID/RFP and any addenda issued, the last addendum issued shall prevail.

3. ANTI-COLLUSION STATEMENT

By submitting this bid, the bidder affirms that this bid is without previous understanding, agreement, or connection with any person, business, or corporation submitting a bid for the same materials, supplies, or equipment, and that this bid is in all respects fair, and without collusion or fraud. Additionally, bidder agrees to abide by

all conditions of this bid and certifies that they are authorized to sign this bid for the bidder. In submitting a bid to the City of Port Orange, the bidder offers and agrees that if the bid is accepted, the bidder will 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 bidder.

4. APPLICABLE LAWS

In connection with the furnishing of supplies or performance of work under the Contract, the Proposer agrees to comply with the Fair Labor Standard 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.

5. 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.

6. 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 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.

7. BID FORM COMPLETION, SUBMISSION AND RECEIPT OF BIDS

Unless otherwise specified, Bidder's shall use the bid forms supplied by the Purchasing Division. Bids will be accepted in the City Clerk's Office, Port Orange City Hall, 1000 City Center Circle, Port Orange, Florida until 2:30 P.M., on the date indicated in the bid documents or as addendum issued by the City.

Bids shall contain one (1) original and two (2) copies, unless otherwise indicated in the legal advertisement and shall be addressed to Joseph A. Gomez, Purchasing Manager, Finance Department, City Hall, 1000 City Center Circle, Port Orange, Florida 32129 in) SEALED ENVELOPE. The envelopes shall be plainly marked on the outside to include the bid project name and bid number. Hand deliveries of envelopes shall be made to the Clerk's Office, 1st floor City Hall, City of Port Orange, 1000 City Center Circle, Port Orange, FL 32129.

Bidders shall use the forms furnished by the City. Bids having any erasures or corrections must be initialed by the bidder in ink. Bid shall be typewritten or filled in with pen and ink. Manual signature must be in ink. Bids transmitted by facsimile or email will not be accepted.

8. BID RETURNS

Bidders shall return all completed bids to the CITY of PORT ORANGE, Purchasing Division, 1000 City Center Circle, Port Orange, Florida 32129 the date and time specified. Late bids will not be accepted and shall be returned to Bidders unopened.

9. BID PROTEST

Any person who is adversely affected by the agency decision or intended decision shall file with the agency 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, Bids, 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. The formal written protest shall be filed in writing within 10 days after the date the notice of protest is filed. Failure to file a notice of protest or failure to file a formal written protest shall constitute a waiver of proceedings. The formal written protest shall state with particularity the facts and law upon which the protest is based. Saturdays, Sundays, and state holidays shall be excluded in the computation of the 72-hour time period established herein. Upon receipt of the formal written protest that has been timely filed, the agency shall stop the solicitation or contract award process until the subject of the protest is resolved by final agency action, unless the agency head 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 agency shall provide an opportunity to resolve the protest by mutual agreement between the parties. The policy this City has established is as follows:

1. As soon as possible after receipt, the Purchasing Manager provides written bid protest to City Manager, City Attorney, Department Head involved and Supervisor directly involved in acquisition.

2. Purchasing Manager schedules an informal meeting with an appeals committee consisting of the above mentioned individuals 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 renders a decision.

3. If the protestor disagrees, he may appeal to the City Council at a formal council meeting. After reviewing the evidence, the City Council issues their decision. For the most part, the City Council's decision is final. The protestor can appeal the decision by taking court action only on very narrow defined grounds. Decisions at all levels must be in writing to the protestor.

10. BID TABULATION

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

11. BONDS

If this bid requires submission of bid guarantee and performance bond, there will be a separate page explaining those requirements. Bids submitted without the required bid bond or cashier's checks shall be deemed non-responsive. When the Purchasing Manager deems it necessary, bid bond/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. Performance and Materials 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 bidder may also be required to furnish and pay for a satisfactory contract one hundred percent (100%) Payment &

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. After recording, the City will furnish to the contractor the recording information for the bond to evidence that the contractor has met the requirement of Florida law. The City will bill the cost of recording to the contractor. Performance and Material Bond shall also be recorded at the bidder'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 Invitation to Bid which appears in the newspaper. Unsuccessful bidders are entitled to the return of their surety where the Purchasing Manager has required such. A successful bidder shall forfeit any surety required by the Purchasing Manager upon failure on the bidder's part to enter into a contract within the time specified after the award of bid.

12. 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 orders will be made in writing by the City of Port Orange Purchasing Division.

14. CONFLICT OF INTEREST

For purposes of determining any possible conflict of interest, all bidders must disclose if any City of Port Orange employee is also an owner, corporate officer, or employee of their 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.

15. CONFLICT OF INSTRUCTIONS

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

16. 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 bidders. Department heads are NOT authorized to sign agreements 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.

17. CONTRACT RENEWALS

Renewals may be made ONLY by written agreement between the CITY of PORT ORANGE and the bidder. Any price escalations are limited to those stated by the bidder on the original bid.

18. 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) would require council approval before the purchasing contracts are entered into. (Code 1981, § 8-33, Ord. 1997-22, § 5.)

19. COPYRIGHT AND PATENT RIGHTS

Bidder 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 bid, and successful bidder agrees to hold the City harmless from any and all liability, loss or expense by any such violation.

20. COST INCURRED BY BIDDERS/PROPOSERS

All expenses involved with the preparation and submission of proposals to the City, or any work performed in connection therewith shall be borne by the Bidder(s)/Proposer(s). No payment shall be made for any responses received, nor for any other effort required of or made by the Bidder(s)/Proposer(s) prior to commencement of work as defined by the contract approved by the City Council.

21. DEFAULT PROVISIONS

In the event of default by the bidder, 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. If a contractor defaults on a City contract the City Council may elect to refrain from doing business with the bidder for a period of 36 months from the date of default.

22. DELIVERY OF GOODS/SERVICES

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

2. 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 bidder will clearly state in the bid 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 bid. 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.

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

4. 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 as determined by the Purchasing Division.

23. DETERMINATION OF LOWEST AND BEST BIDDER

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

1. The ability, capacity and skill of the bidder to perform the contract.
2. Whether the bidder can perform the contract within the time specified, without delay or interference.
3. The character, integrity, reputation, judgment, experience, and efficiency of the bidder.
4. The quality of performance of previous contracts.
5. The previous and existing compliance by the bidder with laws and ordinances relating to the contract.
6. The sufficiency of the financial resources and ability of the bidder to perform the contract or provide the service.
7. The quality, availability and adaptability of the supplies or contractual services to the particular use required.
8. The ability of the bidder to provide further maintenance and service for the use of the subject of the contract.
9. The number and scope of conditions attached to the bid.

10. Such other factors as appear to the city council to be pertinent to the bid or the contract under all of the circumstances involved.

24. DISCLOSURE OF CONFLICTS

The award is subject to the provisions of Chapter 112, Florida Statutes. All proposers must disclose with their proposal the name of any officer, director, or agent who is also an employee of the City. Further, all Proposers must disclose the name of any employee who owns, directly or indirectly, an interest in the Proposer's firm or any of its branches. The proposer 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 Proposer. 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 Proposer 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 Bid/RFP.

25. DISQUALIFICATION OF BIDDER

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 bids. 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 bids may be rejected if the CITY believes that collusion exists among the bidders. Bids in which the prices are obviously unbalanced may be rejected. If multiple bids are submitted by a bidder and after the bids are opened, one of the bids is withdrawn, the result will be that all of the bids submitted by that bidder will be withdrawn; however, nothing herein prohibits a vendor from submitting multiple bids for different products or services.

26. EVALUATION

Evaluation shall be used as a determinant as to which bid 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 bids are subject to tabulation by the CITY of PORT ORANGE Purchasing Division and recommendation to the governing body. Compliance with all bid requirements, delivery and needs of the using department are considerations in evaluating bids. Pricing is NOT the only criteria for making a recommendation. The CITY of PORT ORANGE Purchasing Division reserves the right to contact any bidder, at any time, to clarify, verify or request information with regard to any bid.

27. EVALUATING RFPs

The evaluation process is formally one conducted by a committee appointed by the Purchasing Manager as required by general law. The evaluation is based upon specific criteria outlined in the RFP. 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 RFP 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 RFP 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 RFP, one member of the Selection Committee is to consist of one (1) member from the City Council; and at least one member from the user department. Except as otherwise required by general law; the Selection

Committee schedules oral presentations from the three 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 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.

28. EXCEPTIONS TO SPECIFICATIONS

For purposes of evaluation, bidder 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 bidder that are required to be signed by the City. If exceptions are not stated by the bidder, 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 bidder on an attachment included with his bid. The City will not determine exceptions based on a review of any attached sales or manufacturer's literature.

29. FACILITIES

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

30. FAILURE TO RESPOND

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

31. 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.

32. GOVERNING LAW

Bidders shall comply with all applicable federal, state and local laws and regulations. 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 and at www.municode.com

The City of Port Orange is also governed by Florida Statutes 286.055 the Consultants Competitive Negotiations Act, as the method of selecting architects, engineers and land surveyors. The City has utilize 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 Florida Statute Section 287.133 (3)(a). Every bid contains this State Form. Another State of Florida Form is the Drug Free Tie Bid Preference Form. This form is in accordance with Section 287.087, Florida Statutes.

33. 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.

34. HIPAA COMPLIANCE

Bidder 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 Bidder uses, discloses or has access to protected health information as defined by HIPAA.

35. IDENTICAL TIE BIDS

In accordance with Section 287.087, State of Florida Statutes, preference shall be given to businesses with Drug-free Workplace Programs. Whenever two or more bids that are equal with respect to price, quality, and service are received for the procurement of commodities or contractual service, 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.

36. 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.

37. INDEPENDENT CONTRACTOR

It is expressly understood and agreed by both parties hereto that the City is contracting with the successful vendor as 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 Proposer 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 Proposer shall assume all legal and financial responsibility for taxes, FICA, employee fringe benefits, workers 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 fees); and damage of any kind related to such matters. The Proposer shall further understand that the City cannot save and hold harmless and or indemnify the Proposer and/or the Proposer's employees against any liability incurred or arising as a result of any activity of the Proposer or any activity of the Proposer's employees performed in connection with the Contract.

38. INSPECTIONS & 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 bidder cannot furnish a sample of a bid item, where applicable, for review, or

fails to satisfactorily show an ability to perform, the CITY can reject the bid as inadequate and non-responsive.

39. INSURANCE

Please submit a copy of your insurance certificate with your proposal. Upon execution of a contract, the Bidder 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.

40. INSURANCE CANCELLATION

No change or cancellation in insurance shall be made without thirty (30) days written notice by the proposer/bidder 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 of 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.

41. INVOICES AND PAYMENTS

All invoices should 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 bidder offers a payment discount. The City cannot make advance payments, make deposits in advance of receipt of goods, or pay C.O.D. Bidders should state any payment discount in space provided on Proposal form for construction services.

42. IRREVOCABILITY OF PROPOSAL

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

43. LATE PROPOSALS, LATE MODIFICATIONS AND LATE WITHDRAWALS

Proposals received after the Proposal Due Date and time are late and shall not be considered. Modifications received after the Proposal Due Date are also late and shall not be considered. Letters of withdrawal received after the Proposal 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 bid proposal request.

44. 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 proposals received in response hereto and shall govern any and all claims and disputes which may arise between person(s) submitting a response to Bid/RFP 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 Proposer shall not constitute a cognizable defense against the legal effect thereof.

Upon execution of a contract, the successful Bidder/Proposer 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.

45. LICENSES, PERMITS AND TAXES

The Proposer shall comply with all rules, regulations, laws and permitting requirements of the City, Volusia County, the State of Florida, and the U.S. Government now in force or hereafter to be adopted. The Proposer 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.

46. MAINTENANCE

Maintenance required for equipment bid 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.

47. 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. Bidders may offer items of equal stature and the burden of proof of such stature rests with bidders, unless otherwise specified by the CITY. The CITY of PORT ORANGE shall act as sole judge in determining equality and acceptability of products offered.

48. 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.

49. 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.

50. OPTIONAL CONTRACT USAGE

As provided in Section 287.042(17), 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.

51. PATENTS/COPYRIGHTS

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

52. PRE-BID MEETING or PRE-PROPOSAL MEETING

The Purchasing Manager shall determine if the pre-bid or pre-proposal meeting is mandatory and provide the date, time and location in the Bid/RFP legal advertisement and Bid/RFP specifications. The meeting 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 meeting is normally mandatory. Only Bidder's or Proposer's attending a mandatory pre-bid meeting will be eligible to submit a

bid or RFP. The representative of each bidder shall be an authorized employee of the bidder and shall sign in accordingly.

53. PREPARATION OF PROPOSAL

In preparing Proposals 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/Tie Preference Statement, must be properly executed in ink .

Upon the prescribed Schedule of Unit Prices, all bid prices shall be 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 Bidder 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.

54. POSTPONEMENT / CANCELLATION / WAIVER OF IRREGULARITIES

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

55. PRICING

Bidder certifies that prices, terms and conditions in the bid will be firm for acceptance for a period of ninety (90) days from the date of bid opening unless otherwise stated by the City. Bids may not be withdrawn before the expiration of ninety (90) days. Prices shall be firm, with no escalator clauses unless specified by the City. Bids 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, bidder 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.

56. 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 Proposer during the term of contract, and the Proposer shall be held responsible for any damage to the property occurring by reason of his operation on the property.

57. PROPRIETY INFORMATION

Responses to this Request for Proposals, upon receipt by the City, become public records subject to the provisions of Chapter 119

F.S., Florida's Public Records Law. 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 bidder 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.

58. PUBLIC ENTITY CRIMES

In accordance with Florida State Statute 287.133 (2)(a): 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 s. 287.017 for CATEGORY TWO for a period of 36 Months from the date of being placed on the convicted vendor list.

59. PUBLIC RECORDS/PUBLIC MEETINGS EXEMPTION STATEMENT

Florida Statutes 119.071(1)(c) Any financial statement that an agency requires a prospective bidder 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 bidders 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 bidders, 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 bidders, but the new law limits public attendance to portions of such meetings.

60. PURCHASE ORDER AND DELIVERY

The successful bidder 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 bidder. 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.

61. QUESTIONS, INTERPRETATIONS

Questions regarding interpretation of bids, bid results or bid awards shall be directed in writing to the Purchasing Division and referenced by bid number no later than the last day for questions as specified in the bid 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.

62. 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.

63. RIGHT OF WITHDRAWAL RFP

A RFP proposal may not be withdrawn before the expiration of ninety (90) days from the proposal due date.

64. RIGHTS TO RFP SUBMITTED MATERIAL

All proposals, responses, inquiries, or correspondence relating to or in reference to an RFP, and all reports, charts, and other documentation submitted by Proposers shall become the property of the City when received.

65. RIGHT OF NEGOTIATION RFP

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

66. RECORDS/AUDIT

The proposer shall maintain records sufficient to document their completion of the scope of services as a public record and as a requirement of the Contract. These records unless exempt or confidential, shall be subject at all reasonable time to review, inspections, 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.

67. RECYCLED MATERIALS

CITY of PORT ORANGE encourages the use of products made of recycled materials.

68. REQUEST FOR ADDITIONAL INFORMATION

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

69. REJECTING OF BIDS, REBIDDING

The City reserves the right to accept or reject any or all bids or parts of bids, 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 bids. If the lowest and best bid 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)

70. REVIEW OF PROPOSALS

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

71. RULES, REGULATIONS AND LICENSING REQUIREMENT

The Proposer shall comply with all laws, ordinances and regulations applicable to the services contemplated herein, including those applicable to conflict of interest and collusion. Proposers 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.

72. SAMPLES

Samples, when requested, must be furnished at, or before, bid 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 bidder's request, be returned within thirty (30) days of bid award at bidder's expense. If requested by the City, samples and/or inspection of like items are to be made available in the southeast Florida area.

73. SEPARATION AND DISTRIBUTION

The Bid/RFP 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 BIDS and RFP'S at: www.demandstar.com

In addition, vendors may obtain a PDF version of the RFP Proposal by submitting a request to the Purchasing Manager, e-mail: purchasing@port-orange.org.

74. 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.

75. SIGNATURE REQUIRED

All bids 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 BIDS WILL BE REJECTED. All manual signatures must be original - no rubber stamp, photocopy, etc.

76. SIGNED BID CONSIDERED AN OFFER

This signed bid is considered an offer on the part of the bidder, which offer shall be considered accepted upon approval by the City

Council City of Port Orange (if required). The City of Port Orange will issue a purchase order or a letter of authorization to the successful bidder, 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 bidder after such acceptance, the City may take such action as it deems appropriate including legal action for damages or specific performance.

77. 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.

78. 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. The offeror shall have, prior to making this offer, 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 which evidence such qualifications with your response to the Bid/RFP; and, that the offeror shall provide follow-up evidence that the contractor maintains such credentials throughout the period of the agreement. A copy of a current certificate of authority from the Secretary of State authorizing your company 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 Bid/RFP. Information concerning certification with the Secretary of State can be obtained at <http://ccfcorp.dos.state.fl.us/index.html>. Contract documents shall be executed by an entities duly authorized officer as evidenced by entity records.

79. SUPPLEMENTAL MATERIALS

Bidders 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, which the bidder 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.

80. TAXES

The CITY of PORT ORANGE is exempt from all federal excise, state and local taxes unless otherwise stated in this document. Tax Exemption Certificates will be furnished upon written request to the CITY of PORT ORANGE Purchasing Division.

81. TERM CONTRACTS

The CITY of PORT ORANGE acceptance of Bidder'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.

82. TERMINATION

The CITY of PORT ORANGE reserves the right to terminate the contract for default if bidder breaches any of the terms therein, including warranties of bidder or if the bidder 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 Proposer 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 Proposer.

83. 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.

84. 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. Bidders are 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.

85. USE OF PROPOSAL FORMS

Proposers should complete the appropriate Proposal Form(s) included in the RFP. All blanks on the Proposal Forms should 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 Proposal Forms. Failure to fully complete the appropriate Proposal Forms may result in disqualification of your proposal.

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

86. VARIANCES

For purposes of bid evaluation, Bidder's must indicate any variances, no matter how slight, contained in the bid. No variations or exceptions by a bidder will be considered or deemed a part of the bid submitted unless such variances or exceptions are listed in the bid and referenced in the space provided on the bid 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 bid, the City does not necessarily accept any variances contained in the bid. All variances submitted are subject to review and approval by the City. If any bid contains material variances that, in the City's sole opinion, make that bid conditional in nature, the City reserves the right to

reject the bid or part of the bid that is declared, by the City as conditional.

87. WAIVER OF IRREGULARITIES

The City of Port Orange reserves the right to waive and/or reject any non-substantial irregularity in the proposals received whenever such waiver or rejection is in the best interests of the City and/or it doesn't meet the minimum requirements set forth. All reasonably responsive proposals will be considered. However, the City reserves the right to waive formalities or informalities in proposals, to reject, with or without cause, any or all proposals or portions of proposals, or to interview or not interview individual Proposers, and to accept any proposal(s) or portions of proposals deemed to be in the best interest(s) of the City. The city council shall have the authority to waive any and all non-substantial irregularities in any and all formal bids. (Code 1981, § 8-29)

88. WARRANTIES

Bidders shall furnish all data pertinent to warranties or guarantees which may apply to items in the bid. Bidders may not limit or exclude any implied warranties. Bidder 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 bidder's expense. If bidder fails to make the appropriate correction within a reasonable time, CITY of PORT ORANGE may correct at the bidder's expense.

89. 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.

90. NON-EXCLUSIVITY:

The City of Port Orange reserves the right to procure items herein described in any manner it sees fit, including but not limited to: awarding of other contracts, the use of contracts awarded by GSA, federal agencies, the State of Florida, any county or municipality, or any authorized contract, whichever is considered in the best interest of the City.

91. LOCAL PREFERENCE:

In accordance with City Of Port Orange City Code 2-275, local businesses shall have **five 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.

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

The preference does not apply to goods or services exempted by statute or prohibited by Federal law, State law, or other funding source restrictions.

SECTION 00080

ADDITIONAL INFORMATION

TIMELINE

The schedule for the bid is as follows:

Bid release date	July 24, 2015
Bid pre-bid meeting (mandatory)	August 4, 2015 at 8:30 a.m.
Bid deadline for questions	August 11, 2015 at 5:00 p.m.
Bid due date and time	August 27, 2015 at 2:30 P.M.

MANDATORY PRE-BID MEETING

There will be a MANDATORY pre-bid meeting for the project at **8:30 A.M. (local time) on August 4, 2015**. All bidders must attend. Failure to sign in and attend the entire mandatory pre-bid meeting shall result in disqualification of bid. The Mandatory pre-bid shall require attendance at city hall and **site visit**. The representative of each bidder shall be an authorized employee of the bidder and shall sign in accordingly before and after the site visit. The meeting will be held in the council chambers located on the first floor of City Hall, 1000 City Center Circle, Port Orange, Florida. Only bidders attending a mandatory pre-bid meeting will be eligible to submit a bid.

BID SUBMISSION AND WITHDRAWAL

Unless otherwise specified, Bidder's shall use the bid 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 proposers. Upon opening, Bids become subject to public disclosure in accordance with Chapter 119, Florida Statutes.

Bidders are required to submit one (1) original, two (2) copies, and (1) CD or flash drive version of all documents, sealed and marked on the outside of the package, **"BID 15-32, "Mockingbird Drive Pipe Replacement at Cypress Cove"** with the firm's name, address, city, state and zip code plainly labeled on the outside. Packages must be delivered to the City of Port Orange City Clerk's Office, Attn: Joseph A. Gomez, Purchasing Manager, Finance Department, 1000 City Center Circle, Port Orange, FL 32129 on or before **2:30 p.m. on August 27, 2015**.

Due to the timing of mail service, the City cautions Bidders to assure actual delivery of proposals to the City prior to the deadline set for receiving proposals. 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 until **2:30 p.m. (local time), August 27, 2015** or as amended by addendum issued by the City. Bids received after the established deadline shall not be considered.

The contents of the envelope are described below:

Envelope (tabbed, indexed and placed in the following order: (1 original, 2 copies and 1 CD or flash drive version))

1. Bidder Acknowledgement Form: (Section 00030)
2. Insurance certificates: Submit a copy (Section 00080)
3. Statement of Bidder's Qualifications (Section 00130)
4. Listing of Previous Experience: (Section 00140)
5. Subcontractors List: (Section 00150)
6. Bid Bond (Section 00160)
7. Public Entity Crime Statement: (Section 00170)

8. Anti-Collusion Statement (Section 00180)
9. Drug Free/Tie Preference Statement (Section 00190)
10. Trench Safety Affidavit: (Section 00195)
11. Florida General Contractor's License (Section 00080)
12. Total Base Bid: (Section 00120)
13. Local Business Affidavit (Section 00125 -optional)

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.

ADDITIONAL INFORMATION/ADDENDA

All questions shall reference "Questions on Bid #15-32 Mockingbird Drive Pipe Replacement at Cypress Cove" in the subject line. All questions concerning this Bid shall be submitted in writing no later than **5:00 p.m. on August 11, 2015** to:

Joseph A. Gomez
Purchasing Manager
1000 City Center Circle
Port Orange, FL 32129
jgomez@port-orange.org

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. Bidders should not rely on any representations, statements or explanations other than those made in this Bid or in any addendum to this Bid. Where there appears to be a conflict between the Bid and any addenda issued, the last addendum issued will prevail.

It is the proposer's responsibility to be sure all correct number of addenda was received. The Bidder should verify with the designated contact persons prior to submitting a proposal that all addenda have been received. Bidders should acknowledge the correct number of addenda received as part of their proposals. It is the responsibility of the bidder 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

BID BONDS

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

PAYMENT & PERFORMANCE BONDS

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. After recording, the City will furnish to the contractor the recording information for the bond to evidence that the contractor has met the requirement of Florida law. The City will bill the cost of recording to the contractor.

WITHDRAWAL AND AWARD

NO proposal shall be withdrawn for a period of ninety (90) days subsequent to the proposal opening without the consent of the City of Port Orange, Florida

INSURANCE REQUIREMENTS

Please submit a copy of your insurance certificate with your proposal. Upon execution of a contract, the Bidder/Proposer shall maintain insurance during the life of the Contract. Bidder/Proposer 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/proposer'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. Bidder/Proposer shall not commence work under the contract until the City has received a certificate or certificates of insurance and endorsement evidencing the required insurance. Bidder/Proposer 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>Additional Coverage:</u>	<u>Limits:</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>Additional Coverage:</u>	<u>Limits:</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>	<u>Limits:</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)	<u>Limits:</u> Coverage- \$1,000,000 minimum	

SECTION 00090

TECHNICAL REQUIREMENTS

MOCKINGBIRD DRIVE PIPE REPLACEMENT AT CYPRESS COVE REQUIREMENTS

TECHNICAL SPECIFICATIONS/SCOPE OF WORK

Summary:

There is 400 linear feet of existing 15" corrugated metal pipe connecting two storm water ponds that has deteriorated preventing stormwater to flow between the two ponds. The City is looking to obtain bids to excavate the existing 15" Corrugated Metal Pipe (CMP) and replace it with a 15" Reinforced Concrete Pipe (RCP). In addition, the City would like to install a type C inlet on public rights of way for accessibility of the new 15" RCP at Mocking Bird Drive in Cypress Cove, Port Orange, FL 32127.

1. Minimum Work to be done/provided by the Contractor:

- a. Contractor shall furnished all labor, equipment, and materials
- b. Provide all Maintenance of Traffic
- c. Remove trees that have infiltrated the existing 15" corrugated metal pipe, or that are obstructing the drainage easement. Remove and replace residents fencing and docks that will need to be demolished to place headwalls
- d. Excavate and remove existing 15" CMP and headwalls and replace with 15" RCP and pre cast headwalls
- e. Restore the entire job site area with top soil and St. Augustine sod in disturbed area, resurface asphalt roadway on job site
- f. Contractor is responsible to call Sunshine for utilities locates
- g. Provide performance and payment bond
- h. Bypass pump for transfer of stormwater as needed

2. Scope of Work (Lump Sum)

- a. Remove four to five trees located near pond #1 along the drainage easement to the edge of property that have infiltrated the existing corrugated metal pipe (CMP). In addition, removal of privacy fencing along the drainage easement and restore at the completion of the project.

- b. It will be necessary to place cofferdams at the two outfall areas of pond 1 and pond 2, de-water, dredge, and remove existing headwalls. Portions of the existing dock over the headwall in pond 1 will need to be demolished to access the headwall and shall be replaced upon the completion of the project.
- c. Excavate and remove existing +/- 400 linear feet of 15" corrugated metal pipe (CMP) and replace with +/- 400 linear feet of 15" reinforced concrete pipe (RCP) at 0.00 slopes (see as-built for elevations).
- d. Place headwall at each outfall areas of pond 1 and pond 2. Use existing as-built 15.50 elevations of headwalls.
- e. Place type C inlet on City's rights of way for accessibility the new 15" RCP.
- f. Restore the entire project area to original or better condition to include portion of the roadway.
- g. Should the contractor desire to use by-pass pumping to divert flow in the ponds, it is the contractor's responsibility to make sure their by-pass pumping system does not have any adverse effect on canal flow and have the pumping capacity to divert flow from one pond to the other pond.

Contractor shall furnish all labor, equipment, and materials in accordance with the specification and drawings provided as a lump sum.

City of Port Orange Public Works department will be responsible for contacting utilities relocation, Florida Power & Light, Port Orange Utilities, and any other government utility. City shall coordinate with all Utility Companies for re-locating utilities located within the project area.

Contractor shall provide all Maintenance of Traffic (MOT) as required per Florida Department of Transportation (FDOT) specification to complete the project in a safe manner. The contractor shall be responsible for implementing traffic control procedures in accordance with FDOT standards.

Contractor shall carry out all operations in strict accordance with all OSHA regulations and manufacturer's safety requirements.

Contractor, when required, shall provide bypassing pump(s) for stormwater flow around or through the project area and pumping the flow into a downstream manhole or adjacent system. The primary pump, standby pump, and the piping shall be of adequate capacity and size to handle the maximum flow experience in the existing pipe.

Contractor shall ensure all erosion control measures are in place and maintained throughout the project.

City and Contractor shall be responsible for coordinating with and notifying home owners before work is to commence.

Contractor shall be responsible for locating the easement area and remaining within the legally described easement for all work performed. All construction shall fall within the existing 20 foot easement. No temporary easement is needed.

Contractor shall remove and replace residents' fences within the easement. Fences removed are to be replaced at the same location with like/existing material. No city permit will be applicable for fence replacement.

CONTRACTOR LICENSES OR CERTIFICATIONS

The Prime Contractor must have a valid Florida General Contractor's License. The Proposer shall comply with all rules, regulations, laws and permitting requirements of the City, Volusia County, the State of Florida, and the U.S. Government now in force or hereafter to be adopted. The Proposer 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.

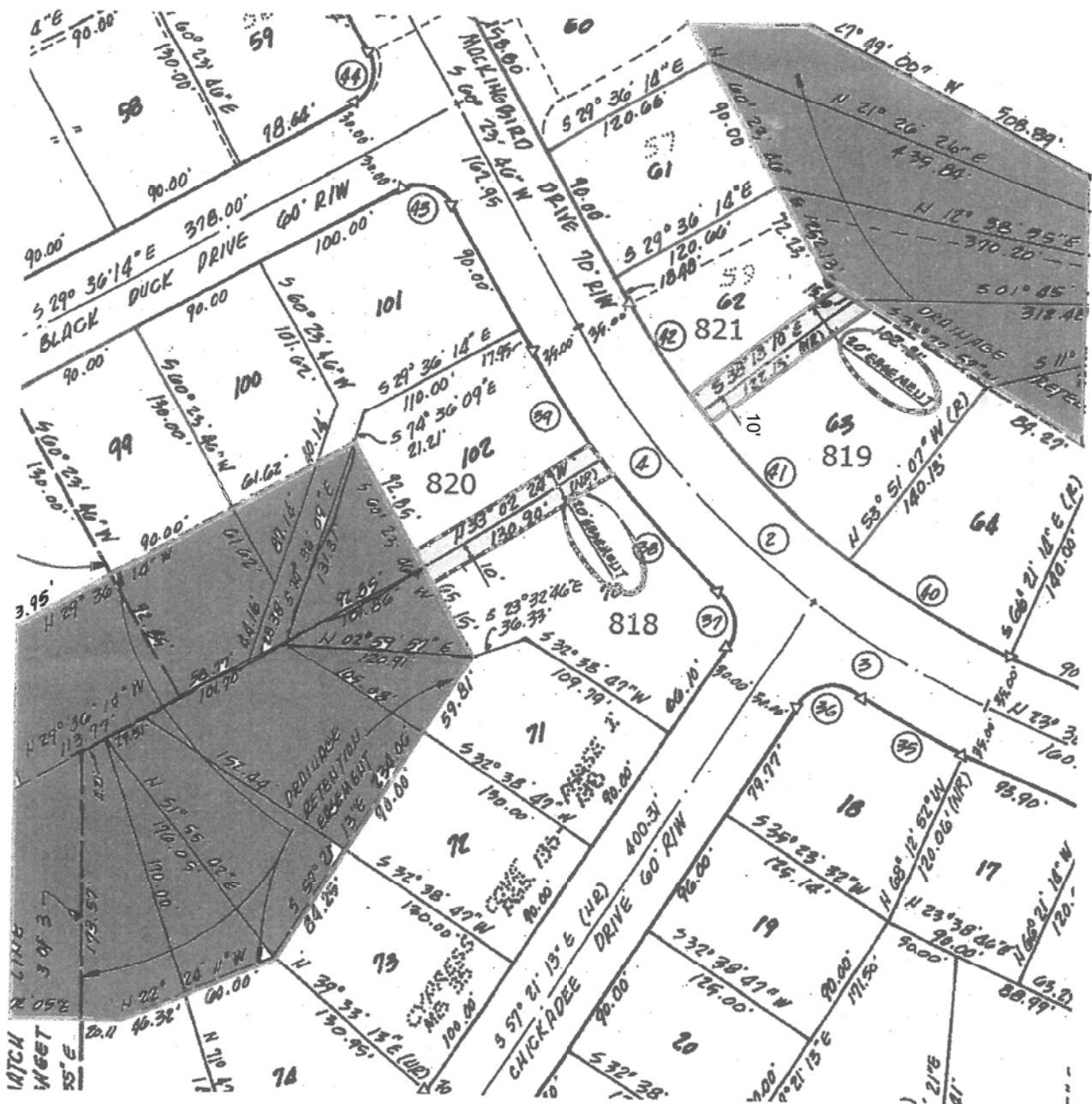
CONTRACT TERM

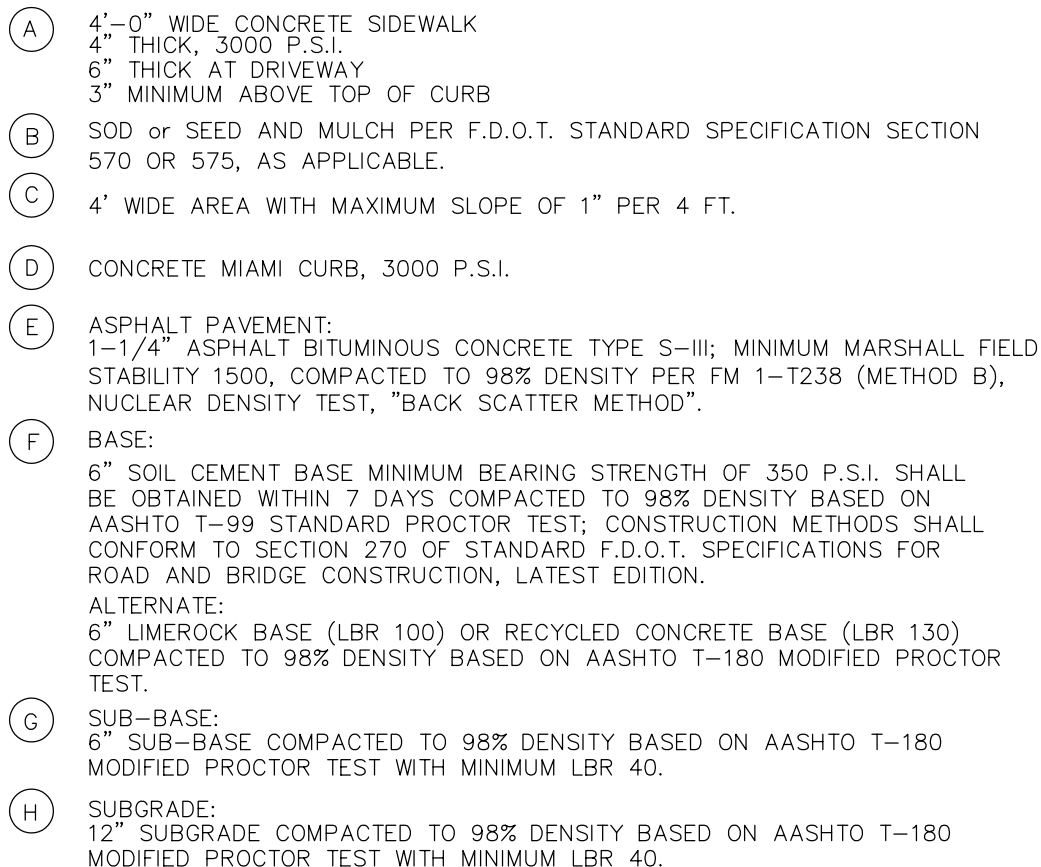
Work is to be completed within 60 days. Work is to commence 10 days after issuance of a Notice to Proceed.

Cypress Cove Phase I Replat, Plat Book 36 Pages 29-31

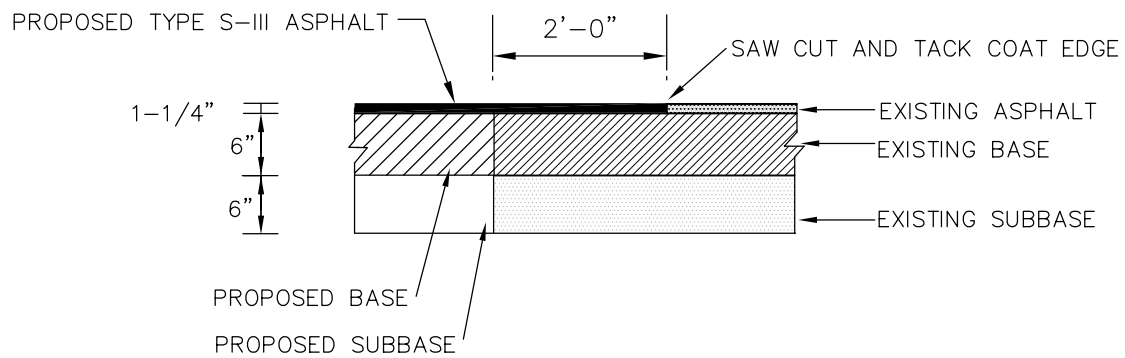
GENERAL NOTES:

- DENOTES PERMANENT REFERENCE MONUMENT-4x4 CONCRETE MONUMENT MARKED, 'PRM LS 3254'.
- △ DENOTES PERMANENT CONTROL POINT-4x4 CONCRETE MONUMENT MARKED, 'PCP LS 3254'.
1. BEARING STRUCTURE IS ASSUMED AND IS FOR ANGULAR DESIGNATION ONLY
2. UNLESS SHOWN OTHERWISE A 7.50 FOOT DRAINAGE AND UTILITY EASEMENT IS HEREBY PROVIDED ALONG THE SIDE AND REAR LOT LINES, (15.00 FEET TOTAL WITH ADJACENT LOT) EXCEPT THOSE LOT LINES ADJACENT TO STREETS. & A 7.0' UTILITY EASEMENT IS HEREBY PROVIDED ALONG THE FRONT & SIDE LOT LINES OF ALL LOTS ADJACENT TO STREET R.O.W.





1. ALL MATERIALS ARE TO BE APPROVED BY THE CITY'S DESIGNATED SITE INSPECTOR AND THE DEVELOPER'S LICENSED SOILS ENGINEER PRIOR TO PLACEMENT.
2. A REPRESENTATIVE OF A CERTIFIED SOIL LABORATORY SHALL BE PRESENT DURING ALL CONSTRUCTION PHASES UTILIZING A SOIL CEMENT BASE. THE REPRESENTATIVE SHALL BE CERTIFIED BY F.D.O.T. IN THE INSTALLATION OF SOIL CEMENT.



STANDARD CONSTRUCTION DETAIL PAVEMENT BUTT JOINT

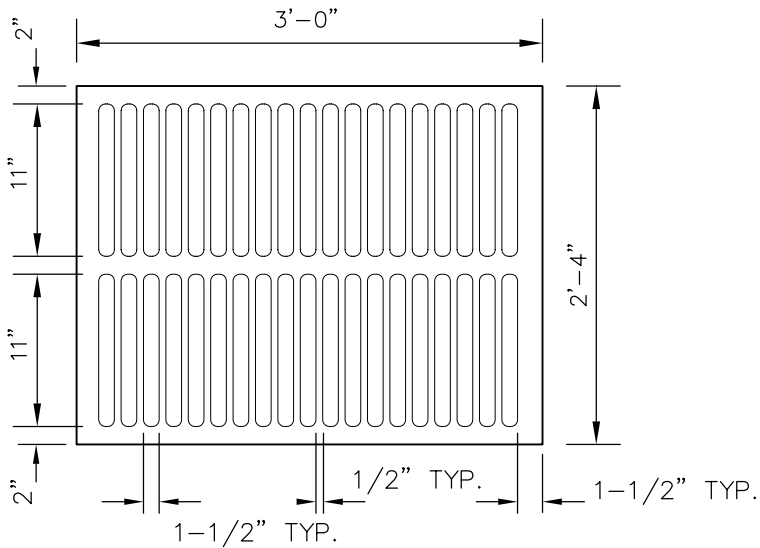
REV. 12/08

FILE NAME:

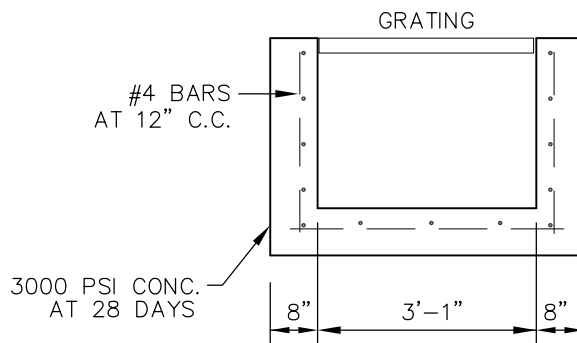
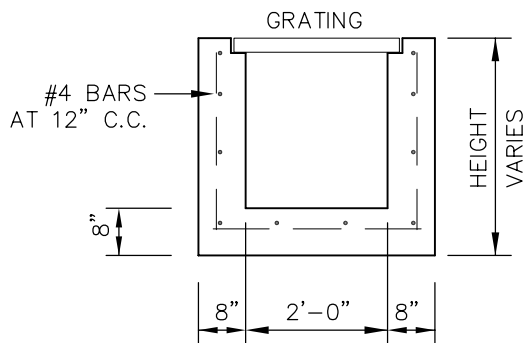
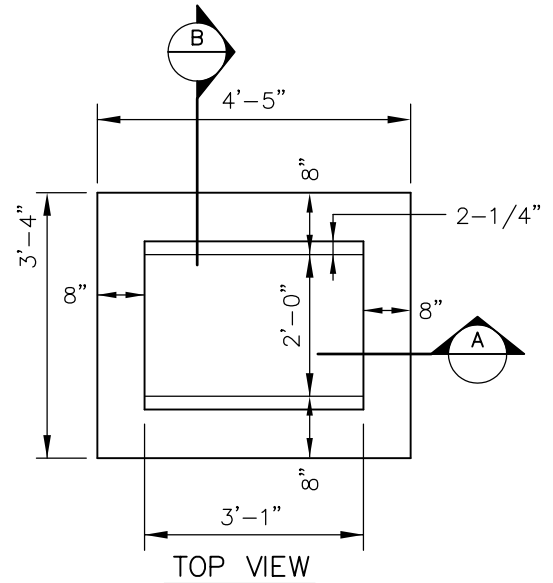
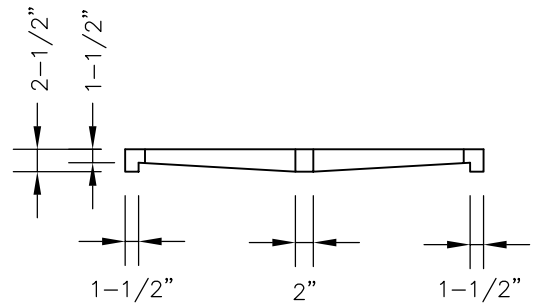
R11.DWG

DETAIL REF:

R-11



CAST IRON GRATE
INDEX SHT. 232



NOTE:

* 6" THICK WALLS MAY BE PERMITTED, PROVIDING THAT THE INCREASED REINFORCEMENT IN ACCORDANCE WITH FDOT STANDARD INDEX NO. 201 IS INSTALLED. THIS MUST BE REFLECTED ON THE DESIGN PLANS, SHOP DRAWINGS, AND AS-BUILTS.

F.D.O.T. TYPE C INLET
INDEX SHT. 232



STANDARD CONSTRUCTION DETAIL
TYPE "C" STORM INLET

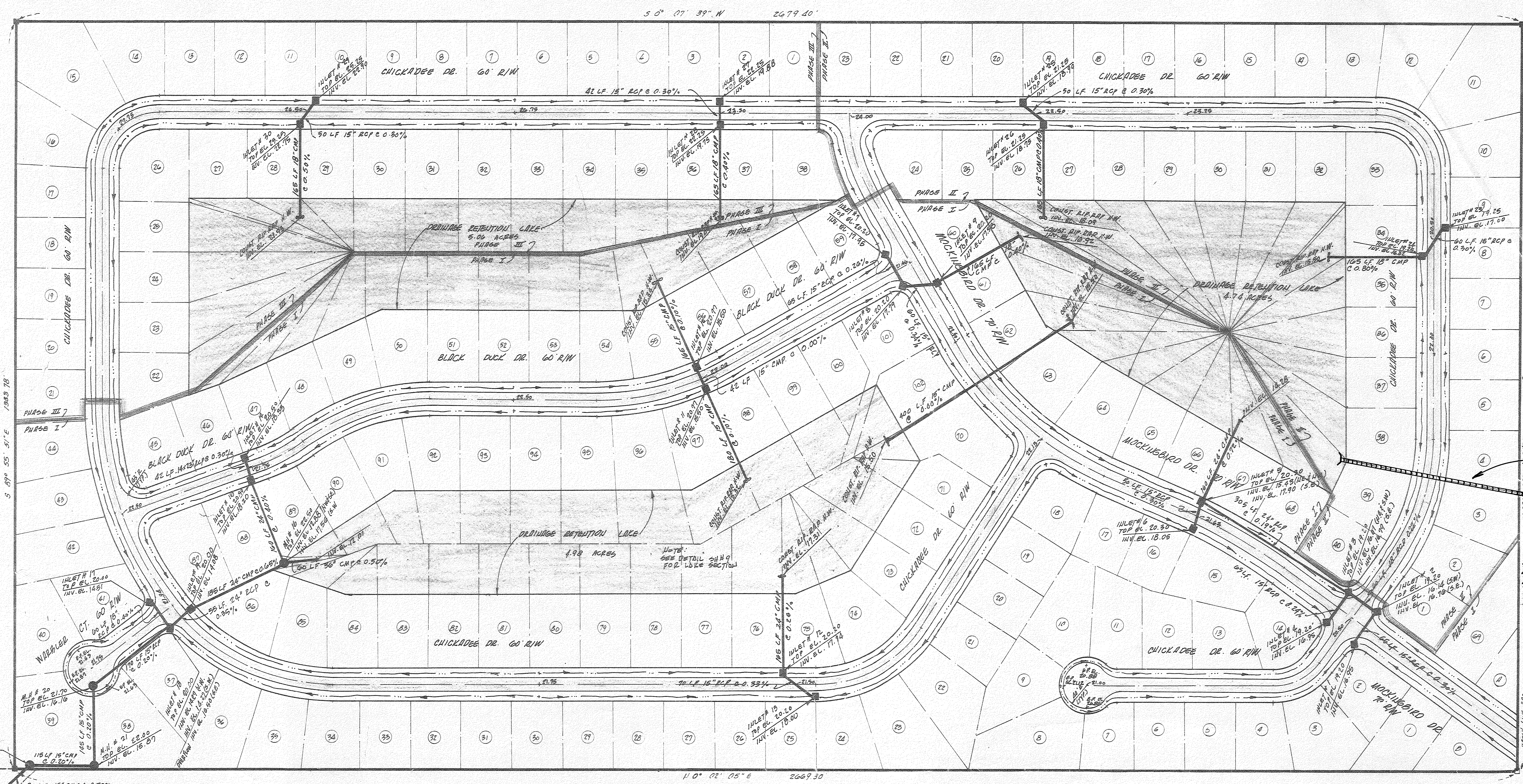
REV. 12/08

FILE NAME:

ST11.DWG

DETAIL REF:

ST-11



NOTE:
APPROVED
HEADWALL
MATCHES EXIST.
HEADWALLS IN
CYPRESS COVE
LAKES.

WEST LANE ONLY TO BE
CONSTRUCTED, ENTIRE RIGHT-OF-WAY
TO BE CLEARED AND GRADED.

NOTE:
CMP TO BE ASPHALT COATED:

PAVING & DRAINAGE PLAN - AS-BUILT.			
GEORGE C. SCOTT CONSULTING ENGINEER		DAYTONA BEACH FLORIDA	
DATE 5/8/79	<u>CYPRESS COVE</u>		
DRAWN TB / TW			
CHECKED S			
REVISED	PORT ORANGE	FLORIDA	
5/29/81 ADD 335 L.F. 24" ALUMP.	SHEET	OF	
	3	3	

SECTION 00120

TOTAL BASE BID

BID #15-32: Mockingbird Drive Pipe Replacement at Cypress Cove

The undersigned, as Bidder, hereby declares that the only person or persons interested in the Proposal, as principal or principals, Is or are named herein and that no other persons than herein mentioned has any interest in the Proposal or the Contract to which the work pertains; that this Proposal is made without connection or arrangement with any other person, company, or parties making a bid or proposal and that the Proposal is in all respects fair and made in good faith without collusion or fraud.

The Bidder further declares that he has examined the site of the work and that from personal knowledge and experience, or that he/she has made sufficient other investigations to fully satisfy self that such site is a correct and suitable one for this work and he/she assumes full responsibility therefore; that he/she is familiar with all legal requirements (Federal, State and local laws, ordinances, rules and regulations) pertaining to the Work; that he/she has examined the Drawings And Specifications for the work and from his/her own experience or from professional advice that the specifications are sufficient for the work to be done and he/she has examined the other contract documents and all addenda relating thereto, and that he/she has satisfied himself/herself fully, relative to all matters and conditions with respect to the work to which this Proposal pertains.

The Bidder proposes and agrees, if this Proposal is accepted, to contract with the City of Port Orange, (Owner) in the form of contract specified, to furnish all necessary materials, equipment, machinery, tools, apparatus, transportation, and labor and to perform all work necessary to complete the Work specified in the Proposal and other Contract Documents.

The undersigned offers to furnish all materials, equipment and labor for the provision of **Mockingbird Drive Pipe Replacement at Cypress Cove** for the City of Port Orange, Florida, complete in every respect in strict accordance with the specifications and any future changes therein. The Contractor shall perform these obligations for the prices listed attached and made a part of this Bid.

Company Name:_____

Contact Person / Title:_____

Mailing Address:_____ **State:**____ **Zip:**_____

Phone:_____ **Fax:**_____ **E-Mail:**_____

Signature:_____ **Submitted on:**_____, 20__.

TOTAL BASE BID COST: _____
(In Words)

TOTAL BASE BID COST: _____(In Figures)

All bid prices shall be 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.

SECTION 00125
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/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 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.

SWORN AND SUBSCRIBED BEFORE ME

SIGNATURE OF NOTARY PUBLIC

SIGNATURE OF AFFIANT

DATE

THIS _____ DAY OF _____, 20____

PRINTED NAME OF AFFIANT / TITLE

My Commission Expires: _____

NOTARY SEAL

COMPANY

SECTION 00130

STATEMENT OF BIDDER'S QUALIFICATIONS

All questions must be answered and the data given must be clear and comprehensive. This statement must be notarized. If necessary, questions may be answered on separate attached sheets. The bidder may submit any additional information he desires.

- A. Name of bidder.
- 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?
- 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 Bidder's Qualifications.

Dated this _____ day of _____ 20_____.

Name of Bidder

By: _____
Title

State of _____

County of _____

_____ being duly sworn deposes and says that
he is the _____ of _____ and that the
answers to the _____.

Name of Organization

Foregoing questions and all statements therein contained are true and correct.

Subscribed and sworn to before me this _____ day of _____, 20_____.

Notary Public

My commission expires:

SECTION 00140

LISTING OF PREVIOUS EXPERIENCE

Client List

The bidder proposes that he/she is qualified to perform the referenced work and has successfully done so on recent projects similar in nature and size. A minimum of three (3) projects must be listed below. The Owner reserves the right to check references and confirm information provided herein.

List all clients to whom you currently provide, or have in the past provided **Pipe Replacement and Installation services** equal or similar to those required under the City's contract and as outlined in this bid package. A minimum of three (3) projects shall be listed below in order to bid on this contract. The Owner reserves the right to check references and confirm information provided herein.

	Contact Name	Phone	Current Client? Y or N	Number of years service provided	Description of service
1					
2					
3					

SECTION 00150

LISTING OF SUBCONTRACTORS

The bidder 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 bidder shall not substitute subcontractors without approval from the Engineer. Bidder shall attach additional sheets as necessary.

SUBCONTRACTOR	COMPANY NAME	REFERENCES
		1) 2) 3)
		1) 2) 3)
		1) 2) 3)
		1) 2) 3)
		1) 2) 3)

SECTION 160

BID BOND

KNOW ALL MEN BY THESE PRESENTS, that we, _____ as Principal and of the City of _____ State of _____, a corporation existing under the laws of the State of Florida, as Surety, are held and firmly bound unto the _____ hereinafter called the Owner, in the sum of _____ Dollars (\$ _____) lawful money of the United States of America, for the payment of which sum well and truly to be made, we bind ourselves our heirs, executors, administrators and successors, jointly and severally, firmly by these presents. The condition of this obligation is such that whereas the Principal has submitted the accompanying Proposal or Bid, for the construction of:

BID NO. 15-32: Mockingbird Drive Pipe Replacement at Cypress Cove

NOW, THEREFORE, if the Principal shall not withdraw said Bid within **ninety (90)** days after the opening of the same and in the event of the acceptance of his proposal by the Owner, shall, within the period specified therefore, enter into a written contract with the Owner in accordance with the Bid as accepted, and give bond with good and sufficient surety or sureties, as may be required, for the faithful performance and proper fulfillment of such contract, or in the event of the withdrawal of said Bid within the period specified, of the failure to enter into such contract and give bonds within the time specified, if the Principal shall pay the Owner the difference between the amount specified in said Bid and the amount for which the Owner may procure the required work, if the latter amount be in excess of the former, then the above obligation shall be void and of no effect, otherwise to remain in full force and virtue. IN WITNESS WHEREOF, the above bounden parties have executed this instrument under their several seals this ____ day of _____, 20 __, the name and corporate seal of each corporate body being hereto affixed and these presents duly signed by its undersigned representative, pursuant to authority of its governing body.

IN PRESENCE OF:

Witness

_____(Seal)
Name of Bidder

Signature of Officer

Corporate Principal

ATTEST:

President AFFIX
CORPORATE SEAL

By

AFFIX
CORPORATE SEAL

ATTEST:

Corporate Surety

Title

SECTION 00170

PUBLIC ENTITY CRIME STATEMENT

STATE OF FLORIDA §
COUNTY OF VOLUSIA §

Before me, the undersigned authority, personally appeared affiant _____, who being first duly sworn, deposes and says:

1. That the undersigned firm is furnishing this Public Entity Crime Statement pursuant to Section 287.133 of the Florida Statutes for the undersigned firm to receive a contract with the City of Port Orange, a public entity, for goods or services.

2. The firm acknowledges that “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, proposal, or reply on a contract to provide any goods or services to a public entity; may not submit a bid, proposal, or reply on a contract with a public entity for the construction or repair of a public building or public work; may not submit bids, proposals, or replies 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 in Section 287.017, Florida Statutes for CATEGORY TWO for a period of 36 months following the date of being placed on the convicted vendor list.”

3. The firm warrants that none of its employees or affiliates are on the convicted vendor list kept and published by the State Department of Management Services.

FURTHER AFFIANT SAYETH NAUGHT

Name of Firm: _____

By: _____
Name and Title

Date: _____

The foregoing instrument was acknowledged before me this ____ day of _____, 20__, by _____, as _____ of _____ and who: [] is personally known to me; or [] has produced _____ as identification.

Notary Public, State of Florida at Large
Printed Name, Commission Seal and Term Expiration Date

SECTION 00180

ANTI-COLLUSION STATEMENT

By signing this form, the bidder agrees that this is made without any other understanding, agreement, or connection with any person, corporation, or firm submitting a proposal for the same purpose and that the proposal 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 BIDDER THAT THE SIGNING AND DELIVERY OF THE BID REPRESENTS THE BIDDER'S ACCEPTANCE OF THE TERMS AND CONDITIONS OF THE FORGOING SPECIFICATIONS, PROPOSED CONTRACT AND PROVISIONS, AND IF AWARDED, THIS CONTRACT WILL REPRESENT THE AGREEMENT BETWEEN EACH OF THE GOVERNMENTAL PARTIES.

NAME OF FIRM: _____

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

TITLE: _____

ADDRESS: _____

CITY AND STATE: _____

TELEPHONE: _____

COMPLETION TIME: _____

NO proposals will be withdrawn for a period of ninety (90) days subsequent to the opening of the proposals, without the consent of the City of _____.

NO BID (REASON) _____

SECTION 00190

DRUG FREE PREFERENCE STATEMENT

IDENTICAL TIE BIDS - Preference shall be given to businesses with drug-free workplace programs. Whenever two or more bids, proposals, 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.

FIRM:

Name and Title:

The foregoing instrument was acknowledged before me this ____ day of _____, 20____,
by _____, as _____ of _____ and who: [] is personally known to
me; or [] has produced _____ as identification.

Notary Public, State of Florida at Large
Printed Name, Commission Seal and Term Expiration Date

SECTION 00195

TRENCH SAFETY AFFIDAVIT

If trench excavations on this Project are expected to be in excess of 5 feet deep. The Occupational Safety and Health Administration excavation safety standards, 29 CFR 1926.650 Subpart P trench safety standards will be in effect during the period of construction of the Project.

Bidder acknowledges that included in the Bid Price are costs for complying with the Florida Trench Safety Act (90-096, Laws of FL) effective October 1, 1990, and hereby gives assurance that, if awarded the Contract, the Contractor or Subcontractor performing trench excavation work on the Project will comply with the applicable trench safety standards. The Bidder further identifies the costs as follows:

<u>Trench Safety Item (Description)</u>	<u>Cost</u>
_____	_____
_____	_____
_____	_____
_____	_____

(Cost in Words)

TOTAL \$ _____

FAILURE TO COMPLETE THE ABOVE SHALL RESULT IN THE BID BEING DECLARED NON-RESPONSIVE (If required)

COMPANY NAME: _____

DATE: _____

BY: _____

(Additional sheets shall be attached, as needed, and items shall be organized to correspond with the bid format.)

SECTION 00200

CONTRACT DOCUMENTS

Contract documents shall be issued via addenda.

SECTION 00210

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: City Manager
Phone Number: (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.

RETURN RECORDED DOCUMENT TO:

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

Mockingbird Drive Pipe Replacement at Cypress Cove

Name of Project

City Project No. **15-32**

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 **Mockingbird Drive Pipe Replacement at Cypress Cove**, 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.

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.



CITY OF PORT ORANGE

PURCHASING DIVISION

Joseph A. Gomez, Purchasing Coordinator

jgomez@port-orange.org

1000 CITY CENTER CIRCLE

PORT ORANGE, FLORIDA 32129

TELEPHONE 386-506-5704

FAX 386-506-5711

ADDENDUM NO. 1

August 19, 2015

TO THE BIDDING/CONTRACT DOCUMENTS AND SPECIFICATIONS

CITY OF PORT ORANGE

Mockingbird Drive Pipe Replacement at Cypress Head Bid #15-32

To All Bidders:

The following changes, clarifications and additions are hereby made part of the bidding and specifications for the above referenced project dated July 24, 2015 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.

Audio version of pre-bid conference is available online through DemandStar.

Attachments:

Section 00200, Contract Documents, is hereby appended. EJCDC documents C-520 and C-700 are attached and become part of this bid.

Section 00120, Total Base Bid, is hereby revised to include an alternate. See attached.

Section 00090, Specifications, is hereby appends an additional plan sheet and language. See attached.

Project Legal Description

That certain drainage easement as shown on the subdivision plat of Cypress Cove-Phase I-Replat, and lying parallel to the common property line for Lots 70 and 102, lying parallel to the common property line for Lots 62 and 63 and lying within that right-of-way of Mockingbird Drive, a 70 foot right-of-way all as recorded in Map Book 36, Page 30 of the Public Records of Volusia County, Florida.

Modifications:

Section 00090, Specifications, Scope of Work (Lump Sum), Letter b, is hereby revised as follows. The dock reconstruction is to be an alternate to the base bid as attached via this addendum.

- b. It will be necessary to place cofferdams at the two outfall areas of pond 1 and pond 2, de-water, dredge, and remove existing headwalls. Portions of the existing dock over the headwall in pond 1 will need to be demolished to access the headwall ~~and shall be replaced.~~ The replacement of the dock upon completion of the project shall be included as an alternate to the lump sum total base bid.

Section 00090, Specifications, Scope of Work (Lump Sum), is hereby appended with language to clarify surveying requirements and staging areas, as follows:

The contractor shall be responsible for all surveying requirements, including verification of elevations.

An empty lot is available to the south for staging purposes. The contractor shall be responsible for contacting residents for additional staging areas.

Section 00090, Specifications, Contract Term, is hereby appended with language:

Work is to be completed within 60 days. Work is to commence 10 days after issuance of a Notice to Proceed. Hence, substantial completion is required within 60 days. Final completion shall be within 90 days following issuance of a notice to proceed. Work is subject to inspection and approval by the City. A 100% payment and performance bond shall be required. Liquidated damages shall be \$0.

Section 00080, Additional information, Mandatory Pre-Bid Meeting, is hereby revised as follows. The mandatory return to city hall following the site visit has been removed.

MANDATORY PRE-BID MEETING

There will be a MANDATORY pre-bid meeting for the project at 8:30 A.M. (local time) on August 4, 2015. All bidders must attend. Failure to sign in and attend the entire mandatory pre-bid meeting shall result in disqualification of bid. The Mandatory pre-bid shall require attendance at city hall and site visit. The representative of each bidder shall be an authorized employee of the bidder and shall sign in accordingly before and ~~after~~ during the site visit. The meeting will be held in the council chambers located on the first floor of City Hall, 1000 City Center Circle, Port Orange, Florida. Only bidders attending a mandatory pre-bid meeting will be eligible to submit a bid.

Questions and Answers:

1. Q: Are you going to require surveying?
A: Bidders must verify the elevations.

2. Q: There is some concern about the clearing of trees and the seawall. Is that part of the bid documents?
A: The bid documents show the scope of work on that. Remove the trees, put in a new headwall, and attach the pipe. Basically you're going to have to build a cofferdam around each of the headwall areas, dredge it, drain it, put in a new headwall near the pipe and also remove the trees and fencing, and replace the fencing. Your excavation will need to be prepared.
3. Q: We're going to put in a 15" concrete headwall. As far as tying in to that dock or seawall that's adjacent to it, do the documents address how we are to do that?
A: The Contractor shall demolish it out of there. There is a dock that has been built without a permit, which shall be demolished. We are working with legal regarding the reconstruction of that dock so it may or may not be rebuilt. The reconstruction of that dock will be included as an alternate to the base bid, see attached.
4. Q: Are there any know utilities?
A: There are some FPL Utilities and we're working with FPL right now to get them relocated so that it does not interfere with your excavations.
5. Q: What is your cost estimate?
A: Roughly around \$175 to \$200 thousand.
6. Q: Liquidated Damages?
A: There are no liquidated damages. Work is subject to inspection and approval by the City. A 100% payment and performance bond shall be required.
7. Q: How many days are you anticipating?
A: 60 days
8. Q: What is the maximum depth of the coffer?
A: About six or six and half feet.
9. Q: Does that include excavation under the roadway, asphalt? Will you maintain that or will it be a road closure?
A: Yes. It would be a road closure because the contractor will be removing 20 feet of roadway. It's easy to detour around it or you can cut it and trace it with a metal plate intersect and do it that way. It will be the contractor's responsibility.
10. Q: Have you contacted neighbors?
A: A few weeks out we will meet with the homeowners and explain to them what is going to happen but I think they are welcoming this. This is a temporary fix to equalize that area because it is a part of the drainage system.
11. Q: When is the anticipated start?
A: We're anticipating Mid-October, so after the award of bid the notice will be issued within approximately 15 to 30 days.

12. Q: Any potential staging areas?

A: There is an empty lot to the south that's big enough for staging. The contractor may want to meet with the residents and pose that to the residents if additional staging is needed.

13. Q: What is the width of the easement?

A: It's a 20 foot easement.

14. Q: Please confirm that as well as contacting utilities, the City of Port Orange will also pay for all costs associated with the "utilities relocation, Florida Power & Light, Port Orange Utilities and any other government utility" as stated on page 22 of the bid documents.

A: Yes

15. Page 23 of the bid documents states that "The Prime Contractor must have a valid Florida General Contractor's License". Would it be also acceptable to have a Florida State Certified Underground Utility and Excavation Contractor's License to bid this project?

A: Yes, having a Florida State Certified Underground Utility and Excavation Contractor's License is acceptable.

SECTION 00120

TOTAL BASE BID

BID #15-32: Mockingbird Drive Pipe Replacement at Cypress Cove

The undersigned, as Bidder, hereby declares that the only person or persons interested in the Proposal, as principal or principals, Is or are named herein and that no other persons than herein mentioned has any interest in the Proposal or the Contract to which the work pertains; that this Proposal is made without connection or arrangement with any other person, company, or parties making a bid or proposal and that the Proposal is in all respects fair and made in good faith without collusion or fraud.

The Bidder further declares that he has examined the site of the work and that from personal knowledge and experience, or that he/she has made sufficient other investigations to fully satisfy self that such site is a correct and suitable one for this work and he/she assumes full responsibility therefore; that he/she is familiar with all legal requirements (Federal, State and local laws, ordinances, rules and regulations) pertaining to the Work; that he/she has examined the Drawings And Specifications for the work and from his/her own experience or from professional advice that the specifications are sufficient for the work to be done and he/she has examined the other contract documents and all addenda relating thereto, and that he/she has satisfied himself/herself fully, relative to all matters and conditions with respect to the work to which this Proposal pertains.

The Bidder proposes and agrees, if this Proposal is accepted, to contract with the City of Port Orange, (Owner) in the form of contract specified, to furnish all necessary materials, equipment, machinery, tools, apparatus, transportation, and labor and to perform all work necessary to complete the Work specified in the Proposal and other Contract Documents.

The undersigned offers to furnish all materials, equipment and labor for the provision of **Mockingbird Drive Pipe Replacement at Cypress Cove** for the City of Port Orange, Florida, complete in every respect in strict accordance with the specifications and any future changes therein. The Contractor shall perform these obligations for the prices listed attached and made a part of this Bid.

Company Name:_____

Contact Person / Title:_____

Mailing Address:_____ **State:**___ **Zip:**_____

Phone:_____ **Fax:**_____ **E-Mail:**_____

Signature:_____ **Submitted on:**_____, 20__.

TOTAL BASE BID COST: _____
(In Words)

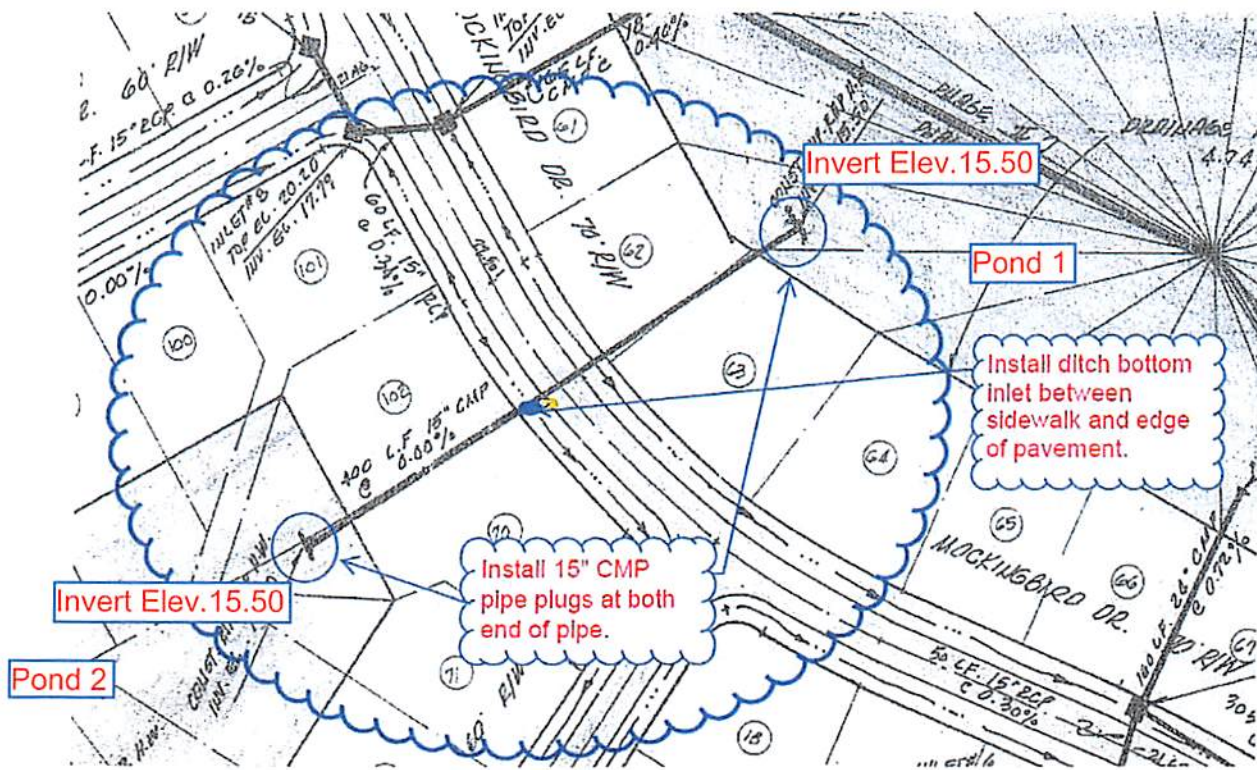
TOTAL BASE BID COST: _____(In Figures)

ALTERNATE #1: _____
(Dock Replacement) (In Words)

ALTERNATE #1: _____(In Figures)
(Dock Replacement)

All bid prices shall be 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.

Growing in Beauty and Opportunity



AS-BUILT FOR 400' PIPE REPLACEMENT

Project Legal Description

That certain drainage easement as shown on the subdivision plat of Cypress Cove-Phase I-Replat, and lying parallel to the common property line for Lots 70 and 102, lying parallel to the common property line for Lots 62 and 63 and lying within that right-of-way of Mockingbird Drive, a 70 foot right-of-way all as recorded in Map Book 36, Page 30 of the Public Records of Volusia County, Florida.

**AGREEMENT
BETWEEN OWNER AND CONTRACTOR
FOR CONSTRUCTION CONTRACT (STIPULATED PRICE)**

**City of Port Orange
1000 City Center Circle
Port Orange, Florida 32129**

THIS AGREEMENT is by and between _____ (“Owner”) and _____ (“Contractor”).

The Effective Date of this Agreement shall be _____ (If no date is specified then the Effective Date shall be the date on which the Agreement is signed by the last of the two parties.)

Owner and Contractor hereby agree as follows:

ARTICLE 1 - WORK

1.01 Contractor shall complete all Work as specified or indicated in the Contract Documents. The Work is generally described as follows:

ARTICLE 2 – THE PROJECT

2.01 The Project for which the Work under the Contract Documents may be the whole or only a part is generally described as follows:

ARTICLE 3 – ENGINEER

3.01 The Project has been designed by _____ (“Engineer”), which is to act as Owner’s representative, assume all duties and responsibilities, and have the rights and authority assigned to Engineer in the Contract Documents in connection with the completion of the Work in accordance with the Contract Documents. Engineer shall also serve as Owner’s agent for purposes of approving Contractor’s payment requests.

ARTICLE 4 – CONTRACT TIMES

4.01 *Time of the Essence*

- A. All time limits for Substantial Completion and Final Completion as stated in the Contract Documents, particularly Paragraph 4.02 below, are of the essence of the Contract.
- B. All time limits for Milestone dates set forth in the Contract Documents are of the essence of the Contract.

4.02 *Days to Achieve Substantial Completion and Final Completion*

- A. Unless as otherwise modified in a Notice to Proceed issued after the Effective Date of the Agreement or an allowable extension of time in accordance with Paragraph 12.02 of the

General Conditions, the Work shall be substantially completed within ____ days after the Effective Date of the Agreement.

- B. Unless as otherwise modified in a Notice to Proceed issued after the Effective Date of the Agreement or an allowable extension of time in accordance with Paragraph 12.02 of the General Conditions, the Work shall be finally completed in accordance with Paragraph 14.06 of the General Conditions within ____ days after the Effective Date of the Agreement.
- C. If a Notice to Proceed is issued more than 60 days from the Effective Date of this Agreement, then the dates for Substantial Completion and the Final Completion shall be extended by the same number of days. (For example, if the Notice to Proceed is issued 63 days after the Effective Date of the Agreement, then the Substantial Completion and Final Completion dates shall be extended by 3 days.)

4.03 *Liquidated Damages*

- A. Contractor and Owner agree and recognize that time is of the essence as stated in Paragraph 4.01 above and that Owner will suffer financial loss that is not readily ascertainable as of the Effective Date of this Agreement if the Work is delayed and not Substantially Completed within the time period specified in Paragraph 4.02 above, plus any allowable extension of time in accordance with Paragraph 12.02 of the General Conditions. Contractor agrees and recognizes that any delay to Substantial Completion shall constitute a material breach. Accordingly, Owner and Contractor agree that as liquidated damages for delay, Contractor shall pay Owner \$____ for each day that expires after the date the Work is required to be Substantially Completed until the Contractor achieves Substantial Completion with the Work. Contractor and Owner agree and recognize that the liquidated damages set forth herein shall not be treated as a penalty and are just damages that are proportionate to any damages that might reasonably be expected to follow from a delay to Substantial Completion.
- B. Owner may withhold Contractor's final payment in order offset the liquidated damages that Contractor owes Owner. Owner may also withhold progress payments if Owner reasonably believes that Contractor's final payment will not sufficiency cover the liquidated damages that Contractor owes Owner.

ARTICLE 5 – CONTRACT PRICE

5.01 Owner shall pay Contractor for completion of the Work in accordance with the Contract Documents an amount in current funds equal to the sum of the amounts determined pursuant to Paragraphs 5.01.A, 5.01.B, and 5.01.C below:

- A. For all Work other than Unit Price Work, a lump sum of: \$_____

Any allowances specifically identified and called for in the Contract Documents are included in the above price in accordance with Paragraph 11.02 of the General Conditions.

- B. For all Unit Price Work in accordance with Paragraph 11.03 of the General Conditions, an amount equal to the sum of the established unit price for each separately identified item of Unit Price Work times the actual quantity of that item:

<u>UNIT PRICE WORK</u>					
<u>Item</u> <u>No.</u>	<u>Description</u>	<u>Unit</u>	<u>Estimated</u> <u>Quantity</u>	<u>Bid Unit</u> <u>Price</u>	<u>Bid Price</u>

Total of all Bid Prices (Unit Price Work) \$ _____

The Bid Unit Prices set forth above are guaranteed prices. Although the Estimated Quantities are estimates and may increase or decrease based on determinations of Engineer, Contractor agrees and understands that the Bid Unit Prices shall remain the same irrespective of the quantities. Contractor understands that in agreeing to any Bid Unit Price it is agreeing to bear the risk associated with any material price increase or escalation. Owner agrees and understands that in agreeing to any Bid Unit Price it is agreeing to bear the risk associated with any material price decrease or reduction.

- C. For all Work, at the prices stated in Contractor's Bid, attached hereto as an exhibit.

ARTICLE 6 – PAYMENT PROCEDURES

6.01 Submittal and Processing of Progress Payments

- A. Contractor shall submit Applications for Payment in accordance with Article 14 of the General Conditions.

6.02 Progress Payments; Retainage

- A. Progress payments shall be made on account of the Contract Price on the basis of Contractor's Applications for Payment during performance of the Work in accordance with Paragraph 14.02 of the General Conditions. All such payments will be measured by the schedule of values established as provided in Paragraph 2.07.A of the General Conditions (and in the case of Unit Price Work based on the number of units completed). Progress payments will be made in an amount equal to the percentage of the Work completed in accordance with the Schedule of Values, less the aggregate of payments previously made, less the retainage, and less such amounts as Engineer may determine Owner may withhold, including, but not limited to, liquidated damages.
- B. Owner shall withhold 10 percent of each progress payment as retainage until 50 percent completion. After 50 percent completion, Owner shall reduce retainage to 5 percent of each

progress payment. Fifty (50%) percent completion is the point at which Owner has expended 50 percent of the Contract Price, together with all increases in the Contract Price through allowable change orders. However, if Contractor elects to withhold more than 5 percent retainage from a subcontractor(s), it may not request the release of such retained funds from Owner.

6.03 *Final Payment*

- A. Final Payment inclusive of retainage shall be made to Contractor in accordance with Paragraph 14.07 of the General Conditions.

ARTICLE 7 – INTEREST

- 7.01 All monies not paid in strict accordance with Florida Statute §218.735 shall bear interest as provided for therein.

ARTICLE 8 – CONTRACTOR’S REPRESENTATIONS

- 8.01 In order to induce Owner to enter into this Agreement and in determining the Contract Price, Contractor makes the following representations:
 - A. Contractor has carefully examined and carefully studied the Contract Documents and the other related data identified in the Bidding Documents.
 - B. Contractor has visited the Site and become familiar with and is satisfied as to the general, local, and Site conditions that may affect cost, progress, and performance of the Work.
 - C. Contractor is familiar with and is satisfied as to all federal, state, and local Laws and Regulations that may affect cost, progress, and performance of the Work.
 - D. Contractor has carefully studied all: (1) reports of explorations and tests of subsurface conditions at or contiguous to the Site and all drawings of physical conditions relating to existing surface or subsurface structures at the Site (except Underground Facilities), if any, that have been identified in Paragraph SC-4.02 of the Supplementary Conditions as containing reliable "technical data," and (2) reports and drawings of Hazardous Environmental Conditions, if any, at the Site that have been identified in Paragraph SC-4.06 of the Supplementary Conditions as containing reliable "technical data." Contractor’s receipt and study of such reports shall not relieve it of visiting the Site and becoming familiar with and satisfied with the Site conditions that may affect cost, progress, and performance of the Work.
 - E. Contractor has considered the information known to Contractor; information commonly known to contractors doing business in the locality of the Site; information and observations obtained from visits to the Site; the Contract Documents; and the Site-related reports and drawings identified in the Contract Documents, with respect to the effect of such information, observations, and documents on (1) the cost, progress, and performance of the Work; (2) the means, methods, techniques, sequences, and procedures of construction to be employed by Contractor, including any specific means, methods, techniques, sequences, and procedures of

construction expressly required by the Contract Documents; and (3) Contractor's safety precautions and programs.

- F. Based on the information and observations referred to in Paragraph 8.01.E above, Contractor does not consider that further examinations, investigations, explorations, tests, studies, or data are necessary for the performance of the Work at the Contract Price, within the Contract Times, and in accordance with the other terms and conditions of the Contract Documents.
- G. Contractor is aware of the general nature of work to be performed by Owner and others at the Site that relates to the Work as indicated in the Contract Documents.
- H. Contractor has given Engineer written notice of all conflicts, errors, ambiguities, or discrepancies that Contractor has discovered in the Contract Documents, and the written resolution thereof by Engineer is acceptable to Contractor.
- I. The Contract Documents are generally sufficient to indicate and convey understanding of all terms and conditions for performance and furnishing of the Work.

ARTICLE 9 – CONTRACT DOCUMENTS

9.01 *Contents*

- A. The Contract Documents consist of the following:
 - 1. This Agreement (pages 1 to __, inclusive).
 - 2. Combination Payment and Performance Bond (pages ____ to ____, inclusive).
 - 3. Other bonds (pages ____ to ____, inclusive).
 - a. ____ (pages ____ to ____, inclusive).
 - b. ____ (pages ____ to ____, inclusive).
 - c. ____ (pages ____ to ____, inclusive).
 - 4. General Conditions (pages ____ to ____, inclusive). **In the event of any conflict between the Agreement and the General Conditions, the terms of this Agreement shall govern.**
 - 5. Supplementary Conditions (pages ____ to ____, inclusive). **In the event of any conflict between the Agreement and Supplementary Conditions, the terms of this Agreement shall govern. However, if there is any conflict between the terms of the General Conditions and the terms of the Supplementary Conditions, the Supplementary Conditions shall govern provided that the indemnification set forth in Paragraph 6.20 of the General Conditions shall govern over any indemnification set forth in the Supplementary Conditions.**

6. Specifications as listed in the table of contents of the Project Manual.
7. Drawings consisting of _____ sheets with each sheet bearing the following general title: _____ [or] the Drawings listed on attached sheet index.
8. Addenda (numbers _____ to _____, inclusive).
9. Exhibits to this Agreement (enumerated as follows):
 - a. Contractor's Bid (pages _____ to _____, inclusive).
 - b. Documentation submitted by Contractor prior to Notice of Award (pages _____ to _____, inclusive).
 - c. *[List other required attachments (if any), such as documents required by funding or lending agencies].*
10. The following which may be delivered or issued on or after the Effective Date of the Agreement and are not attached hereto:
 - a. Notice to Proceed (pages _____ to _____, inclusive).
 - b. Work Change Directives.
 - c. Change Orders.

NOTE TO USER

If any of the items listed are not to be included as Contract Documents, remove such item from the list and renumber the remaining items.

- B. The documents listed in Paragraph 9.01.A are attached to this Agreement (except as expressly noted otherwise above).
- C. There are no Contract Documents other than those listed above in this Article 9.
- D. The Contract Documents may only be amended, modified, or supplemented as provided in Paragraph 3.04 of the General Conditions.

ARTICLE 10 – MISCELLANEOUS

10.01 Terms

- A. Terms used in this Agreement will have the meanings stated in the General Conditions and the Supplementary Conditions.

10.02 *Assignment of Contract*

- A. No assignment by a party hereto of any rights under or interests in the Contract will be binding on another party hereto without the written consent of the party sought to be bound; and, specifically but without limitation, moneys that may become due and moneys that are due may not be assigned without such consent (except to the extent that the effect of this restriction may be limited by law), and unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under the Contract Documents.

10.03 *Successors and Assigns*

- A. Owner and Contractor each binds itself, its partners, successors, assigns, and legal representatives to the other party hereto, its partners, successors, assigns, and legal representatives in respect to all covenants, agreements, and obligations contained in the Contract Documents.

10.04 *Severability*

- A. Any provision or part of the Contract Documents held to be void or unenforceable under any Law or Regulation shall be deemed stricken, and all remaining provisions and parts shall continue to be valid and binding upon Owner and Contractor, who agree that the Contract Documents shall be reformed to replace such stricken provision or part thereof with a valid and enforceable provision or part that comes as close as possible to expressing the intention of the stricken provision.

10.05 *Contractor's Certifications*

- A. Contractor certifies that it has not engaged in corrupt, fraudulent, collusive, or coercive practices in competing for or in executing the Contract. For the purposes of this Paragraph 10.05:
 - 1. "corrupt practice" means the offering, giving, receiving, or soliciting of any thing of value likely to influence the action of a public official in the bidding process or in the Contract execution;
 - 2. "fraudulent practice" means an intentional misrepresentation of facts made (a) to influence the bidding process or the execution of the Contract to the detriment of Owner, (b) to establish Bid or Contract prices at artificial non-competitive levels, or (c) to deprive Owner of the benefits of free and open competition;
 - 3. "collusive practice" means a scheme or arrangement between two or more Bidders, with or without the knowledge of Owner, a purpose of which is to establish Bid prices at artificial, non-competitive levels; and

4. “coercive practice” means harming or threatening to harm, directly or indirectly, persons or their property to influence their participation in the bidding process or affect the execution of the Contract.
- B. Contractor certifies that in the event a Lien is recorded on the Project by any person or entity providing labor, services, or materials with respect to any portion of the Work, it will immediately transfer such lien to its payment bond or take other appropriate action to immediately remove the encumbrance.

10.06 *No-Damage-for-Delay*

- A. Contractor shall not be entitled to any damages (including, without limitation, expenses, costs, fees, extended field overhead and general conditions, equipment costs, home office overhead, lost productivity and inefficiency damages, additional payroll and labor costs, etc.) for any delay to its Work. Contractor’s sole and exclusive remedy for a delay to its Work that is not caused by Contractor (or a person or entity performing a portion of Contractor’s scope of Work) shall be an extension of time to substantially complete and finally complete the Project; provided, however, that Owner granting Contractor an extension of time is not a condition precedent to this no-damage-for-delay provision. Contractor shall also not be entitled to any damages for disruption or interference to its Work or for having to accelerate or incur additional labor or payroll costs in order to make up or overcome a delay to its Work so that it can maintain the dates for Substantial Completion and Final Completion. Contractor agrees that in determining and agreeing to the Contract Price it considered this no-damage-for-delay provision and understands that it is not entitled to any damages whatsoever for a delay to its Work.

10.07 *No Intended Third Party Beneficiaries*

- A. There are no intended third party beneficiaries to the Contract.

IN WITNESS WHEREOF, Owner and Contractor have signed this Agreement. Counterparts have been delivered to Owner and Contractor. All portions of the Contract Documents have been signed or have been identified by Owner and Contractor or on their behalf.

CITY OF PORT ORANGE

Owner

By: Allen Green

Title: Mayor

Date:_____

Attest: Robin L. Fenwick, CMC

Title: City Clerk

Address for giving notices:

1000 City Center Circle

Port Orange, Florida 32129

Contractor

By: _____

Title: _____

Date:_____

(If Contractor is a corporation, partnership or joint venture, attach evidence of authority to sign.)

Attest: _____

Title: _____

Address for giving notices:

License No.:_____

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Design and Construction Related Documents
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You may not sublicense, assign, or transfer this license except as expressly provided in this Agreement. Any attempt otherwise to sublicense, assign, or transfer any of the rights, duties, or obligations hereunder is void.

This Agreement shall be governed by the laws of the State of Virginia. Should you have any questions concerning this Agreement, you may contact EJCDC by writing to:

Arthur Schwartz, Esq.
General Counsel

National Society of Professional Engineers
1420 King Street
Alexandria, VA 22314

Phone: (703) 684-2845
Fax: (703) 836-4875
e-mail: aschwartz@nspe.org

You acknowledge that you have read this agreement, understand it and agree to be bound by its terms and conditions. You further agree that it is the complete and exclusive statement of the agreement between us which supersedes any proposal or prior agreement, oral or written, and any other communications between us relating to the subject matter of this agreement.

This document has important legal consequences; consultation with an attorney is encouraged with respect to its use or modification. This document should be adapted to the particular circumstances of the contemplated Project and the controlling Laws and Regulations.

STANDARD GENERAL CONDITIONS OF THE CONSTRUCTION CONTRACT

Prepared by

ENGINEERS JOINT CONTRACT DOCUMENTS COMMITTEE

and

Issued and Published Jointly by



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These General Conditions have been prepared for use with the Suggested Forms of Agreement Between Owner and Contractor (EJCDC C-520 or C-525, 2007 Editions). Their provisions are interrelated and a change in one may necessitate a change in the other. Comments concerning their usage are contained in the Narrative Guide to the EJCDC Construction Documents (EJCDC C-001, 2007 Edition). For guidance in the preparation of Supplementary Conditions, see Guide to the Preparation of Supplementary Conditions (EJCDC C-800, 2007 Edition).

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STANDARD GENERAL CONDITIONS OF THE CONSTRUCTION CONTRACT

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ARTICLE 1 – DEFINITIONS AND TERMINOLOGY

1.01 *Defined Terms*

- A. Wherever used in the Bidding Requirements or Contract Documents and printed with initial capital letters, the terms listed below will have the meanings indicated which are applicable to both the singular and plural thereof. In addition to terms specifically defined, terms with initial capital letters in the Contract Documents include references to identified articles and paragraphs, and the titles of other documents or forms.
1. *Addenda*—Written or graphic instruments issued prior to the opening of Bids which clarify, correct, or change the Bidding Requirements or the proposed Contract Documents.
 2. *Agreement*—The written instrument which is evidence of the agreement between Owner and Contractor covering the Work.
 3. *Application for Payment*—The form acceptable to Engineer and Owner which is to be used by Contractor during the course of the Work in requesting progress or final payments and which is to be accompanied by such supporting documentation as is required by the Contract Documents.
 4. *Asbestos*—Any material that contains more than one percent asbestos and is friable or is releasing asbestos fibers into the air above current action levels established by the United States Occupational Safety and Health Administration.
 5. *Bid*—The offer or proposal of a Bidder submitted on the prescribed form setting forth the prices for the Work to be performed.
 6. *Bidder*—The individual or entity who submits a Bid directly to Owner.
 7. *Bidding Documents*—The Bidding Requirements and the proposed Contract Documents (including all Addenda).
 8. *Bidding Requirements*—The advertisement or invitation to bid, Instructions to Bidders, Bid security of acceptable form, if any, and the Bid Form with any supplements.
 9. *Change Order*—A document recommended by Engineer and/or Owner which is signed by Contractor and Owner and authorizes an addition, deletion, or revision in the Work or an adjustment in the Contract Price or the Contract Times, issued on or after the Effective Date of the Agreement.
 10. *Claim*—A demand or assertion by Owner or Contractor seeking an adjustment of Contract Price or Contract Times, or both, or other relief with respect to the terms of the Contract. A demand for money or services by a third party is not a Claim.
 11. *Contract*—The entire and integrated written agreement between the Owner and Contractor concerning the Work. The Contract supersedes prior negotiations, representations, or agreements, whether written or oral.

12. *Contract Documents*—Those items so designated in the Agreement. Only printed or hard copies of the items listed in the Agreement are Contract Documents. Approved Shop Drawings, other Contractor submittals, and the reports and drawings of subsurface and physical conditions are not Contract Documents.
13. *Contract Price*—The moneys payable by Owner to Contractor for completion of the Work in accordance with the Contract Documents as stated in the Agreement (subject to the provisions of Paragraph 11.03 in the case of Unit Price Work).
14. *Contract Times*—The number of days or the dates stated in the Agreement to: (i) achieve Milestones, if any; (ii) achieve Substantial Completion; (iii) achieve Final Completion; and (iv) complete the Work so that it is ready for final payment as evidenced by Engineer's written recommendation of final payment.
15. *Contractor*—The individual or entity with whom Owner has entered into the Agreement.
16. *Cost of the Work*—See Paragraph 11.01 for definition.
17. *Drawings*—That part of the Contract Documents prepared or approved by Engineer which graphically shows the scope, extent, and character of the Work to be performed by Contractor. Shop Drawings and other Contractor submittals are not Drawings as so defined.
18. *Effective Date of the Agreement*—The date indicated in the Agreement on which it becomes effective, but if no such date is indicated, it means the date on which the Agreement is signed by the last of the two parties.
19. *Engineer*—The individual or entity named as such in the Agreement.
20. *Field Order*—A written order issued by Engineer which requires minor changes in the Work but which does not involve a change in the Contract Price or the Contract Times.
21. *Final Completion* – This shall occur when Contractor, in the opinion of Engineer or Owner, performs and completes all corrective action associated with the Punchlist in addition to any other work required of Contractor under the Contract Documents.
22. *General Requirements*—Sections of Division 1 of the Specifications.
23. *Hazardous Environmental Condition*—The presence at the Site of Asbestos, PCBs, Petroleum, Hazardous Waste, or Radioactive Material in such quantities or circumstances that may present a substantial danger to persons or property exposed thereto.
24. *Hazardous Waste*—The term Hazardous Waste shall have the meaning provided in Section 1004 of the Solid Waste Disposal Act (42 USC Section 6903) as amended from time to time.
25. *Laws and Regulations; Laws or Regulations*—Any and all applicable laws, rules, regulations, ordinances, codes, and orders of any and all governmental bodies, agencies, authorities, and courts having jurisdiction.

26. *Liens*—Charges, security interests, or encumbrances upon Project funds, real property, or personal property.
27. *Milestone*—A principal event specified in the Contract Documents relating to an intermediate completion date or time prior to Substantial Completion of all the Work.
28. *Notice of Award*—The written notice by Owner to the Successful Bidder stating that upon timely compliance by the Successful Bidder with the conditions precedent listed therein, Owner will sign and deliver the Agreement.
29. *Notice to Proceed*—A written notice given by Owner to Contractor fixing the date on which the Contract Times will commence to run and on which Contractor shall start to perform the Work under the Contract Documents.
30. *Owner*—The individual or entity with whom Contractor has entered into the Agreement and for whom the Work is to be performed.
31. *PCBs*—Polychlorinated biphenyls.
32. *Petroleum*—Petroleum, including crude oil or any fraction thereof which is liquid at standard conditions of temperature and pressure (60 degrees Fahrenheit and 14.7 pounds per square inch absolute), such as oil, petroleum, fuel oil, oil sludge, oil refuse, gasoline, kerosene, and oil mixed with other non-Hazardous Waste and crude oils.
33. *Progress Schedule*—A schedule, prepared and maintained by Contractor, describing the sequence and duration of the activities comprising the Contractor's plan to accomplish the Work within the Contract Times.
34. *Project*—The total construction of which the Work to be performed under the Contract Documents may be the whole, or a part.
35. *Project Manual*—The bound documentary information prepared for bidding and constructing the Work. A listing of the contents of the Project Manual, which may be bound in one or more volumes, is contained in the table(s) of contents.
36. *Punchlist* – The detailed list of incomplete, unsatisfactory or unacceptable, or defective items that Contractor is required to complete to achieve Final Completion that is generated in accordance with Paragraph 14.06 of the General Conditions.
37. *Radioactive Material*—Source, special nuclear, or byproduct material as defined by the Atomic Energy Act of 1954 (42 USC Section 2011 et seq.) as amended from time to time.
38. *Resident Project Representative*—The authorized representative of Engineer who may be assigned to the Site or any part thereof.
39. *Samples*—Physical examples of materials, equipment, or workmanship that are representative of some portion of the Work and which establish the standards by which such portion of the Work will be judged.

40. *Schedule of Submittals*—A schedule, prepared and maintained by Contractor, of required submittals and the time requirements to support scheduled performance of related construction activities.
41. *Schedule of Values*—A schedule, prepared and maintained by Contractor, allocating portions of the Contract Price to various portions of the Work and used as the basis for reviewing Contractor's Applications for Payment.
42. *Shop Drawings*—All drawings, diagrams, illustrations, schedules, samples, product data, and other data or information which are specifically prepared or assembled by or for Contractor and submitted by Contractor to illustrate some portion of the Work.
43. *Site*—Lands or areas indicated in the Contract Documents as being furnished by Owner upon which the Work is to be performed, including rights-of-way and easements for access thereto, and such other lands furnished by Owner which are designated for the use of Contractor.
44. *Specifications*—That part of the Contract Documents consisting of written requirements for materials, equipment, systems, standards and workmanship as applied to the Work, and certain administrative requirements and procedural matters applicable thereto.
45. *Subcontractor*—An individual or entity having a direct contract with Contractor or with any other Subcontractor for the performance of a part of the Work at the Site.
46. *Substantial Completion*—The time and date at which the Work has progressed to the point where, in the opinion of Engineer, the Work is sufficiently complete, in accordance with the Contract Documents, so that the Work can be occupied and/or utilized for the purposes for which it is intended. The terms "substantially complete" and "substantially completed" as applied to all or part of the Work refer to Substantial Completion thereof. Substantial Completion cannot occur before the Project is issued a Certificate of Occupancy (or Completion, if applicable) by the governing building department that allows Owner to begin to utilize the entire Project for the purposes for which it is intended.
47. *Successful Bidder*—The Bidder submitting a responsive Bid to whom Owner makes an award.
48. *Supplementary Conditions*—That part of the Contract Documents which amends or supplements these General Conditions.
49. *Supplier*—A manufacturer, fabricator, supplier, distributor, materialman, or vendor having a direct contract with Contractor or with any Subcontractor to furnish materials or equipment to be incorporated in the Work by Contractor or Subcontractor.
50. *Underground Facilities*—All underground pipelines, conduits, ducts, cables, wires, manholes, vaults, tanks, tunnels, or other such facilities or attachments, and any encasements containing such facilities, including those that convey electricity, gases, steam, liquid petroleum products, telephone or other communications, cable television, water, wastewater, storm water, other liquids or chemicals, or traffic or other control systems.

51. *Unit Price Work*—Work to be paid for on the basis of unit prices.
52. *Work*—The entire construction or the various separately identifiable parts thereof required to be provided under the Contract Documents. Work includes and is the result of performing or providing all labor, services, and documentation necessary to produce such construction, and furnishing, installing, and incorporating all materials and equipment into such construction, all as required by the Contract Documents.
53. *Work Change Directive*—A written statement to Contractor issued on or after the Effective Date of the Agreement and signed by Owner and recommended by Engineer ordering an addition, deletion, or revision in the Work, or responding to differing or unforeseen subsurface or physical conditions under which the Work is to be performed or to emergencies. A Work Change Directive will not change the Contract Price or the Contract Times but is evidence that the parties expect that the change ordered or documented by a Work Change Directive will be incorporated in a subsequently issued Change Order following negotiations by the parties as to its effect, if any, on the Contract Price or Contract Times.

1.02 Terminology

A. The words and terms discussed in Paragraph 1.02.B through F are not defined but, when used in the Bidding Requirements or Contract Documents, have the indicated meaning.

B. *Intent of Certain Terms or Adjectives:*

1. The Contract Documents include the terms “as allowed,” “as approved,” “as ordered,” “as directed” or terms of like effect or import to authorize an exercise of professional judgment by Engineer. In addition, the adjectives “reasonable,” “suitable,” “acceptable,” “proper,” “satisfactory,” or adjectives of like effect or import are used to describe an action or determination of Engineer as to the Work. It is intended that such exercise of professional judgment, action, or determination will be solely to evaluate, in general, the Work for compliance with the information in the Contract Documents and with the design concept of the Project as a functioning whole as shown or indicated in the Contract Documents (unless there is a specific statement indicating otherwise). The use of any such term or adjective is not intended to and shall not be effective to assign to Engineer any duty or authority to supervise or direct the performance of the Work, or any duty or authority to undertake responsibility contrary to the provisions of Paragraph 9.09 or any other provision of the Contract Documents.

C. *Day:*

1. The word “day” means a calendar day of 24 hours measured from midnight to the next midnight.

D. *Defective:*

1. The word “defective,” when modifying the word “Work,” refers to Work that is unsatisfactory, faulty, or deficient in that it:

- a. does not conform to the Contract Documents; or
- b. does not meet the requirements of any applicable inspection, reference standard, test, or approval referred to in the Contract Documents; or
- c. is failing or has been damaged.

E. *Furnish, Install, Perform, Provide:*

- 1. The word “furnish,” when used in connection with services, materials, or equipment, shall mean to supply and deliver said services, materials, or equipment to the Site (or some other specified location) ready for use or installation and in usable or operable condition.
 - 2. The word “install,” when used in connection with services, materials, or equipment, shall mean to put into use or place in final position said services, materials, or equipment complete and ready for intended use.
 - 3. The words “perform” or “provide,” when used in connection with services, materials, or equipment, shall mean to furnish and install said services, materials, or equipment complete and ready for intended use.
 - 4. When “furnish,” “install,” “perform,” or “provide” is not used in connection with services, materials, or equipment in a context clearly requiring an obligation of Contractor, “provide” is implied.
- F. Unless stated otherwise in the Contract Documents, words or phrases that have a well-known technical or construction industry or trade meaning are used in the Contract Documents in accordance with such recognized meaning.

ARTICLE 2 – PRELIMINARY MATTERS

2.01 *Delivery of Bonds and Evidence of Insurance*

- A. When Contractor delivers the executed counterparts of the Agreement to Owner, Contractor shall also deliver to Owner such bonds as Contractor may be required to furnish.
- B. *Evidence of Insurance:* Before any Work at the Site is started, Contractor and Owner shall each deliver to the other, with copies to each additional insured identified in the Supplementary Conditions, certificates of insurance (and other evidence of insurance which either of them or any additional insured may reasonably request such as the specific additional insured endorsement included in the liability policy) which Contractor and Owner respectively are required to purchase and maintain in accordance with Article 5 and/or the Supplementary Conditions.

2.02 *Copies of Documents*

- A. At the request of Contractor, Owner or Engineer shall furnish to Contractor up to 5 hard copies of the Drawings and Specifications. Additional copies of the Drawings and Specifications will be furnished upon request at the cost of reproduction.

2.03 *Notice to Proceed; Starting the Work*

- A. Contractor shall not commence the Work until Owner issues a Notice to Proceed. A Notice to Proceed may be issued by Owner at any time after the Effective Date of the Agreement.

2.04 *N/A*

2.05 *Before Starting Construction*

- A. *Preliminary Schedules:* Within 10 days after the Effective Date of the Agreement (unless otherwise specified in the General Requirements), Contractor shall submit to Engineer and Owner for timely review:

1. a preliminary Progress Schedule indicating the times (numbers of days or dates) for starting and completing the various stages of the Work, including any Milestones specified in the Contract Documents, and identifying the Substantial Completion and Final Completion dates;
2. a preliminary Schedule of Submittals; and
3. a preliminary Schedule of Values for all of the Work which includes quantities and prices of items which when added together equal the Contract Price and subdivides the Work into component parts / line-items in sufficient detail to serve as the basis for progress payments during performance of the Work. Such prices will include an appropriate amount of overhead and profit applicable to each item of Work.

2.06 *Preconstruction Conference; Designation of Authorized Representatives*

- A. Before any Work at the Site is started, a conference attended by Owner, Contractor, Engineer, and others as appropriate will be held to establish a working understanding among the parties as to the Work and to discuss the schedules referred to in Paragraph 2.05.A, procedures for handling Shop Drawings and other submittals, processing Applications for Payment, and maintaining required records.
- B. At this conference Owner and Contractor each shall designate, in writing, a specific individual to act as its authorized representative with respect to the services and responsibilities under the Contract. Such individuals shall have the authority to transmit instructions, receive information, render decisions relative to the Contract, and otherwise act on behalf of each respective party.

2.07 *Initial Acceptance of Schedules*

- A. At least 10 days before submission of the first Application for Payment a conference attended by Contractor, Engineer or Owner, and others as appropriate will be held to review for acceptability to Engineer or Owner as provided below the schedules submitted in accordance with Paragraph 2.05.A. Contractor shall have an additional 10 days to make corrections and adjustments and to complete and resubmit the schedules. No progress payment shall be made to Contractor until acceptable schedules are submitted and approved by Engineer and Owner.

1. The Progress Schedule will be acceptable to Engineer and Owner if it provides an orderly progression of the Work to completion within the Contract Times and identifies Contractor's critical path sequence of scheduled activities with the earliest start dates for scheduled activities, the earliest finish date for scheduled activities, the latest start date for scheduled activities, and the latest finish date for scheduled activities. All float in the Progress Schedule shall belong to Owner in order to offset a delay attributable to Owner or its agents. Such acceptance will not impose on Engineer or Owner responsibility for the Progress Schedule, for sequencing, scheduling, or progress of the Work, nor interfere with or relieve Contractor from Contractor's full responsibility therefor.
2. Contractor's Schedule of Submittals will be acceptable to Engineer and Owner if it provides a workable arrangement for reviewing and processing the required submittals.
3. Contractor's Schedule of Values will be acceptable to Engineer and Owner as to form and substance if it provides a reasonable allocation of the Contract Price to component parts / line-items of the Work.

ARTICLE 3 – CONTRACT DOCUMENTS: INTENT, AMENDING, REUSE

3.01 *Intent*

- A. The Contract Documents are complementary; what is required by one is as binding as if required by all.
- B. It is the intent of the Contract Documents to describe a functionally complete project (or part thereof) to be constructed in accordance with the Contract Documents. Any labor, documentation, services, materials, or equipment that reasonably may be inferred from the Contract Documents or from prevailing custom or trade usage as being required to produce the indicated result will be provided whether or not specifically called for, at no additional cost to Owner.
- C. Clarifications and interpretations of the Contract Documents (*e.g.*, answering Requests for Information) shall be issued by Engineer as provided in Article 9.

3.02 *Reference Standards*

- A. Standards, Specifications, Codes, Laws, and Regulations
 1. Reference to standards, specifications, manuals, or codes of any technical society, organization, or association, or to Laws or Regulations, whether such reference be specific or by implication, shall mean the standard, specification, manual, code, or Laws or Regulations in effect at the time of opening of Bids (or on the Effective Date of the Agreement if there were no Bids), except as may be otherwise specifically stated in the Contract Documents.
 2. No provision of any such standard, specification, manual, or code, or any instruction of a Supplier, shall be effective to change the duties or responsibilities of Owner, Contractor, or Engineer, or any of their subcontractors, consultants, agents, or employees, from those set forth in the Contract Documents. No such provision or instruction shall be effective to assign

to Owner, Engineer, or any of their officers, directors, members, partners, employees, agents, consultants, or subcontractors, any duty or authority to supervise or direct the performance of the Work or any duty or authority to undertake responsibility inconsistent with the provisions of the Contract Documents.

3.03 *Reporting and Resolving Discrepancies*

A. *Reporting Discrepancies:*

1. *Contractor's Review of Contract Documents Before Starting Work:* Before undertaking each part of the Work, Contractor shall carefully study and compare the Contract Documents and check and verify pertinent figures therein and all applicable field measurements and dimensions. Contractor shall promptly report in writing to Engineer any conflict, error, ambiguity, or discrepancy which Contractor discovers, or has actual knowledge of, and shall obtain a written interpretation or clarification from Engineer before proceeding with any Work affected thereby.
2. *Contractor's Review of Contract Documents During Performance of Work:* If, during the performance of the Work, Contractor discovers any conflict, error, ambiguity, or discrepancy within the Contract Documents, or between the Contract Documents and (a) any applicable Law or Regulation, (b) any standard, specification, manual, or code, or (c) any instruction of any Supplier, then Contractor shall promptly report it to Engineer in writing. Contractor shall not proceed with the Work affected thereby (except in an emergency as required by Paragraph 6.16.A) until an amendment or supplement to the Contract Documents has been issued by one of the methods indicated in Paragraph 3.04 below.
3. Contractor shall not be liable to Owner for failure to report any conflict, error, ambiguity, or discrepancy in the Contract Documents unless Contractor had actual knowledge thereof or could have discovered the conflict or error by carefully studying and comparing the Contract Documents and checking and verifying pertinent figures therein and all applicable field measurements and dimensions.

B. *Resolving Discrepancies:*

1. Except as may be otherwise specifically stated in the Contract Documents, the provisions of the Contract Documents shall take precedence in resolving any conflict, error, ambiguity, or discrepancy between the provisions of the Contract Documents and:
 - a. the provisions of any standard, specification, manual, or code, or the instruction of any Supplier (whether or not specifically incorporated by reference in the Contract Documents); or
 - b. the provisions of any Laws or Regulations applicable to the performance of the Work (unless such an interpretation of the provisions of the Contract Documents would result in violation of such Law or Regulation).
2. In the event there is a discrepancy or conflict in the Drawings and Specifications applicable to a particular detail or assembly of the Work, Contractor must promptly seek clarification from

Engineer before proceeding with the Work. Subject to Paragraph 3.03.A.3 above, if Contractor proceeds with the Work without seeking such clarification, Contractor will be bound by the stricter and more expensive detail or assembly. Contractor agrees and recognizes that in agreeing to the Contract Price it has factored in the costs associated with installing the stricter and more expensive detail or assembly.

3.04 *Amending and Supplementing Contract Documents*

- A. The Contract Documents may be amended to provide for additions, deletions, and revisions in the Work or to modify the terms and conditions thereof by either a Change Order or a Work Change Directive.
- B. The requirements of the Contract Documents may be supplemented, and minor variations and deviations in the Work may be authorized, by one or more of the following ways:
 - 1. A Field Order;
 - 2. Engineer's approval of a Shop Drawing or Sample (subject to the provisions of Paragraph 6.17.D.3); or
 - 3. Engineer's written interpretation or clarification.

3.05 *Reuse of Documents*

- A. Contractor and any Subcontractor or Supplier shall not:
 - 1. have or acquire any title to or ownership rights in any of the Drawings, Specifications, or other documents (or copies of any thereof) prepared by or bearing the seal of Engineer or its consultants, including electronic media editions; or
 - 2. reuse any such Drawings, Specifications, other documents, or copies thereof on extensions of the Project or any other project without written consent of Owner and Engineer and specific written verification or adaptation by Engineer.
- B. The prohibitions of this Paragraph 3.05 will survive final payment, or termination of the Contract. Nothing herein shall preclude Contractor from retaining copies of the Contract Documents for record purposes.

3.06 *Electronic Data*

- A. Unless otherwise stated in the Supplementary Conditions, the data furnished by Owner or Engineer to Contractor, or by Contractor to Owner or Engineer, that may be relied upon are limited to the printed copies (also known as hard copies). Files in electronic media format of text, data, graphics, or other types are furnished only for the convenience of the receiving party. Any conclusion or information obtained or derived from such electronic files will be at the user's sole risk. If there is a discrepancy between the electronic files and the hard copies, the hard copies govern.

- B. Because data stored in electronic media format can deteriorate or be modified inadvertently or otherwise without authorization of the data's creator, the party receiving electronic files agrees that it will perform acceptance tests or procedures within 60 days, after which the receiving party shall be deemed to have accepted the data thus transferred. Any errors detected within the 60-day acceptance period will be corrected by the transferring party.
- C. When transferring documents in electronic media format, the transferring party makes no representations as to long term compatibility, usability, or readability of documents resulting from the use of software application packages, operating systems, or computer hardware differing from those used by the data's creator.

ARTICLE 4 – AVAILABILITY OF LANDS; SUBSURFACE AND PHYSICAL CONDITIONS; HAZARDOUS ENVIRONMENTAL CONDITIONS; REFERENCE POINTS

4.01 *Availability of Lands*

- A. Owner shall furnish the Site. Owner shall notify Contractor of any encumbrances or restrictions not of general application but specifically related to use of the Site with which Contractor must comply in performing the Work. Owner will obtain in a timely manner and pay for easements for permanent structures or permanent changes in existing facilities. If Contractor and Owner are unable to agree on entitlement to or on the amount or extent, if any, of any adjustment in the Contract Price or Contract Times, or both, as a result of any delay in Owner's furnishing the Site or a part thereof, Contractor may make a Claim therefor as provided in Paragraph 10.05.
- B. *N/A*
- C. Contractor shall provide for all additional lands and access thereto that may be required for temporary construction facilities, staging, or storage of materials and equipment. Contractor shall have the obligation to restore the additional lands to their original condition.

4.02 *Subsurface and Physical Conditions*

- A. *Reports and Drawings:* The Supplementary Conditions may identify:
 - 1. those reports known to Owner of explorations and tests of subsurface conditions at or contiguous to the Site; and
 - 2. those drawings known to Owner of physical conditions relating to existing surface or subsurface structures at the Site (except Underground Facilities).
- B. *Limited Reliance by Contractor on Technical Data Authorized:* Contractor may rely upon the accuracy of the "technical data" contained in such reports and drawings, but such reports and drawings are not Contract Documents and shall under no circumstance relieve Contractor from visiting the Site and becoming familiar with and satisfied as to the general, local, and Site conditions that may affect cost, progress, and performance of the Work. Such "technical data" is identified in the Supplementary Conditions. Except for such limited reliance on such "technical data," Contractor may not rely upon or make any claim against Owner or Engineer, or any of

their officers, directors, members, partners, employees, agents, consultants, or subcontractors with respect to:

1. the completeness of such reports and drawings for Contractor's purposes, including, but not limited to, any aspects of the means, methods, techniques, sequences, and procedures of construction to be employed by Contractor, and safety precautions and programs incident thereto; or
2. other data, interpretations, opinions, and information contained in such reports or shown or indicated in such drawings; or
3. any Contractor interpretation of or conclusion drawn from any "technical data" or any such other data, interpretations, opinions, or information.

4.03 *Differing Subsurface or Physical Conditions*

A. *Notice:* If Contractor believes that any subsurface or physical condition that is uncovered or revealed either:

1. is of such a nature as to establish that any "technical data" on which Contractor is entitled to rely as provided in Paragraph 4.02 is materially inaccurate; or
2. is of such a nature as to require a change in the Contract Documents; or
3. differs materially from that shown or indicated in the Contract Documents; or
4. is of an unusual nature, and differs materially from conditions ordinarily encountered and generally recognized as inherent in work of the character provided for in the Contract Documents;

then Contractor shall, promptly after first becoming aware thereof and before further disturbing the subsurface or physical conditions or performing any Work in connection therewith (except in an emergency as required by Paragraph 6.16.A), notify Owner and Engineer in writing about such condition within 5 days. Contractor shall not further disturb such condition or perform any Work in connection therewith (except as aforesaid) until receipt of written order to do so.

B. *Engineer's Review:* After receipt of written notice as required by Paragraph 4.03.A, Engineer will promptly review the pertinent condition, determine the necessity of Owner's obtaining additional exploration or tests with respect thereto, and advise Owner in writing (with a copy to Contractor) of Engineer's findings and conclusions.

C. *Possible Price and Times Adjustments:*

1. The Contract Price or the Contract Times, or both, will be equitably adjusted to the extent that the existence of such differing subsurface or physical condition causes an increase or decrease in Contractor's cost of, or time required for, performance of the Work; subject, however, to the following:

- a. such condition must meet any one or more of the categories described in Paragraph 4.03.A;
 - b. with respect to Work that is paid for on a unit price basis, any adjustment in Contract Price will be subject to the provisions of Paragraphs 9.07 and 11.03; and
 - c. Contractor notifies Owner and Engineer of such condition within 5 days after first becoming aware of such condition.
2. Contractor shall not be entitled to any adjustment in the Contract Price or Contract Times if:
 - a. Contractor knew of the existence of such conditions at the time Contractor made a final commitment to Owner with respect to Contract Price and Contract Times by the submission of a Bid or becoming bound under a negotiated contract; or
 - b. the existence of such condition could reasonably have been discovered or revealed as a result of any examination, investigation, exploration, test, or study of the Site and contiguous areas required by the Bidding Requirements or Contract Documents to be conducted by or for Contractor prior to Contractor's making such final commitment; or
 - c. Contractor failed to give the written notice as required by Paragraph 4.03.A within 5 days after first becoming aware of such condition.
3. If Owner and Contractor are unable to agree on entitlement to or on the amount or extent, if any, of any adjustment in the Contract Price or Contract Times, or both, a Claim may be made therefor as provided in Paragraph 10.05. However, neither Owner or Engineer, or any of their officers, directors, members, partners, employees, agents, consultants, or subcontractors shall be liable to Contractor for any claims, costs, losses, or damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) sustained by Contractor on or in connection with any other project or anticipated project.

4.04 *Underground Facilities*

- A. *Shown or Indicated:* The information and data shown or indicated in the Contract Documents with respect to existing Underground Facilities at or contiguous to the Site is based on information and data furnished to Owner or Engineer by the owners of such Underground Facilities, including Owner, or by others. Unless it is otherwise expressly provided in the Supplementary Conditions:
1. Owner and Engineer shall not be responsible for the accuracy or completeness of any such information or data provided by others; and
 2. the cost of all of the following will be included in the Contract Price, and Contractor shall have full responsibility for:
 - a. reviewing and checking all such information and data;

- b. locating all Underground Facilities shown or indicated in the Contract Documents;
- c. coordination of the Work with the owners of such Underground Facilities, including Owner, during construction; and
- d. the safety and protection of all such Underground Facilities and repairing any damage thereto resulting from the Work.

B. *Not Shown or Indicated:*

- 1. If an Underground Facility is uncovered or revealed at or contiguous to the Site which was not shown or indicated, or not shown or indicated with reasonable accuracy in the Contract Documents, Contractor shall, promptly after first becoming aware thereof and before further disturbing conditions affected thereby or performing any Work in connection therewith (except in an emergency as required by Paragraph 6.16.A), identify the owner of such Underground Facility and give written notice to that owner and to Owner and Engineer within 5 days. Engineer will promptly review the Underground Facility and determine the extent, if any, to which a change is required in the Contract Documents to reflect and document the consequences of the existence or location of the Underground Facility. During such time, Contractor shall be responsible for the safety and protection of such Underground Facility.
- 2. If Engineer concludes that a change in the Contract Documents is required, a Work Change Directive or a Change Order will be issued to reflect and document such consequences. An equitable adjustment shall be made in the Contract Price or Contract Times, or both, to the extent that (i) they are attributable to the existence or location of any Underground Facility that was not shown or indicated or not shown or indicated with reasonable accuracy in the Contract Documents or a report listed in the Supplemental Conditions, (ii) Contractor did not know of and could not reasonably have been expected to be aware of or to have anticipated the existence or location, and (iii) Contractor notifies Owner and Engineer of such condition within 5 days after first becoming aware of such condition. If Owner and Contractor are unable to agree on entitlement to or on the amount or extent, if any, of any such adjustment in Contract Price or Contract Times, Owner or Contractor may make a Claim therefor as provided in Paragraph 10.05.

4.05 *Reference Points*

- A. Owner shall provide engineering surveys to establish reference points for construction which in Engineer's judgment are necessary to enable Contractor to proceed with the Work. Contractor shall be responsible for laying out the Work, shall protect and preserve the established reference points and property monuments, and shall make no changes or relocations without the prior written approval of Owner. Contractor shall report to Engineer whenever any reference point or property monument is lost or destroyed or requires relocation because of necessary changes in grades or locations, and shall be responsible for the accurate replacement or relocation of such reference points or property monuments by professionally qualified personnel.
- B. Contractor shall lay-out and verify all field dimensions and measurements at the Site before proceeding with any portion of the Work.

4.06 *Hazardous Environmental Condition at Site*

- A. *Reports and Drawings:* The Supplementary Conditions identify those reports and drawings known to Owner relating to Hazardous Environmental Conditions that have been identified at the Site.
- B. *Limited Reliance by Contractor on Technical Data Authorized:* Contractor may rely upon the accuracy of the “technical data” contained in such reports and drawings, but such reports and drawings are not Contract Documents. Such “technical data” is identified in the Supplementary Conditions. Except for such reliance on such “technical data,” Contractor may not rely upon or make any claim against Owner or Engineer, or any of their officers, directors, members, partners, employees, agents, consultants, or subcontractors with respect to:
1. the completeness of such reports and drawings for Contractor’s purposes, including, but not limited to, any aspects of the means, methods, techniques, sequences and procedures of construction to be employed by Contractor and safety precautions and programs incident thereto; or
 2. other data, interpretations, opinions and information contained in such reports or shown or indicated in such drawings; or
 3. any Contractor interpretation of or conclusion drawn from any “technical data” or any such other data, interpretations, opinions or information.
- C. Contractor shall not be responsible for any Hazardous Environmental Condition uncovered or revealed at the Site which was not shown or indicated in Drawings or Specifications or identified in the Contract Documents to be within the scope of the Work or identified in a report listed in the Supplemental Conditions. Contractor shall be responsible for a Hazardous Environmental Condition created with any materials brought to the Site by Contractor, Subcontractors, Suppliers, or anyone else for whom Contractor is responsible or if such condition is caused by the negligence, recklessness, or intentional misconduct of Contractor, Subcontractors, Suppliers, or anyone else for whom Contractor is responsible.
- D. If Contractor encounters a Hazardous Environmental Condition or if Contractor or anyone for whom Contractor is responsible creates a Hazardous Environmental Condition, Contractor shall immediately: (i) secure or otherwise isolate such condition; (ii) stop all Work in connection with such condition and in any area affected thereby (except in an emergency as required by Paragraph 6.16.A); and (iii) notify Owner and Engineer (and promptly thereafter confirm such notice in writing) within 5 days of first becoming aware of the condition. Owner shall promptly consult with Engineer concerning the necessity for Owner to retain a qualified expert to evaluate such condition or take corrective action, if any. Promptly after consulting with Engineer, Owner shall take such actions as are necessary to permit Owner to timely obtain required permits and provide Contractor the written notice required by Paragraph 4.06.E.
- E. Contractor shall not be required to resume Work in connection with such condition or in any affected area until after Owner has obtained any required permits related thereto and delivered written notice to Contractor: (i) specifying that such condition and any affected area is or has been rendered safe for the resumption of Work; or (ii) specifying any special conditions under

which such Work may be resumed safely. An equitable adjustment shall be made in the Contract Price or Contract Times, or both, to the extent that (i) they are attributable to the existence or location of any Hazardous Environmental Condition that was not shown or indicated or not shown or indicated with reasonable accuracy in the Contract Documents or a report listed in the Supplemental Conditions, (ii) Contractor did not know of and could not reasonably have been expected to be aware of or to have anticipated the Hazardous Environmental Conditions, (iii) Contractor did not negligently, recklessly, or intentionally cause the Hazardous Environmental Condition, and (iv) Contractor notifies Owner and Engineer of such condition within 5 days after first becoming aware of such condition. If Owner and Contractor cannot agree as to entitlement to or on the amount or extent, if any, of any adjustment in Contract Price or Contract Times, or both, as a result of such Work stoppage or such special conditions under which Work is agreed to be resumed by Contractor, either party may make a Claim therefor as provided in Paragraph 10.05.

- F. If after receipt of such written notice Contractor does not agree to resume such Work based on a reasonable belief it is unsafe, or does not agree to resume such Work under such special conditions, then Owner may order the portion of the Work that is in the area affected by such condition to be deleted from the Work. If Owner and Contractor cannot agree as to entitlement to or on the amount or extent, if any, of an adjustment in Contract Price or Contract Times as a result of deleting such portion of the Work, then either party may make a Claim therefor as provided in Paragraph 10.05. Owner may have such deleted portion of the Work performed by Owner's own forces or others in accordance with Article 7.

G. N/A

H. N/A

I. N/A

ARTICLE 5 – BONDS AND INSURANCE

5.01 *Performance, Payment, and Other Bonds*

- A. Contractor shall furnish performance and payment bonds in accordance with Florida Statute §255.05, each in an amount at least equal to the Contract Price as security for the faithful performance and payment of all of Contractor's obligations under the Contract Documents. The obligations, duties, responsibilities, and requirements of Contractor set forth in this Contract shall be incorporated into Contractor's performance bond.
- B. All bonds shall be in the form prescribed by the Contract Documents. All bonds signed by an agent or attorney-in-fact must be accompanied by a certified copy of that individual's authority to bind the surety. The evidence of authority shall show that it is effective on the date the agent or attorney-in-fact signed each bond. The performance and payments bonds shall be recorded in the public records in and for Volusia County, Florida. As a courtesy to the Contractor and to expedite recording, the City shall record the bond on behalf of the Contractor and shall cause a copy of the recording information to be provided to the Contractor by the Project Engineer.

- C. If the surety on any bond furnished by Contractor is declared bankrupt or becomes insolvent or its right to do business is terminated in Florida or it ceases to meet the requirements of Paragraph 5.01.B, Contractor shall promptly notify Owner and Engineer and shall, within 20 days after the event giving rise to such notification, provide another bond and surety, both of which shall comply with the requirements of Paragraphs 5.01.B and 5.02.

5.02 *Licensed Sureties and Insurers*

- A. All bonds and insurance required by the Contract Documents to be purchased and maintained by Owner or Contractor shall be obtained from surety or insurance companies that are duly licensed or authorized in Florida to issue bonds or insurance policies for the limits and coverages so required.

5.03 *Certificates of Insurance*

- A. Contractor shall deliver to Owner, with copies to each additional insured and loss payee identified in the Supplementary Conditions, certificates of insurance (and other evidence of insurance requested by Owner or any other additional insured) which Contractor is required to purchase and maintain.
- B. Owner shall deliver to Contractor, with copies to each additional insured and loss payee identified in the Supplementary Conditions, certificates of insurance (and other evidence of insurance requested by Contractor or any other additional insured) which Owner is required to purchase and maintain.
- C. Failure of Owner to demand such certificates or other evidence of Contractor's full compliance with these insurance requirements or failure of Owner to identify a deficiency in compliance from the evidence provided shall not be construed as a waiver of Contractor's obligation to maintain such insurance.
- D. Owner does not represent that insurance coverage and limits established in this Contract necessarily will be adequate to protect Contractor.
- E. *N/A*
- F. In the event of any conflict between this Paragraph 5.03 and the specific insurance requirements of Contractor set forth in the Supplemental Conditions, the specific insurance requirements in the Supplemental Conditions govern.

5.04 *Contractor's Insurance*

- A. Contractor shall purchase and maintain such insurance as is appropriate for the Work being performed and as will provide protection from claims set forth below which may arise out of or result from Contractor's performance of the Work and Contractor's other obligations under the Contract Documents, whether it is to be performed by Contractor, any Subcontractor or Supplier, or by anyone directly or indirectly employed by any of them to perform any of the Work, or by anyone for whose acts any of them may be liable:

1. claims under workers' compensation, disability benefits, and other similar employee benefit acts;
2. claims for damages because of bodily injury, occupational sickness or disease, or death of Contractor's employees;
3. claims for damages because of bodily injury, sickness or disease, or death of any person other than Contractor's employees;
4. claims for damages insured by reasonably available personal injury liability coverage which are sustained:
 - a. by any person as a result of an offense directly or indirectly related to the employment of such person by Contractor, or
 - b. by any other person for any other reason;
5. claims for damages, other than to the Work itself, because of injury to or destruction of tangible property wherever located, including loss of use resulting therefrom;
6. claims for damages because of bodily injury or death of any person or property damage arising out of the ownership, maintenance or use of any motor vehicle;

B. The policies of insurance required by this Paragraph 5.04 shall:

1. with respect to insurance required by Paragraphs 5.04.A.3 through 5.04.A.6 inclusive, be written on an occurrence basis, include as additional insureds (subject to any customary exclusion regarding professional liability) Owner and Engineer, and any other individuals or entities identified in the Supplementary Conditions, all of whom shall be listed as additional insureds for ongoing and completed operations, and include coverage for the respective officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of all such additional insureds, and the insurance afforded to these additional insureds shall provide primary coverage for all claims covered thereby;
2. include at least the specific coverages and be written for not less than the limits of liability provided in the Supplementary Conditions or required by Laws or Regulations, whichever is greater;
3. include contractual liability insurance covering Contractor's indemnity obligations under Paragraph 6.20 below and as otherwise set forth in the Contract;
4. contain a provision or endorsement that the coverage afforded will not be canceled, materially changed or renewal refused until at least 30 days prior written notice has been given to Owner and Contractor and to each other additional insured identified in the Supplementary Conditions to whom a certificate of insurance has been issued (and the certificates of insurance furnished by the Contractor pursuant to Paragraph 5.03 will so provide);

5. remain in effect at least until final payment and at all times thereafter when Contractor may be correcting, removing, or replacing defective Work in accordance with Paragraph 13.07; and
 6. include completed operations coverage:
 - a. Such insurance shall remain in effect for 10 years after Substantial Completion.
 - b. Contractor shall furnish Owner and each other additional insured identified in the Supplementary Conditions, to whom a certificate of insurance has been issued, evidence satisfactory to Owner and any such additional insured of continuation of such insurance at final payment.
- C. Contractor shall be solely responsible for any insurance deductible or self-insured retention.
- D. In the event of any conflict between this Paragraph 5.04 and the specific insurance requirements of Contractor set forth in the Supplemental Conditions, the specific insurance requirements in the Supplemental Conditions govern.

5.05 *Owner's Liability Insurance*

- A. In addition to the insurance required to be provided by Contractor under Paragraph 5.04, Owner, at Owner's option, may purchase and maintain at Owner's expense Owner's own liability insurance as will protect Owner against claims which may arise from operations under the Contract Documents.

5.06 *Property Insurance*

- A. Unless otherwise provided in the Supplementary Conditions, Contractor shall purchase and maintain property insurance upon the Work at the Site in the amount of the full replacement cost thereof (subject to such deductible amounts as may be provided in the Supplementary Conditions or required by Laws and Regulations). Such policy shall identify both Contractor and Owner as named insureds. Contractor shall solely be responsible for any deductible. This insurance shall:
1. include the interests of Owner, Contractor, Subcontractors, and Engineer, and any other individuals or entities identified in the Supplementary Conditions, and the officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of them, each of whom is deemed to have an insurable interest and shall be listed as a loss payee;
 2. be written on a Builder's Risk "all-risk" policy form that shall at least include insurance for physical loss or damage to the Work, temporary buildings, falsework, and materials and equipment in transit, and shall insure against at least the following perils or causes of loss: fire, lightning, flood, windstorm, extended coverage, theft, vandalism and malicious mischief, earthquake, collapse, debris removal, demolition occasioned by enforcement of Laws and Regulations, water damage (other than that caused by flood), and such other perils or causes of loss as may be specifically required by the Supplementary Conditions.

3. include expenses incurred in the repair or replacement of any insured property (including but not limited to fees and charges of engineers and architects);
4. cover materials and equipment stored at the Site or at another location that was agreed to in writing by Owner prior to being incorporated in the Work, provided that such materials and equipment have been included in an Application for Payment recommended by Engineer;
5. allow for partial utilization of the Work by Owner;
6. include testing and startup; and
7. be maintained in effect until final payment is made unless otherwise agreed to in writing by Owner, Contractor, and Engineer with 30 days written notice to each other loss payee to whom a certificate of insurance has been issued.

B. *N/A*

C. All the policies of insurance (and the certificates or other evidence thereof) required to be purchased and maintained in accordance with this Paragraph 5.06 will contain a provision or endorsement that the coverage afforded will not be canceled or materially changed or renewal refused until at least 30 days prior written notice has been given to Owner and Contractor and to each other loss payee to whom a certificate of insurance has been issued and will contain waiver provisions in accordance with Paragraph 5.07.

D. *N/A*

E. *N/A*

F. Contractor's all-risk property insurance shall not terminate or expire if Owner elects to utilize or occupy any portion or portions of the Project prior to Substantial Completion. Contractor shall obtain an occupancy / use endorsement that allows Owner to utilize or occupy a portion or portions of the Project prior to Substantial Completion (such that if a temporary Certificate of Occupancy or Completion is issued for a portion(s) of the Project, the all-risk property insurance shall remain in full force).

G. In the event of any conflict between this Paragraph 5.06 and the specific insurance requirements of Contractor set forth in the Supplemental Conditions, the specific insurance requirements in the Supplemental Conditions govern.

5.07 *Waiver of Rights*

A. Owner and Contractor intend that all policies purchased in accordance with Paragraph 5.06 will protect Owner, Contractor, Subcontractors, and Engineer, and all other individuals or entities identified in the Supplementary Conditions as loss payees (and the officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of them) in such policies and will provide primary coverage for all losses and damages caused by the perils or causes of loss covered thereby. All such policies shall contain provisions to the effect that in the event of payment of any loss or damage the insurers will have no rights of recovery against any of

the insureds or loss payees thereunder. Owner and Contractor waive all rights against each other and their respective officers, directors, members, partners, employees, agents, consultants and subcontractors of each and any of them for all losses and damages caused by, arising out of or resulting from any of the perils or causes of loss covered by such policies and any other property insurance applicable to the Work; and, in addition, waive all such rights against Subcontractors and Engineer, and all other individuals or entities identified in the Supplementary Conditions as loss payees (and the officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of them) under such policies for losses and damages so caused. None of the above waivers shall extend to the rights that any party making such waiver may have to the proceeds of insurance held by Contractor as trustee or otherwise payable under any policy so issued.

B. *N/A*

C. *N/A*

D. In the event of any conflict between this Paragraph 5.07 and the specific insurance requirements of Contractor set forth in the Supplemental Conditions, the specific insurance requirements in the Supplemental Conditions govern.

5.08 *Receipt and Application of Insurance Proceeds*

- A. Any insured loss under the policies of insurance required by Paragraph 5.06 will be adjusted with Contractor and made payable to Contractor as fiduciary for the loss payees, as their interests may appear, subject to the requirements of any applicable mortgage clause and of Paragraph 5.08.B. Contractor shall deposit in a separate account any money so received and shall distribute it in accordance with such agreement as the parties in interest may reach. If no other special agreement is reached, the damaged Work shall be repaired or replaced, the moneys so received applied on account thereof, and the Work and, only if applicable, the cost thereof covered by an appropriate Change Order.
- B. Contractor as fiduciary shall have power to adjust and settle any loss with the insurers unless one of the parties in interest shall object in writing within 15 days after the occurrence of loss to Contractor's exercise of this power. If such objection be made, Contractor as fiduciary shall make settlement with the insurers in accordance with such agreement as the parties in interest may reach. If no such agreement among the parties in interest is reached, Contractor as fiduciary shall adjust and settle the loss with the insurers and, if required in writing by any party in interest, Owner as fiduciary shall give bond for the proper performance of such duties.
- C. Owner, at its sole discretion, may elect to fund the costs associated with any property insurance claim, excluding the deductible, and seek reimbursement from Contractor's policy that identifies both Contractor and Owner as named insureds. If Owner exercises this right, it shall have sole authority to settle and adjust any claim and receive reimbursement under the policy with the proceeds made payable to Owner. Contractor shall have the obligation to cooperate and comply with all terms and provisions of the policy and its failure to do so shall constitute a material breach of the Contract. If Owner does not elect this right, Contractor shall be required to fund the costs associated with any property insurance claim and seek reimbursement under the policy.

- D. In the event of any conflict between this Paragraph 5.08 and the specific insurance requirements of Contractor set forth in the Supplemental Conditions, the specific insurance requirements in the Supplemental Conditions govern.

5.09 *Acceptance Insurance; Option to Replace*

- A. If Owner has any objection to the coverage afforded by or other provisions of the insurance required to be purchased and maintained by the Contractor in accordance with Article 5 and/or the Supplementary Conditions on the basis of non-conformance with the Contract Documents, Owner shall so notify Contractor in writing within 10 days after receipt of the certificates (or other evidence requested) required by Paragraph 2.01.B. Contractor shall provide Owner such additional information in respect of insurance provided as the Owner may reasonably request. If Contractor does not purchase or maintain all of the insurance required of it by the Contract Documents, Owner shall notify Contractor in writing of such failure to purchase prior to the start of the Work, or of such failure to maintain prior to any change in the required coverage, which shall constitute a material breach of the Contract by Contractor. Without Owner's prejudice to any other right or remedy, Owner may elect to obtain equivalent insurance to protect its interests at the expense of Contractor, and a Change Order shall be issued to adjust the Contract Price accordingly.
- B. In the event of any conflict between this Paragraph 5.09 and the specific insurance requirements of Contractor set forth in the Supplemental Conditions, the specific insurance requirements in the Supplemental Conditions govern.

5.10 *Partial Utilization, Acknowledgment of Property Insurer*

- A. N/A

ARTICLE 6 – CONTRACTOR'S RESPONSIBILITIES

6.01 *Supervision and Superintendence*

- A. Contractor shall supervise, inspect, and direct the Work competently and efficiently, devoting such attention thereto and applying such skills and expertise as may be necessary to perform the Work in accordance with the Contract Documents. Contractor shall be solely responsible for the means, methods, techniques, sequences, and procedures of construction. Contractor shall not be responsible for the negligence of Owner or Engineer in the design or specification of a specific means, method, technique, sequence, or procedure of construction which is shown or indicated in and expressly required by the Contract Documents. Contractor shall submit a Request for Information to Engineer seeking clarification as to any aspect of the Contract Documents as soon as practical to, among other things, maintain the orderly progress of the Work and avoid any delay to the Work.
- B. At all times during the progress of the Work, Contractor shall assign a competent resident superintendent or superintendents, as appropriate, who shall not be replaced without written notice to Owner and Engineer except under extraordinary circumstances.

6.02 *Labor; Working Hours*

- A. Contractor shall provide competent, suitably qualified personnel to survey and lay out the Work and perform construction as required by the Contract Documents. Contractor shall at all times maintain good discipline and order at the Site.
- B. Except as otherwise required for the safety or protection of persons or the Work or property at the Site or adjacent thereto, and except as otherwise stated in the Contract Documents, all Work at the Site shall be performed during regular working hours. Contractor will not permit the performance of Work on a Saturday, Sunday, or any legal holiday without Owner's written consent (which will not be unreasonably withheld) given after prior written notice to Engineer.

6.03 *Services, Materials, and Equipment*

- A. Unless otherwise specified in the Contract Documents, Contractor shall provide and assume full responsibility for all services, materials, equipment, labor, transportation, construction equipment and machinery, tools, appliances, fuel, power, light, heat, telephone, water, sanitary facilities, temporary facilities, and all other facilities and incidentals necessary for the performance, testing, start-up, and completion of the Work.
- B. All materials and equipment incorporated into the Work shall be as specified or, if not specified, shall be of good quality and new, except as otherwise provided in the Contract Documents. All special warranties and guarantees required by the Specifications shall expressly run to the benefit of Owner. If required by Engineer, Contractor shall furnish satisfactory evidence (including reports of required tests) as to the source, kind, and quality of materials and equipment.
- C. All materials and equipment shall be stored, applied, installed, connected, erected, protected, used, cleaned, and conditioned in accordance with instructions of the applicable Supplier, except as otherwise may be provided in the Contract Documents.

6.04 *Progress Schedule*

- A. Contractor shall adhere to the Progress Schedule established in accordance with Paragraph 2.07 as it may be adjusted from time to time as provided below.
 - 1. Contractor shall submit to Engineer and Owner for acceptance (to the extent indicated in Paragraph 2.07) proposed monthly adjustments in the Progress Schedule that will not result in changing the Contract Times. Such adjustments will be submitted with Contractor's Applications for Payment, as conditions precedent to payment, and will comply with any provisions of the General Requirements applicable thereto.
 - 2. Proposed adjustments in the Progress Schedule that will change the Contract Times shall be submitted in accordance with the requirements of Article 12. Adjustments in Contract Times may only be made by a Change Order.
 - 3. All proposed Progress Schedules submitted to Engineer and Owner shall identify Contractor's critical path sequence of scheduled activities of the Work as well as earliest start dates for scheduled activities, the earliest finish date for scheduled activities, the latest start

date for scheduled activities, and the latest finish date for scheduled activities. All float in the Progress Schedules shall belong to Owner to offset a delay to Contractor's critical path attributable to Owner or its agents.

6.05 *Substitutes and "Or-Equals"*

A. Whenever an item of material or equipment is specified or described in the Contract Documents by using the name of a proprietary item or the name of a particular Supplier, the specification or description is intended to establish the type, function, appearance, and quality required. Unless the specification or description contains or is followed by words reading that no like, equivalent, or "or-equal" item or no substitution is permitted, other items of material or equipment or material or equipment of other Suppliers may be submitted to Engineer for review under the circumstances described below.

1. *"Or-Equal" Items:* If in Engineer's sole discretion an item of material or equipment proposed by Contractor is functionally equal to that named and sufficiently similar so that no change in related Work will be required, it may be considered by Engineer as an "or-equal" item, in which case review and approval of the proposed item may, in Engineer's sole discretion, be accomplished without compliance with some or all of the requirements for approval of proposed substitute items. For the purposes of this Paragraph 6.05.A.1, a proposed item of material or equipment will be considered functionally equal to an item so named if:

a. in the exercise of reasonable judgment Engineer determines that:

- 1) it is at least equal in materials of construction, quality, durability, appearance, strength, and design characteristics;
- 2) it will reliably perform at least equally well the function and achieve the results imposed by the design concept of the completed Project as a functioning whole; and
- 3) it has a proven record of performance and availability of responsive service.

b. Contractor certifies that, if approved and incorporated into the Work:

- 1) there will be no increase in cost to the Owner or increase in Contract Times; and
- 2) it will conform substantially to the detailed requirements of the item named in the Contract Documents.

2. *Substitute Items:*

- a. If in Engineer's sole discretion an item of material or equipment proposed by Contractor does not qualify as an "or-equal" item under Paragraph 6.05.A.1, it will be considered a proposed substitute item.
- b. Contractor shall submit sufficient information as provided below to allow Engineer to determine if the item of material or equipment proposed is essentially equivalent to that named and an acceptable substitute therefor. Requests for review of proposed substitute

items of material or equipment will not be accepted by Engineer from anyone other than Contractor.

- c. The requirements for review by Engineer will be as set forth in Paragraph 6.05.A.2.d, as supplemented by the General Requirements, and as Engineer may decide is appropriate under the circumstances.
- d. Contractor shall make written application to Engineer for review of a proposed substitute item of material or equipment that Contractor seeks to furnish or use. The application:
 - 1) shall certify that the proposed substitute item will:
 - a) perform adequately the functions and achieve the results called for by the general design,
 - b) be similar in substance to that specified, and
 - c) be suited to the same use as that specified;
 - 2) will state:
 - a) the extent, if any, to which the use of the proposed substitute item will prejudice Contractor's achievement of Substantial Completion on time,
 - b) whether use of the proposed substitute item in the Work will require a change in any of the Contract Documents (or in the provisions of any other direct contract with Owner for other work on the Project) to adapt the design to the proposed substitute item, and
 - c) whether incorporation or use of the proposed substitute item in connection with the Work is subject to payment of any license fee or royalty;
 - 3) will identify:
 - a) all variations of the proposed substitute item from that specified, and
 - b) available engineering, sales, maintenance, repair, and replacement services; and
 - 4) shall contain an itemized estimate of all costs or credits that will result directly or indirectly from use of such substitute item, including costs of redesign and claims of other contractors affected by any resulting change.

B. *Substitute Construction Methods or Procedures:* If a specific means, method, technique, sequence, or procedure of construction is expressly required by the Contract Documents, Contractor may furnish or utilize a substitute means, method, technique, sequence, or procedure of construction approved by Engineer. Contractor shall submit sufficient information to allow Engineer, in Engineer's sole discretion, to determine that the substitute proposed is equivalent to that expressly called for by the Contract Documents. The requirements for review by Engineer will be similar to those provided in Paragraph 6.05.A.2.

- C. *Engineer's Evaluation:* Engineer will be allowed a reasonable time within which to evaluate each proposal or submittal made pursuant to Paragraphs 6.05.A and 6.05.B. Engineer may require Contractor to furnish additional data about the proposed substitute item. Engineer will be the sole judge of acceptability. No "or equal" or substitute will be ordered, installed or utilized until Engineer's review is complete, which will be evidenced by a Change Order in the case of a substitute and an approved Shop Drawing for an "or equal." Engineer will advise Contractor in writing of any negative determination.
- D. *Special Guarantee:* Owner may require Contractor to furnish at Contractor's expense a special performance guarantee or other surety with respect to any substitute.
- E. *Engineer's Cost Reimbursement:* Engineer will record Engineer's costs in evaluating a substitute proposed or submitted by Contractor pursuant to Paragraphs 6.05.A.2 and 6.05.B. Whether or not Engineer approves a substitute so proposed or submitted by Contractor, Contractor shall reimburse Owner for the reasonable charges of Engineer for evaluating each such proposed substitute. Contractor shall also reimburse Owner for the reasonable charges of Engineer for making changes in the Contract Documents (or in the provisions of any other direct contract with Owner) resulting from the acceptance of each proposed substitute.
- F. *Contractor's Expense:* Contractor shall provide all data in support of any proposed substitute or "or-equal" at Contractor's expense.

6.06 *Concerning Subcontractors, Suppliers, and Others*

- A. Contractor shall not employ any Subcontractor, Supplier, or other individual or entity (including those acceptable to Owner as indicated in Paragraph 6.06.B), whether initially or as a replacement, against whom Owner may have reasonable objection. Contractor shall not be required to employ any Subcontractor, Supplier, or other individual or entity to furnish or perform any of the Work against whom Contractor has reasonable objection. Additionally, subject to Paragraph 6.06.B below, Contractor shall provide to Owner within 10 days from the Effective Date of this Agreement a written list of all Subcontractors (or other individuals or entities it plans on engaging to perform a scope of the Work), together with their Certificates of Insurance that must identify Owner as an additional insured. Subcontractors must identify Owner as an additional insured for purposes of ongoing and completed operations.
- B. If the Supplementary Conditions require the identity of certain Subcontractors, Suppliers, or other individuals or entities to be submitted to Owner in advance for acceptance by Owner by a specified date prior to the Effective Date of the Agreement, and if Contractor has submitted a list thereof in accordance with the Supplementary Conditions, Owner's acceptance (either in writing or by failing to make written objection thereto by the date indicated for acceptance or objection in the Bidding Documents or the Contract Documents) of any such Subcontractor, Supplier, or other individual or entity so identified may be revoked on the basis of reasonable objection after due investigation. Contractor shall submit an acceptable replacement for the rejected Subcontractor, Supplier, or other individual or entity, and the Contract Price will be adjusted by the difference in the cost occasioned by such replacement, and an appropriate Change Order will be issued. No acceptance by Owner of any such Subcontractor, Supplier, or other individual or entity, whether

initially or as a replacement, shall constitute a waiver of any right of Owner or Engineer to reject defective Work.

- C. Contractor shall be fully responsible to Owner and Engineer for all acts and omissions of the Subcontractors, Suppliers, and other individuals or entities performing or furnishing any of the Work just as Contractor is responsible for Contractor's own acts and omissions. Nothing in the Contract Documents:
 - 1. shall create for the benefit of any such Subcontractor, Supplier, or other individual or entity any contractual relationship between Owner or Engineer and any such Subcontractor, Supplier or other individual or entity; nor
 - 2. shall create any obligation on the part of Owner or Engineer to pay or to see to the payment of any moneys due any such Subcontractor, Supplier, or other individual or entity except as may otherwise be required by Laws and Regulations.
- D. Contractor shall be solely responsible for scheduling and coordinating the Work of Subcontractors, Suppliers, and other individuals or entities performing or furnishing any of the Work under a direct or indirect contract with Contractor and ensure that they perform the Work in a good and workmanlike manner and pursuant to the Contract Documents.
- E. Contractor shall require all Subcontractors, Suppliers, and such other individuals or entities performing or furnishing any of the Work to communicate with Engineer through Contractor.
- F. The divisions and sections of the Specifications and the identifications of any Drawings shall not control Contractor in dividing the Work among Subcontractors or Suppliers or delineating the Work to be performed by any specific trade.
- G. All Work performed for Contractor by a Subcontractor or Supplier will be pursuant to an appropriate agreement between Contractor and the Subcontractor or Supplier which specifically binds the Subcontractor or Supplier to the applicable terms and conditions of the Contract Documents for the benefit of Owner and Engineer. Whenever any such agreement is with a Subcontractor or Supplier who is listed as a loss payee on the property insurance provided in Paragraph 5.06, the agreement between the Contractor and the Subcontractor or Supplier will contain provisions whereby the Subcontractor or Supplier waives all rights against Owner, Contractor, Engineer, and all other individuals or entities identified in the Supplementary Conditions to be listed as insureds or loss payees (and the officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of them) for all losses and damages caused by, arising out of, relating to, or resulting from any of the perils or causes of loss covered by such policies and any other property insurance applicable to the Work. If the insurers on any such policies require separate waiver forms to be signed by any Subcontractor or Supplier, Contractor will obtain the same.

6.07 *Patent Fees and Royalties*

- A. Contractor shall pay all license fees and royalties and assume all costs incident to the use in the performance of the Work or the incorporation in the Work of any invention, design, process, product, or device which is the subject of patent rights or copyrights held by others. If a particular

invention, design, process, product, or device is specified in the Contract Documents for use in the performance of the Work and if, to the actual knowledge of Owner or Engineer, its use is subject to patent rights or copyrights calling for the payment of any license fee or royalty to others, the existence of such rights shall be disclosed by Owner in the Contract Documents.

B. *N/A*

C. *N/A*

6.08 *Permits*

- A. Unless otherwise provided in the Supplementary Conditions, Contractor shall obtain and pay for all construction permits and licenses. Owner shall assist Contractor, when necessary, in obtaining such permits and licenses. Contractor shall pay all governmental charges and inspection fees necessary for the prosecution of the Work which are applicable at the time of opening of Bids, or, if there are no Bids, on the Effective Date of the Agreement. Owner shall pay all charges of utility owners for connections for providing permanent service to the Work.

6.09 *Laws and Regulations*

- A. Contractor shall give all notices required by and shall comply with all Laws and Regulations applicable to the performance of the Work. Except where otherwise expressly required by applicable Laws and Regulations, neither Owner nor Engineer shall be responsible for monitoring Contractor's compliance with any Laws or Regulations.
- B. If Contractor performs any Work knowing or having reason to know that it is contrary to Laws or Regulations, Contractor shall bear all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to such Work. However, it shall not be Contractor's responsibility to make certain that the Specifications and Drawings are in accordance with Laws and Regulations, but this shall not relieve Contractor of Contractor's obligations under Paragraph 3.03.
- C. Changes in Laws or Regulations not known at the time of opening of Bids (or, on the Effective Date of the Agreement if there were no Bids) having an effect on the cost or time of performance of the Work shall be the subject of an adjustment in Contract Price or Contract Times. If Owner and Contractor are unable to agree on entitlement to or on the amount or extent, if any, of any such adjustment, a Claim may be made therefor as provided in Paragraph 10.05.

6.10 *Taxes*

- A. Contractor shall pay all sales, consumer, use, and other similar taxes required to be paid by Contractor in accordance with the Laws and Regulations of the place of the Project which are applicable during the performance of the Work.

6.11 *Use of Site and Other Areas*

A. *Limitation on Use of Site and Other Areas:*

1. Contractor shall confine construction equipment, the storage of materials and equipment, and the operations of workers to the Site and other areas permitted by Laws and Regulations, and shall not unreasonably encumber the Site and other areas with construction equipment or other materials or equipment. Contractor shall assume full responsibility for any damage to any such land or area, or to the owner or occupant thereof, or of any adjacent land or areas resulting from the performance of the Work.
2. Should any claim be made by any such owner or occupant because of the performance of the Work, Contractor shall promptly settle with such other party by negotiation or otherwise resolve the claim by arbitration or other dispute resolution proceeding or at law.
3. N/A

B. *Removal of Debris During Performance of the Work:* During the progress of the Work Contractor shall keep the Site and other areas free from accumulations of waste materials, rubbish, and other debris. Removal and disposal of such waste materials, rubbish, and other debris shall conform to applicable Laws and Regulations.

C. *Cleaning:* Prior to Substantial Completion of the Work Contractor shall clean the Site and the Work and make it ready for utilization by Owner. At the completion of the Work Contractor shall remove from the Site all tools, appliances, construction equipment and machinery, and surplus materials and shall restore to original condition all property not designated for alteration by the Contract Documents.

D. *Loading Structures:* Contractor shall not load nor permit any part of any structure to be loaded in any manner that will endanger the structure, nor shall Contractor subject any part of the Work or adjacent property to stresses or pressures that will endanger it.

6.12 *Record Documents*

A. Contractor shall maintain in a safe place at the Site one record copy of all Drawings, Specifications, Addenda, Change Orders, Work Change Directives, Field Orders, and written interpretations and clarifications in good order and annotated to show as-built conditions and changes made during construction. These record documents together with all approved Samples and a counterpart of all approved Shop Drawings will be available to Engineer for reference. Upon completion of the Work, these record documents, Samples, and Shop Drawings will be delivered to Engineer for Owner.

6.13 *Safety and Protection*

A. Contractor shall be solely responsible for initiating, maintaining and supervising all safety precautions and programs in connection with the Work. Such responsibility does not relieve Subcontractors of their responsibility for the safety of persons or property in the performance of their work, nor for compliance with applicable safety Laws and Regulations. Contractor shall

take all necessary precautions for the safety of, and shall provide the necessary protection to prevent damage, injury or loss to:

1. all persons on the Site or who may be affected by the Work;
 2. all the Work and materials and equipment to be incorporated therein, whether in storage on or off the Site; and
 3. other property at the Site or adjacent thereto, including trees, shrubs, lawns, walks, pavements, roadways, structures, utilities, and Underground Facilities not designated for removal, relocation, or replacement in the course of construction.
- B. Contractor shall comply with all applicable Laws and Regulations relating to the safety of persons or property, or to the protection of persons or property from damage, injury, or loss; and shall erect and maintain all necessary safeguards for such safety and protection. Contractor shall notify owners of adjacent property and of Underground Facilities and other utility owners when prosecution of the Work may affect them, and shall cooperate with them in the protection, removal, relocation, and replacement of their property.
- C. Contractor shall comply with the applicable requirements of Owner's safety programs, if any. The Supplementary Conditions identify any Owner's safety programs that are applicable to the Work.
- D. Contractor shall inform Owner and Engineer of the specific requirements of Contractor's safety program with which Owner's and Engineer's employees and representatives must comply while at the Site.
- E. All damage, injury, or loss to any property referred to in Paragraph 6.13.A.2 or 6.13.A.3 caused, directly or indirectly, in whole or in part, by Contractor, any Subcontractor, Supplier, or any other individual or entity directly or indirectly employed by any of them to perform any of the Work, or anyone for whose acts any of them may be liable, shall be remedied by Contractor (except damage or loss attributable to the fault of Drawings or Specifications or to the acts or omissions of Owner or Engineer or anyone employed by any of them, or anyone for whose acts any of them may be liable, and not attributable, directly or indirectly, in whole or in part, to the fault or negligence of Contractor or any Subcontractor, Supplier, or other individual or entity directly or indirectly employed by any of them).
- F. Contractor's duties and responsibilities for safety and for protection of the Work shall continue until such time as all the Work is completed and Engineer has issued a notice to Owner and Contractor in accordance with Paragraph 14.07.B that the Work is acceptable (except as otherwise expressly provided in connection with Substantial Completion).

6.14 *Safety Representative*

- A. Contractor shall designate a qualified and experienced safety representative at the Site whose duties and responsibilities shall be the prevention of accidents and the maintaining and supervising of safety precautions and programs.

6.15 *Hazard Communication Programs*

- A. Contractor shall be responsible for coordinating any exchange of material safety data sheets or other hazard communication information required to be made available to or exchanged between or among employers at the Site in accordance with Laws or Regulations.

6.16 *Emergencies*

- A. In emergencies affecting the safety or protection of persons or the Work or property at the Site or adjacent thereto, Contractor is obligated to act to prevent threatened damage, injury, or loss. Contractor shall give Engineer prompt written notice if Contractor believes that any significant changes in the Work or variations from the Contract Documents have been caused thereby or are required as a result thereof. If Engineer determines that a change in the Contract Documents is required because of the action taken by Contractor in response to such an emergency, a Work Change Directive or Change Order will be issued.

6.17 *Shop Drawings and Samples*

- A. Contractor shall submit Shop Drawings and Samples to Engineer for review and approval in accordance with the accepted Schedule of Submittals (as required by Paragraph 2.07). Each submittal will be identified as Engineer may require.

1. *Shop Drawings:*

- a. Submit number of copies specified in the General Requirements.
- b. Data shown on the Shop Drawings will be complete with respect to quantities, dimensions, specified performance and design criteria, materials, and similar data to show Engineer the services, materials, and equipment Contractor proposes to provide and to enable Engineer to review the information for the limited purposes required by Paragraph 6.17.D.

2. *Samples:*

- a. Submit number of Samples specified in the Specifications.
 - b. Clearly identify each Sample as to material, Supplier, pertinent data such as catalog numbers, the use for which intended and other data as Engineer may require to enable Engineer to review the submittal for the limited purposes required by Paragraph 6.17.D.
- B. Where a Shop Drawing or Sample is required by the Contract Documents or the Schedule of Submittals, any related Work performed prior to Engineer's review and approval of the pertinent submittal will be at the sole expense and responsibility of Contractor.

C. Submittal Procedures:

1. Before submitting each Shop Drawing or Sample, Contractor shall have:
 - a. thoroughly reviewed and coordinated each Shop Drawing or Sample with other Shop Drawings and Samples and with the requirements of the Work and the Contract Documents;
 - b. determined and verified all field measurements, quantities, dimensions, specified performance and design criteria, installation requirements, materials, catalog numbers, and similar information with respect thereto;
 - c. determined and verified the suitability of all materials offered with respect to the indicated application, fabrication, shipping, handling, storage, assembly, and installation pertaining to the performance of the Work; and
 - d. determined and verified all information relative to Contractor's responsibilities for means, methods, techniques, sequences, and procedures of construction, and safety precautions and programs incident thereto.
2. Each submittal shall bear a stamp or specific written certification that Contractor has satisfied Contractor's obligations under the Contract Documents with respect to Contractor's review and approval of that submittal.
3. With each submittal, Contractor shall give Engineer specific written notice of any variations that the Shop Drawing or Sample may have from the requirements of the Contract Documents. This notice shall be both a written communication separate from the Shop Drawings or Sample submittal; and, in addition, by a specific notation made on each Shop Drawing or Sample submitted to Engineer for review and approval of each such variation.

D. Engineer's Review:

1. Engineer will provide timely review of Shop Drawings and Samples in accordance with the Schedule of Submittals acceptable to Engineer. Engineer's review and approval will be only to determine if the items covered by the submittals will, after installation or incorporation in the Work, conform to the information given in the Contract Documents and be compatible with the design concept of the completed Project as a functioning whole as indicated by the Contract Documents.
2. Engineer's review and approval will not extend to means, methods, techniques, sequences, or procedures of construction (except where a particular means, method, technique, sequence, or procedure of construction is specifically and expressly called for by the Contract Documents) or to safety precautions or programs incident thereto. The review and approval of a separate item as such will not indicate approval of the assembly in which the item functions.
3. Engineer's review and approval shall not relieve Contractor from responsibility for any variation from the requirements of the Contract Documents unless Contractor has complied with the requirements of Paragraph 6.17.C.3 and Engineer has given written approval of each

such variation by specific written notation thereof incorporated in or accompanying the Shop Drawing or Sample. Engineer's review and approval shall not relieve Contractor from responsibility for complying with the requirements of Paragraph 6.17.C.1.

E. *Resubmittal Procedures:*

1. Contractor shall make corrections required by Engineer and shall return the required number of corrected copies of Shop Drawings and submit, as required, new Samples for review and approval. Contractor shall direct specific attention in writing to revisions other than the corrections called for by Engineer on previous submittals.

6.18 *Continuing the Work*

- A. Contractor shall carry on the Work and adhere to the Progress Schedule during all disputes or disagreements with Owner. No Work shall be delayed or postponed pending resolution of any disputes or disagreements regarding payment or otherwise, except as permitted by Paragraph 15.04 or as Owner and Contractor may otherwise agree in writing.

6.19 *Contractor's General Warranty and Guarantee*

- A. Contractor warrants and guarantees to Owner that all Work will be in accordance with the Contract Documents and will not be defective. Engineer and its officers, directors, members, partners, employees, agents, consultants, and subcontractors shall be entitled to rely on representation of Contractor's warranty and guarantee.
- B. Contractor's warranty and guarantee hereunder excludes defects or damage caused by:
 1. abuse, modification, or improper maintenance or operation by persons other than Contractor, Subcontractors, Suppliers, or any other individual or entity for whom Contractor is responsible; or
 2. normal wear and tear under normal usage.
- C. Contractor's obligation to perform and complete the Work in accordance with the Contract Documents shall be absolute. None of the following will constitute an acceptance of Work that is not in accordance with the Contract Documents or a release of Contractor's obligation to perform the Work in accordance with the Contract Documents:
 1. observations by Engineer;
 2. recommendation by Engineer or payment by Owner of any progress or final payment;
 3. the issuance of a certificate of Substantial Completion by Engineer or any payment related thereto by Owner;
 4. use or occupancy of the Work or any part thereof by Owner;
 5. any review and approval of a Shop Drawing or Sample submittal or the issuance of a notice of acceptability by Engineer;

6. any inspection, test, or approval by others;
7. any correction of defective Work by Owner; or
8. the achievement of Final Completion (including Contractor's completion of Punchlist items that were deemed satisfactory to Engineer).

6.20 *Indemnification*

- A. To the fullest extent permitted by Florida law including Florida Statute §725.06, Contractor shall indemnify and hold harmless Owner (including Owner's officers and employees) from liabilities, damages, losses, and costs, including, but not limited to, reasonable attorney's fees, to the extent caused by the negligence, recklessness, or intentional misconduct of Contractor and the persons or entities employed or utilized by Contractor in the performance of the Contract. Contractor agrees and understands that the monetary limitation on the extent of its indemnification shall be \$1 million per occurrence or the per occurrence limits of its commercial general liability (CGL) insurance, whichever is greater, which bears a reasonable commercial relationship to the Contract and is hereby part of the project specifications and bid documents.
- B. To the fullest extent permitted by Florida law, Contractor shall defend Owner (including Owner's officers and employees) from claims, demands, and litigation asserted against Owner to the extent such claims, demands, or litigation are caused by the negligence, recklessness, or intentional misconduct of Contractor and the persons or entities employed or utilized by Contractor in the performance of the Contract.
- C. Contractor agrees and understands that its obligation to indemnify, hold harmless, and defend as set forth in Paragraphs 6.20.A and B above includes, without limitation, claims, losses, etc. for personal injury, death, property damage, Hazardous Environmental Conditions, infringement of patent rights or copyrights incident to the use or incorporation in the performance of the Work, etc., to the extent caused by the negligence, recklessness, or intentional misconduct of Contractor and the persons or entities employed or utilized by Contractor in the performance of the Contract.

6.21 *Delegation of Professional Design Services*

- A. Contractor will not be required to provide professional design services unless such services are specifically required by the Contract Documents for a portion of the Work or unless such services are required to carry out Contractor's responsibilities for construction means, methods, techniques, sequences and procedures. Contractor shall not be required to provide professional services in violation of applicable law.
- B. If professional design services or certifications by a design professional related to systems, materials or equipment are specifically required of Contractor by the Contract Documents, Owner and Engineer will specify all performance and design criteria that such services must satisfy. Contractor shall cause such services or certifications to be provided by a properly licensed professional, whose signature and seal shall appear on all drawings, calculations, specifications, certifications, Shop Drawings and other submittals prepared by such professional. Shop Drawings and other submittals related to the Work designed or certified by such professional, if prepared by others, shall bear such professional's written approval when submitted to Engineer.

- C. Owner and Engineer shall be entitled to rely upon the adequacy, accuracy and completeness of the services, certifications or approvals performed by such design professionals, provided Owner and Engineer have specified to Contractor all performance and design criteria that such services must satisfy.
- D. Pursuant to this Paragraph 6.21, Engineer's review and approval of design calculations and design drawings will be only for the limited purpose of checking for conformance with performance and design criteria given and the design concept expressed in the Contract Documents. Engineer's review and approval of Shop Drawings and other submittals (except design calculations and design drawings) will be only for the purpose stated in Paragraph 6.17.D.1.
- E. Contractor shall not be responsible for the adequacy of the performance or design criteria required by the Contract Documents.

ARTICLE 7 – OTHER WORK AT THE SITE

7.01 *Related Work at Site*

- A. Owner may perform other work related to the Project at the Site with Owner's employees, or through other direct contracts therefor, or have other work performed by utility owners. If such other work is not noted in the Contract Documents, then:
 - 1. written notice thereof will be given to Contractor prior to starting any such other work; and
 - 2. if Owner and Contractor are unable to agree on entitlement to or on the amount or extent, if any, of any adjustment in the Contract Price or Contract Times that should be allowed as a result of such other work, a Claim may be made therefor as provided in Paragraph 10.05.
- B. Contractor shall afford each other contractor who is a party to such a direct contract, each utility owner, and Owner, if Owner is performing other work with Owner's employees, proper and safe access to the Site, provide a reasonable opportunity for the introduction and storage of materials and equipment and the execution of such other work, and properly coordinate the Work with theirs. Contractor shall do all cutting, fitting, and patching of the Work that may be required to properly connect or otherwise make its several parts come together and properly integrate with such other work. Contractor shall not endanger any work of others by cutting, excavating, or otherwise altering such work; provided, however, that Contractor may cut or alter others' work with the written consent of Engineer and the others whose work will be affected. The duties and responsibilities of Contractor under this Paragraph are for the benefit of such utility owners and other contractors to the extent that there are comparable provisions for the benefit of Contractor in said direct contracts between Owner and such utility owners and other contractors.
- C. If the proper execution or results of any part of Contractor's Work depends upon work performed by others under this Article 7, Contractor shall inspect such other work and promptly report to Engineer in writing any delays, defects, or deficiencies in such other work that render it unavailable or unsuitable for the proper execution and results of Contractor's Work. Contractor's failure to so report will constitute an acceptance of such other work as fit and proper for integration with Contractor's Work except for latent defects and deficiencies in such other work.

7.02 *Coordination*

- A. If Owner intends to contract with others for the performance of other work on the Project at the Site, the following will be set forth in Supplementary Conditions:
 - 1. the individual or entity who will have authority and responsibility for coordination of the activities among the various contractors will be identified;
 - 2. the specific matters to be covered by such authority and responsibility will be itemized; and
 - 3. the extent of such authority and responsibilities will be provided.
- B. Unless otherwise provided in the Supplementary Conditions, Owner shall have sole authority and responsibility for such coordination.

7.03 *Legal Relationships*

- A. Paragraphs 7.01.A and 7.02 are not applicable for utilities not under the control of Owner.
- B. Each other direct contract of Owner under Paragraph 7.01.A shall provide that the other contractor is liable to Owner and Contractor for the reasonable direct delay and disruption costs incurred by Contractor as a result of the other contractor's wrongful actions or inactions.
- C. Contractor shall be liable to Owner and any other contractor under direct contract to Owner for the reasonable direct delay and disruption costs incurred by such other contractor as a result of Contractor's wrongful action or inactions.

ARTICLE 8 – OWNER'S RESPONSIBILITIES

8.01 *Communications to Contractor*

- A. Except as otherwise provided in these General Conditions, Owner shall issue all communications to Contractor through Engineer.

8.02 *Replacement of Engineer*

- A. In case of termination of the employment of Engineer, Owner shall appoint an engineer to whom Contractor makes no reasonable objection, whose status under the Contract Documents shall be that of the former Engineer.

8.03 *Furnish Data*

- A. Owner shall promptly furnish the data required of Owner under the Contract Documents.

8.04 *Pay When Due*

- A. Owner shall make payments to Contractor when they are due as provided in Paragraphs 14.02.C and 14.07.C or as otherwise provided in Florida Statute §218.735.

8.05 *Lands and Easements; Reports and Tests*

- A. Owner's duties with respect to providing lands and easements and providing engineering surveys to establish reference points are set forth in Paragraphs 4.01 and 4.05. Paragraph 4.02 refers to Owner's identifying and making available to Contractor copies of reports of explorations and tests of subsurface conditions and drawings of physical conditions relating to existing surface or subsurface structures at the Site.

8.06 *Insurance*

- A. Owner's responsibilities, if any, with respect to purchasing and maintaining liability and property insurance are set forth in Article 5.

8.07 *Change Orders*

- A. Owner is obligated to execute Change Orders as indicated in Paragraph 10.03.

8.08 *Inspections, Tests, and Approvals*

- A. Owner's responsibility with respect to certain inspections, tests, and approvals is set forth in Paragraph 13.03.B.

8.09 *Limitations on Owner's Responsibilities*

- A. The Owner shall not supervise, direct, or have control or authority over, nor be responsible for, Contractor's means, methods, techniques, sequences, or procedures of construction, or the safety precautions and programs incident thereto, or for any failure of Contractor to comply with Laws and Regulations applicable to the performance of the Work. Owner will not be responsible for Contractor's failure to perform the Work in accordance with the Contract Documents.

8.10 *Undisclosed Hazardous Environmental Condition*

- A. Owner's responsibility in respect to an undisclosed Hazardous Environmental Condition is set forth in Paragraph 4.06.

8.11 *Evidence of Financial Arrangements*

- A. N/A

8.12 *Compliance with Safety Program*

- A. While at the Site, Owner's employees and representatives shall comply with the specific applicable requirements of Contractor's safety programs of which Owner has been informed pursuant to Paragraph 6.13.D.

ARTICLE 9 – ENGINEER’S STATUS DURING CONSTRUCTION

9.01 *Owner’s Representative*

- A. Engineer will be Owner’s representative during the construction period. The duties and responsibilities and the limitations of authority of Engineer as Owner’s representative during construction are set forth in the Contract Documents.

9.02 *Visits to Site*

- A. Engineer will make visits to the Site at intervals appropriate to the various stages of construction as Engineer deems necessary in order to observe as an experienced and qualified design professional the progress that has been made and the quality of the various aspects of Contractor’s executed Work. Based on information obtained during such visits and observations, Engineer, for the benefit of Owner, will determine, in general, if the Work is proceeding in accordance with the Contract Documents. Engineer will not be required to make exhaustive or continuous inspections on the Site to check the quality or quantity of the Work. Engineer’s efforts will be directed toward providing for Owner a greater degree of confidence that the completed Work will conform generally to the Contract Documents. On the basis of such visits and observations, Engineer will keep Owner informed of the progress of the Work and will endeavor to guard Owner against defective Work.
- B. Engineer’s visits and observations are subject to all the limitations on Engineer’s authority and responsibility set forth in Paragraph 9.09. Particularly, but without limitation, during or as a result of Engineer’s visits or observations of Contractor’s Work, Engineer will not supervise, direct, control, or have authority over or be responsible for Contractor’s means, methods, techniques, sequences, or procedures of construction, or the safety precautions and programs incident thereto, or for any failure of Contractor to comply with Laws and Regulations applicable to the performance of the Work.

9.03 *Project Representative*

- A. If Owner and Engineer agree, Engineer will furnish a Resident Project Representative to assist Engineer in providing more extensive observation of the Work. The authority and responsibilities of any such Resident Project Representative and assistants will be as provided in the Supplementary Conditions, and limitations on the responsibilities thereof will be as provided in Paragraph 9.09. If Owner designates another representative or agent to represent Owner at the Site who is not Engineer’s consultant, agent or employee, the responsibilities and authority and limitations thereon of such other individual or entity will be as provided in the Supplementary Conditions.

9.04 *Authorized Variations in Work*

- A. Engineer may authorize minor variations in the Work from the requirements of the Contract Documents which do not involve an adjustment in the Contract Price or the Contract Times and are compatible with the design concept of the completed Project as a functioning whole as indicated by the Contract Documents. These may be accomplished by a Field Order and will be binding on Owner and also on Contractor, who shall perform the Work involved promptly. If

Owner or Contractor believes that a Field Order justifies an adjustment in the Contract Price or Contract Times, or both, and the parties are unable to agree on entitlement to or on the amount or extent, if any, of any such adjustment, a Claim may be made therefor as provided in Paragraph 10.05.

9.05 *Rejecting Defective Work*

- A. Engineer will have authority to reject Work which Engineer believes to be defective, or that Engineer believes will not produce a completed Project that conforms to the Contract Documents or that will prejudice the integrity of the design concept of the completed Project as a functioning whole as indicated by the Contract Documents. Engineer will also have authority to require special inspection or testing of the Work as provided in Paragraph 13.04, whether or not the Work is fabricated, installed, or completed.

9.06 *Shop Drawings, Change Orders and Payments*

- A. In connection with Engineer's authority, and limitations thereof, as to Shop Drawings and Samples, see Paragraph 6.17.
- B. In connection with Engineer's authority, and limitations thereof, as to design calculations and design drawings submitted in response to a delegation of professional design services, if any, see Paragraph 6.21.
- C. In connection with Engineer's authority as to Change Orders, see Articles 10, 11, and 12.
- D. In connection with Engineer's authority as to Applications for Payment, see Article 14.

9.07 *Determinations for Unit Price Work*

- A. Engineer will determine the actual quantities and classifications of Unit Price Work performed by Contractor. Engineer will review with Contractor the Engineer's preliminary determinations on such matters before rendering a written decision thereon (by recommendation of an Application for Payment or otherwise). Engineer's written decision thereon will be final and binding (except as modified by Engineer to reflect changed factual conditions or more accurate data) upon Owner and Contractor, subject to the provisions of Paragraph 10.05.

9.08 *Decisions on Requirements of Contract Documents and Acceptability of Work*

- A. Engineer will be the initial interpreter of the requirements of the Contract Documents and judge of the acceptability of the Work thereunder. All matters in question and other matters between Owner and Contractor arising prior to the date final payment is due relating to the acceptability of the Work, and the clarification or interpretation of the requirements of the Contract Documents pertaining to the performance of the Work, will be referred initially to Engineer in writing as soon as practical (so as to maintain the orderly progress of the Work and to avoid any delay to the Work) but in no event later than 30 days of the event giving rise to the question.
- B. Engineer will, with reasonable promptness, render a written decision on the issue referred or render a written answer with respect to any Request for Information Contractor submits to

Engineer seeking clarification as to an aspect of the Contract Documents. If Owner or Contractor believes that any such decision entitles them to an adjustment in the Contract Price or Contract Times or both, a Claim may be made under Paragraph 10.05. The date of Engineer's decision shall be the date of the event giving rise to the issues referenced for the purposes of Paragraph 10.05.B.

C. N/A

D. When functioning as interpreter and judge under this Paragraph 9.08, Engineer will not show partiality to Owner or Contractor and will not be liable in connection with any interpretation or decision rendered in good faith in such capacity.

9.09 *Limitations on Engineer's Authority and Responsibilities*

A. Neither Engineer's authority or responsibility under this Article 9 or under any other provision of the Contract Documents nor any decision made by Engineer in good faith either to exercise or not exercise such authority or responsibility or the undertaking, exercise, or performance of any authority or responsibility by Engineer shall create, impose, or give rise to any duty in contract, tort, or otherwise owed by Engineer to Contractor, any Subcontractor, any Supplier, any other individual or entity, or to any surety for or employee or agent of any of them.

B. Engineer will not supervise, direct, control, or have authority over or be responsible for Contractor's means, methods, techniques, sequences, or procedures of construction, or the safety precautions and programs incident thereto, or for any failure of Contractor to comply with Laws and Regulations applicable to the performance of the Work. Engineer will not be responsible for Contractor's failure to perform the Work in accordance with the Contract Documents.

C. Engineer will not be responsible for the acts or omissions of Contractor or of any Subcontractor, any Supplier, or of any other individual or entity performing any of the Work.

D. Engineer's review of the final Application for Payment and accompanying documentation and all maintenance and operating instructions, schedules, guarantees, bonds, certificates of inspection, tests and approvals, and other documentation required to be delivered by Paragraph 14.07.A will only be to determine generally that their content complies with the requirements of, and in the case of certificates of inspections, tests, and approvals that the results certified indicate compliance with, the Contract Documents.

E. The limitations upon authority and responsibility set forth in this Paragraph 9.09 shall also apply to the Resident Project Representative, if any, and assistants, if any.

9.10 *Compliance with Safety Program*

A. While at the Site, Engineer's employees and representatives shall comply with the specific applicable requirements of Contractor's safety programs of which Engineer has been informed pursuant to Paragraph 6.13.D.

ARTICLE 10 – CHANGES IN THE WORK; CLAIMS

10.01 *Authorized Changes in the Work*

- A. Without invalidating the Contract and without notice to any surety, Owner may, at any time or from time to time, order additions, deletions, or revisions in the Work by a Change Order, or a Work Change Directive. Upon receipt of any such document, Contractor shall promptly proceed with the Work involved which will be performed under the applicable conditions of the Contract Documents (except as otherwise specifically provided).
- B. If Owner and Contractor are unable to agree on entitlement to, or on the amount or extent, if any, of an adjustment in the Contract Price or Contract Times, or both, that should be allowed as a result of a Work Change Directive, a Claim may be made therefor as provided in Paragraph 10.05.

10.02 *Unauthorized Changes in the Work*

- A. Contractor shall not be entitled to an increase in the Contract Price or an extension of the Contract Times with respect to any work performed that is not required by the Contract Documents as amended, modified, or supplemented as provided in Paragraph 3.04, except in the case of an emergency as provided in Paragraph 6.16 or in the case of uncovering Work as provided in Paragraph 13.04.D.

10.03 *Execution of Change Orders*

- A. Owner and Contractor shall execute appropriate Change Orders recommended by Engineer covering:
 - 1. changes in the Work which are: (i) ordered by Owner pursuant to Paragraph 10.01.A, (ii) required because of acceptance of defective Work under Paragraph 13.08.A or Owner's correction of defective Work under Paragraph 13.09, or (iii) agreed to by the parties;
 - 2. changes in the Contract Price or Contract Times which are agreed to by the parties, including any undisputed sum or amount of time for Work actually performed in accordance with a Work Change Directive; and
 - 3. changes in the Contract Price or Contract Times which embody the substance of any written decision rendered by Engineer pursuant to Paragraph 10.05 that are then resolved by the parties to the Agreement.

10.04 *Notification to Surety*

- A. If the provisions of any bond require notice to be given to a surety of any change affecting the general scope of the Work or the provisions of the Contract Documents (including, but not limited to, Contract Price or Contract Times), the giving of any such notice will be Contractor's responsibility. The amount of each applicable bond will be adjusted to reflect the effect of any such change.

10.05 Claims

- A. *Engineer's Decision Required:* All Claims, except those otherwise waived pursuant to the Contract, shall be referred to the Engineer for decision. A decision by Engineer shall be required as a condition precedent to any exercise by Owner or Contractor of any rights or remedies either may otherwise have under the Contract Documents or by Laws and Regulations in respect of such Claims. Owner, however, may, but is not required to, refer to Engineer its assessment of liquidated damages against Contractor in accordance with Paragraph 4.03 of the Agreement or any claim it has with respect to construction defects discovered after Final Completion.
- B. *Notice:* Unless as otherwise set forth herein, written notice stating the general nature of each Claim shall be delivered by the claimant to Engineer and the other party to the Contract promptly (but in no event later than 30 days) after the start of the event giving rise thereto. The responsibility to substantiate a Claim shall rest with the party making the Claim. Notice of the amount or extent of the Claim, with detailed, supporting data shall be delivered to the Engineer and the other party to the Contract within 60 days after the start of such event. A Claim for an adjustment in Contract Price shall be prepared in accordance with the provisions of Paragraph 12.01.B. A Claim for an adjustment in Contract Times shall be prepared in accordance with the provisions of Paragraph 12.02.B. Each Claim shall be accompanied by claimant's written statement that the adjustment claimed is the entire adjustment to which the claimant believes it is entitled as a result of said event.
- C. *Engineer's Action:* Engineer will review each Claim and, within 30 days after receipt of the last submittal of the claimant take one of the following actions in writing:
1. deny the Claim in whole or in part;
 2. approve the Claim; or
 3. notify the parties that the Engineer is unable to resolve the Claim if, in the Engineer's sole discretion, it would be inappropriate for the Engineer to do so. For purposes of further resolution of the Claim, such notice shall be deemed a denial.
- D. In the event that Engineer does not take action on a Claim within said 30 days, the Claim shall be deemed denied.
- E. N/A
- F. No Claim for an adjustment in Contract Price or Contract Times will be valid if not submitted in accordance with this Paragraph 10.05.
- G. All Claims Contractor submits for an adjustment in Contract Time or Contract Price shall be subject to the No-Damage-For-Delay provision in Paragraph 10.06 of the Agreement.

ARTICLE 11 – COST OF THE WORK; ALLOWANCES; UNIT PRICE WORK

11.01 *Cost of the Work*

A. *Costs Included:* The term Cost of the Work means the sum of all costs, except those excluded in Paragraph 11.01.B, necessarily incurred and paid by Contractor in the proper performance of the Work. When the value of any Work covered by a Change Order or when a Claim for an adjustment in Contract Price is determined on the basis of Cost of the Work, the costs to be reimbursed to Contractor will be only those additional or incremental costs required because of the change in the Work or because of the event giving rise to the Claim. Except as otherwise may be agreed to in writing by Owner, such costs shall be in amounts no higher than those prevailing in the locality of the Project, shall not include any of the costs itemized in Paragraph 11.01.B, and shall include only the following items:

1. Payroll costs for employees in the direct employ of Contractor in the performance of the Work under schedules of job classifications agreed upon by Owner and Contractor. Such employees shall include, without limitation, superintendents, foremen, and other personnel employed full time on the Work. Payroll costs for employees not employed full time on the Work shall be apportioned on the basis of their time spent on the Work. Payroll costs shall include, but not be limited to, salaries and wages plus the cost of fringe benefits, which shall include social security contributions, unemployment, excise, and payroll taxes, workers' compensation, health and retirement benefits, bonuses, sick leave, vacation and holiday pay applicable thereto. The expenses of performing Work outside of regular working hours, on Saturday, Sunday, or legal holidays, shall be included in the above to the extent authorized by Owner.
2. Cost of all materials and equipment furnished and incorporated in the Work, including costs of transportation and storage thereof, and Suppliers' field services required in connection therewith. All cash discounts shall accrue to Contractor unless Owner deposits funds with Contractor with which to make payments, in which case the cash discounts shall accrue to Owner. All trade discounts, rebates and refunds and returns from sale of surplus materials and equipment shall accrue to Owner, and Contractor shall make provisions so that they may be obtained.
3. Payments made by Contractor to Subcontractors for Work performed by Subcontractors. If required by Owner, Contractor shall obtain competitive bids from subcontractors acceptable to Owner and Contractor and shall deliver such bids to Owner, who will then determine, with the advice of Engineer, which bids, if any, will be acceptable. If any subcontract provides that the Subcontractor is to be paid on the basis of Cost of the Work plus a fee, the Subcontractor's Cost of the Work and fee shall be determined in the same manner as Contractor's Cost of the Work and fee as provided in this Paragraph 11.01.
4. Costs of special consultants (including but not limited to engineers, architects, testing laboratories, surveyors) employed for services specifically related to the Work. Attorneys and accountants shall not constitute a Cost of the Work.
5. Supplemental costs including the following:

- a. The proportion of necessary transportation, travel, and subsistence expenses of Contractor's employees incurred in discharge of duties connected with the Work.
- b. Cost, including transportation and maintenance, of all materials, supplies, equipment, machinery, appliances, office, and temporary facilities at the Site, and hand tools not owned by the workers, which are consumed in the performance of the Work, and cost, less market value, of such items used but not consumed which remain the property of Contractor.
- c. Rentals of all construction equipment and machinery, and the parts thereof whether rented from Contractor or others in accordance with rental agreements approved by Owner with the advice of Engineer, and the costs of transportation, loading, unloading, assembly, dismantling, and removal thereof. All such costs shall be in accordance with the terms of said rental agreements. The rental of any such equipment, machinery, or parts shall cease when the use thereof is no longer necessary for the Work.
- d. Sales, consumer, use, and other similar taxes related to the Work, and for which Contractor is liable, as imposed by Laws and Regulations.
- e. Deposits lost for causes other than negligence of Contractor, any Subcontractor, or anyone directly or indirectly employed by any of them or for whose acts any of them may be liable, and royalty payments and fees for permits and licenses.
- f. Losses and damages (and related expenses) caused by damage to the Work, not compensated by insurance or otherwise, sustained by Contractor in connection with the performance of the Work (except losses and damages within the deductible amounts of property insurance established in accordance with Paragraph 5.06.D), provided such losses and damages have resulted from causes other than the negligence of Contractor, any Subcontractor, or anyone directly or indirectly employed by any of them or for whose acts any of them may be liable. Such losses shall include settlements made with the written consent and approval of Owner. No such losses, damages, and expenses shall be included in the Cost of the Work for the purpose of determining Contractor's fee.
- g. The cost of utilities, fuel, and sanitary facilities at the Site.
- h. Minor expenses such as telegrams, long distance telephone calls, telephone service at the Site, express and courier services, and similar petty cash items in connection with the Work.
- i. The costs of premiums for all bonds and insurance Contractor is required by the Contract Documents to purchase and maintain.

B. *Costs Excluded:* The term Cost of the Work shall not include any of the following items:

1. Payroll costs and other compensation of Contractor's officers, executives, principals (of partnerships and sole proprietorships), general managers, safety managers, engineers, architects, estimators, attorneys, auditors, accountants, purchasing and contracting agents, expeditors, timekeepers, clerks, and other personnel employed by Contractor, whether at the

Site or in Contractor's principal or branch office for general administration of the Work and not specifically included in the agreed upon schedule of job classifications referred to in Paragraph 11.01.A.1 or specifically covered by Paragraph 11.01.A.4, all of which are to be considered administrative costs covered by the Contractor's fee.

2. Expenses of Contractor's principal and branch offices other than Contractor's office at the Site.
 3. Any part of Contractor's capital expenses, including interest on Contractor's capital employed for the Work and charges against Contractor for delinquent payments.
 4. Costs due to the negligence, recklessness, or intentional misconduct of Contractor, any Subcontractor, or anyone directly or indirectly employed by any of them or for whose acts any of them may be liable, including but not limited to, the correction of defective Work, disposal of materials or equipment wrongly supplied, and making good any damage to property.
 5. Other overhead or general expense costs of any kind and the costs of any item not specifically and expressly included in Paragraphs 11.01.A.
- C. *Contractor's Fee:* When all the Work is performed on the basis of cost-plus, Contractor's fee shall be determined as set forth in the Agreement. When the value of any Work covered by a Change Order or when a Claim for an adjustment in Contract Price is determined on the basis of Cost of the Work, Contractor's fee shall be determined as set forth in Paragraph 12.01.C.
- D. *Documentation:* Whenever the Cost of the Work for any purpose is to be determined pursuant to Paragraphs 11.01.A and 11.01.B, Contractor will establish and maintain records thereof in accordance with generally accepted accounting practices and submit in a form acceptable to Engineer an itemized cost breakdown together with supporting data. Owner shall have the right to inspect and audit Contractor's books and cost records at any time during the course of the Project and for three years after Final Completion. Owner must give Contractor 7 days written notice that it plans on inspecting and auditing Contractor's books and cost records.

11.02 Allowances

- A. It is understood that Contractor has included in the Contract Price all allowances specifically identified and called for in the Contract Documents and shall cause the Work so covered to be performed for such sums and by such persons or entities as may be acceptable to Owner and Engineer.
- B. *Cash Allowances:*
1. Contractor agrees that:
 - a. the cash allowances include the cost to Contractor (less any applicable trade discounts) of materials and equipment required by the allowances to be delivered at the Site, and all applicable taxes; and

- b. Contractor's costs for unloading and handling on the Site, labor, installation, overhead, profit, and other expenses contemplated for the cash allowances have been included in the Contract Price and not in the allowances, and no demand for additional payment on account of any of the foregoing will be valid.

C. *Contingency Allowance:*

1. Contractor agrees that a contingency allowance, if any, is for the sole use of Owner to cover unanticipated costs.
- D. Prior to final payment, an appropriate Change Order will be issued as recommended by Engineer to reflect actual amounts due Contractor on account of Work covered by allowances, and the Contract Price shall be correspondingly adjusted.

11.03 *Unit Price Work*

- A. Where the Contract Documents provide that all or part of the Work is to be Unit Price Work, initially the Contract Price will be deemed to include for all Unit Price Work an amount equal to the sum of the unit price for each separately identified item of Unit Price Work times the estimated quantity of each item as indicated in the Agreement.
- B. The estimated quantities of items are estimates and solely for the purpose of comparison of Bids and determining an initial Contract Price. Determinations of the actual quantities and classifications of Unit Price Work performed by Contractor will be made by Engineer subject to the provisions of Paragraph 9.07.
- C. Each unit price shall be guaranteed and will be deemed to include an amount considered by Contractor to be adequate to cover Contractor's overhead and profit for each separately identified item.
- D. Owner or Contractor may make a Claim for an adjustment in the Contract Price in accordance with Paragraph 10.05 if:
 1. the quantity of any item of Unit Price Work performed by Contractor differs materially and significantly from the estimated quantity of such item indicated in the Agreement; and
 2. there is no corresponding adjustment with respect to any other item of Work; and
 3. Contractor believes that Contractor is entitled to an increase in Contract Price as a result of having incurred additional expense for supplying additional units or Owner believes that Owner is entitled to a decrease in Contract Price for Contractor supplying fewer units and the parties are unable to agree as to the amount of any such increase or decrease.

ARTICLE 12 – CHANGE OF CONTRACT PRICE; CHANGE OF CONTRACT TIMES

12.01 *Change of Contract Price*

- A. The Contract Price may only be changed by a Change Order. Any Claim for an adjustment in the Contract Price shall be based on written notice submitted by the party making the Claim to the

Engineer and the other party to the Contract in accordance with the provisions of Paragraph 10.05.

B. The value of any Work covered by a Change Order or of any Claim for an adjustment in the Contract Price will be determined as follows:

1. where the Work involved is covered by unit prices contained in the Contract Documents, by application of such unit prices to the quantities of the items involved (subject to the provisions of Paragraph 11.03); or
2. where the Work involved is not covered by unit prices contained in the Contract Documents, by a mutually agreed lump sum (which may include an allowance for overhead and profit not necessarily in accordance with Paragraph 12.01.C.2); or
3. where the Work involved is not covered by unit prices contained in the Contract Documents and agreement to a lump sum is not reached under Paragraph 12.01.B.2, on the basis of the Cost of the Work (determined as provided in Paragraph 11.01 excluding 11.01.A.1) plus a Contractor's fee for overhead and profit (determined as provided in Paragraph 12.01.C). Contractor shall keep detailed backup supporting its actual costs incurred associated with the adjustment in Contract Price.

C. *Contractor's Fee:* The Contractor's fee for overhead and profit shall be determined as follows:

1. a mutually acceptable fixed fee; or
2. if a fixed fee is not agreed upon, then a fee based on the following percentages of the various portions of the Cost of the Work:
 - a. for costs incurred under Paragraphs 11.01.A.1 and 11.01.A.2, the Contractor's fee shall be 15 percent;
 - b. for costs incurred under Paragraph 11.01.A.3, the Contractor's fee shall be five percent;
 - c. where one or more tiers of subcontracts are on the basis of Cost of the Work plus a fee and no fixed fee is agreed upon, the intent of Paragraphs 12.01.C.2.a and 12.01.C.2.b is that the Subcontractor who actually performs the Work, at whatever tier, will be paid a fee of 15 percent of the costs incurred by such Subcontractor under Paragraphs 11.01.A.1 and 11.01.A.2 and that any higher tier Subcontractor and Contractor will each be paid a fee of five percent of the amount paid to the next lower tier Subcontractor;
 - d. no fee shall be payable on the basis of costs itemized under Paragraphs 11.01.A.4, 11.01.A.5, and 11.01.B;
 - e. the amount of credit to be allowed by Contractor to Owner for any change which results in a net decrease in cost will be the amount of the actual net decrease in cost plus a deduction in Contractor's fee by an amount equal to five percent of such net decrease; and

- f. when both additions and credits are involved in any one change, the adjustment in Contractor's fee shall be computed on the basis of the net change in accordance with Paragraphs 12.01.C.2.a through 12.01.C.2.e, inclusive.

12.02 *Change of Contract Times*

- A. The Contract Times may only be changed by a Change Order. Any Claim for an adjustment in the Contract Times shall be based on written notice submitted by the party making the Claim to the Engineer and the other party to the Contract in accordance with the provisions of Paragraph 10.05.
- B. Any adjustment of the Contract Times covered by a Change Order or any Claim for an adjustment in the Contract Times will be determined in accordance with the provisions of this Article 12.

12.03 *Delays*

- A. Where Contractor is prevented from completing any part of the Work within the Contract Times due to delay beyond the control of Contractor, the Contract Times will be extended in an amount equal to the time lost due to such delay if a Claim is made therefor as provided in Paragraph 12.02.A. Delays beyond the control of Contractor shall include, but not be limited to, acts or neglect by Owner, acts or neglect of utility owners or other contractors performing other work as contemplated by Article 7, fires not caused by Contractor or anyone whom Contractor is responsible, floods not caused by Contractor or anyone whom Contractor is responsible, epidemics, abnormal weather conditions not anticipated or customary in Volusia County, or acts of God.
- B. If Owner, Engineer, or other contractors or utility owners performing other work for Owner as contemplated by Article 7, or anyone for whom Owner is responsible, delays, disrupts, or interferes with the performance or progress of the Work, then Contractor shall only be entitled to an equitable adjustment in Contract Times. Contractor's entitlement to an adjustment of the Contract Times is conditioned on such adjustment being essential to Contractor's ability to complete the Work within the Contract Times. Contractor must provide Engineer and Engineer an updated Progress Schedule reflecting how the critical path has been impacted as a condition precedent to being entitled to an adjustment in Contract Time.
- C. If Contractor is delayed in the performance or progress of the Work by fire, flood, epidemic, abnormal weather conditions not anticipated or customary in Volusia County, acts of God, acts or failures to act of utility owners not under the control of Owner, or other causes not the fault of and beyond control of Owner and Contractor, then Contractor shall only be entitled to an equitable adjustment in Contract Times, if such adjustment is essential to Contractor's ability to complete the Work within the Contract Times. Contractor must provide Engineer and Engineer an updated Progress Schedule reflecting how the critical path has been impacted as a condition precedent to being entitled to an adjustment in Contract Time.
- D. Owner, Engineer, and their officers, directors, members, partners, employees, agents, consultants, or subcontractors shall not be liable to Contractor for any claims, costs, losses, or damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other

professionals and all court or arbitration or other dispute resolution costs) sustained by Contractor on or in connection with any other project or anticipated project.

- E. Contractor shall not be entitled to an adjustment in Contract Price or Contract Times for delays within the control of Contractor. Delays attributable to and within the control of a Subcontractor or Supplier shall be deemed to be delays within the control of Contractor.

ARTICLE 13 – TESTS AND INSPECTIONS; CORRECTION, REMOVAL OR ACCEPTANCE OF DEFECTIVE WORK

13.01 *Notice of Defects*

- A. Prompt notice of all defective Work of which Owner or Engineer has actual knowledge will be given to Contractor. Defective Work may be rejected, corrected, or accepted as provided in this Article 13.

13.02 *Access to Work*

- A. Owner, Engineer, their consultants and other representatives and personnel of Owner, independent testing laboratories, and governmental agencies with jurisdictional interests will have access to the Site and the Work at reasonable times for their observation, inspection, and testing. Contractor shall provide them proper and safe conditions for such access and advise them of Contractor's safety procedures and programs so that they may comply therewith as applicable.

13.03 *Tests and Inspections*

- A. Contractor shall give Engineer timely notice of readiness of the Work for all required inspections, tests, or approvals and shall cooperate with inspection and testing personnel to facilitate required inspections or tests.
- B. Owner shall employ and pay for the services of an independent testing laboratory to perform all inspections, tests, or approvals required by the Contract Documents except:
 - 1. for inspections, tests, or approvals covered by Paragraphs 13.03.C and 13.03.D below;
 - 2. that costs incurred in connection with tests or inspections conducted pursuant to Paragraph 13.04.B shall be paid as provided in Paragraph 13.04.C; and
 - 3. as otherwise specifically provided in the Contract Documents.
- C. If Laws or Regulations of any public body having jurisdiction require any Work (or part thereof) specifically to be inspected, tested, or approved by an employee or other representative of such public body, Contractor shall assume full responsibility for arranging and obtaining such inspections, tests, or approvals, pay all costs in connection therewith, and furnish Engineer the required certificates of inspection or approval.
- D. Contractor shall be responsible for arranging and obtaining and shall pay all costs in connection with any inspections, tests, or approvals required for Owner's and Engineer's acceptance of materials or equipment to be incorporated in the Work; or acceptance of materials, mix designs,

or equipment submitted for approval prior to Contractor's purchase thereof for incorporation in the Work. Such inspections, tests, or approvals shall be performed by organizations acceptable to Owner and Engineer.

- E. If any Work (or the work of others) that is to be inspected, tested, or approved is covered by Contractor without written concurrence of Engineer, Contractor shall, if requested by Engineer, uncover such Work for observation.
- F. Uncovering Work as provided in Paragraph 13.03.E shall be at Contractor's expense unless Contractor has given Engineer timely notice of Contractor's intention to cover the same and Engineer has not acted with reasonable promptness in response to such notice.

13.04 *Uncovering Work*

- A. If any Work is covered contrary to the written request of Engineer, it must, if requested by Engineer, be uncovered for Engineer's observation and replaced at Contractor's expense.
- B. If Engineer considers it necessary or advisable that covered Work be observed by Engineer or inspected or tested by others, Contractor, at Engineer's request, shall uncover, expose, or otherwise make available for observation, inspection, or testing as Engineer may require, that portion of the Work in question, furnishing all necessary labor, material, and equipment.
- C. If it is found that the uncovered Work is defective, Contractor shall pay all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to such uncovering, exposure, observation, inspection, and testing, and of satisfactory replacement or reconstruction (including but not limited to all costs of repair or replacement of work of others); and Owner shall be entitled to an appropriate decrease in the Contract Price. If the parties are unable to agree as to the amount thereof, Owner may make a Claim therefor as provided in Paragraph 10.05.
- D. If the uncovered Work is not found to be defective, Contractor shall be allowed an increase in the Contract Price or an extension of the Contract Times, or both, directly attributable to such uncovering, exposure, observation, inspection, testing, replacement, and reconstruction. If the parties are unable to agree as to the amount or extent thereof, Contractor may make a Claim therefor as provided in Paragraph 10.05.

13.05 *Owner May Stop the Work*

- A. If the Work is defective, or Contractor fails to supply sufficient skilled workers or suitable materials or equipment, or fails to perform the Work in such a way that the completed Work will conform to the Contract Documents, Owner may order Contractor to stop the Work, or any portion thereof, until the cause for such order has been eliminated; however, this right of Owner to stop the Work shall not give rise to any duty on the part of Owner to exercise this right for the benefit of Contractor, any Subcontractor, any Supplier, any other individual or entity, or any surety for, or employee or agent of any of them.

13.06 *Correction or Removal of Defective Work*

- A. Promptly after receipt of written notice, Contractor shall correct all defective Work, whether or not fabricated, installed, or completed, or, if the Work has been rejected by Engineer, remove it from the Project and replace it with Work that is not defective. Contractor shall pay all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to such correction or removal (including but not limited to all costs of repair or replacement of work of others).
- B. When correcting defective Work under the terms of this Paragraph 13.06 or Paragraph 13.07, Contractor shall take no action that would void or otherwise impair Owner's special warranty and guarantee, if any, on said Work.

13.07 *Correction Period*

- A. If within one year after the date of Substantial Completion (or such longer period of time as may be prescribed by the terms of any applicable special guarantee required by the Contract Documents) or by any specific provision of the Contract Documents, any Work is found to be defective, or if the repair of any damages to the land or areas made available for Contractor's use by Owner or permitted by Laws and Regulations as contemplated in Paragraph 6.11.A is found to be defective, Contractor shall promptly, without cost to Owner and in accordance with Owner's written instructions:
 - 1. repair such defective land or areas; or
 - 2. correct such defective Work; or
 - 3. if the defective Work has been rejected by Owner, remove it from the Project and replace it with Work that is not defective, and
 - 4. satisfactorily correct or repair or remove and replace any damage to other Work, to the work of others or other land or areas resulting therefrom.
- B. If Contractor does not promptly comply with the terms of Owner's written instructions, or in an emergency where delay would cause serious risk of loss or damage, Owner may have the defective Work corrected or repaired or may have the rejected Work removed and replaced. All claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to such correction or repair or such removal and replacement (including but not limited to all costs of repair or replacement of work of others) will be paid by Contractor.
- C. In special circumstances where a particular item of equipment is placed in continuous service before Substantial Completion of all the Work, the correction period for that item may start to run from an earlier date if so provided in the Specifications.

- D. Where defective Work (and damage to other Work resulting therefrom) has been corrected or removed and replaced under this Paragraph 13.07, the correction period hereunder with respect to such Work will be extended for an additional period of one year after such correction or removal and replacement has been satisfactorily completed.
- E. Contractor's obligations under this Paragraph 13.07 are in addition to any other obligation or warranty. The provisions of this Paragraph 13.07 shall not be construed as a substitute for, or a waiver of, the provisions of any applicable statute of limitation or repose.

13.08 *Acceptance of Defective Work*

- A. If, instead of requiring correction or removal and replacement of defective Work, Owner (and, prior to Engineer's recommendation of final payment, Engineer) prefers to accept it, Owner may do so. Contractor shall pay all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) attributable to Owner's evaluation of and determination to accept such defective Work (such costs to be approved by Engineer as to reasonableness) and for the diminished value of the Work to the extent not otherwise paid by Contractor pursuant to this sentence. If any such acceptance occurs prior to Engineer's recommendation of final payment, a Change Order will be issued incorporating the necessary revisions in the Contract Documents with respect to the Work, and Owner shall be entitled to an appropriate decrease in the Contract Price, reflecting the diminished value of Work so accepted. If the parties are unable to agree as to the amount thereof, Owner may make a Claim therefor as provided in Paragraph 10.05. If the acceptance occurs after such recommendation, an appropriate amount will be paid by Contractor to Owner.
- B. Owner shall not be deemed to have accepted any defective work from Contractor that was not discovered by Engineer or Owner unless the defect was specifically detailed to Owner in writing by Contractor notifying Owner of the defective work and Owner notifies Contractor in writing that it will accept the defective work (whether as-is, by receiving a credit, or receiving other compensation, losses, or damage from Contractor as discussed above in Paragraph 13.08). Contractor recognizes and understands that it shall not be relieved of responsibility or liability with performing defective Work even if such defective work previously passed inspection by any inspector, including, without limitation, an inspector with the governing building department or a threshold inspector.

13.09 *Owner May Correct Defective Work*

- A. If Contractor fails within a reasonable time after written notice from Engineer to correct defective Work, or to remove and replace rejected Work as required by Engineer in accordance with Paragraph 13.06.A, or if Contractor fails to perform the Work in accordance with the Contract Documents, or if Contractor fails to comply with any other provision of the Contract Documents, Owner may, after 7 days written notice to Contractor, correct, or remedy any such deficiency.
- B. In exercising the rights and remedies under this Paragraph 13.09, Owner shall proceed expeditiously. In connection with such corrective or remedial action, Owner may exclude Contractor from all or part of the Site, take possession of all or part of the Work and suspend Contractor's services related thereto, take possession of Contractor's tools, appliances,

construction equipment and machinery at the Site, and incorporate in the Work all materials and equipment stored at the Site or for which Owner has paid Contractor but which are stored elsewhere. Contractor shall allow Owner, Owner's representatives, agents and employees, Owner's other contractors, and Engineer and Engineer's consultants access to the Site to enable Owner to exercise the rights and remedies under this Paragraph.

- C. All claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) incurred or sustained by Owner in exercising the rights and remedies under this Paragraph 13.09 will be charged against Contractor, and a Change Order will be issued incorporating the necessary revisions in the Contract Documents with respect to the Work; and Owner shall be entitled to an appropriate decrease in the Contract Price. If the parties are unable to agree as to the amount of the adjustment, Owner may make a Claim therefor as provided in Paragraph 10.05. Such claims, costs, losses and damages will include but not be limited to all costs of repair, or replacement of work of others destroyed or damaged by correction, removal, or replacement of Contractor's defective Work.
- D. Contractor shall not be allowed an extension of the Contract Times because of any delay in the performance of the Work attributable to the exercise by Owner of Owner's rights and remedies under this Paragraph 13.09.

ARTICLE 14 – PAYMENTS TO CONTRACTOR AND COMPLETION

14.01 *Schedule of Values*

- A. The Schedule of Values established as provided in Paragraph 2.07.A will serve as the basis for progress payments and will be incorporated into a form of Application for Payment acceptable to Engineer and Owner. Progress payments on account of Unit Price Work will be based on the number of units completed.

14.02 *Progress Payments*

A. *Applications for Payments:*

1. Contractor, on the 25th of each month, shall submit to Engineer for review an Application for Payment (in a form approved by Owner) filled out and signed by Contractor covering the Work completed or which will be completed by the end of the month, accompanied by such supporting documentation as is required by the Contract Documents. If payment is requested on the basis of materials and equipment not incorporated in the Work but delivered and suitably stored at the Site or at another location agreed to in writing, the Application for Payment shall also be accompanied by a bill of sale, invoice, or other documentation warranting that Owner has received the materials and equipment free and clear of all Liens and evidence that the materials and equipment are covered by appropriate property insurance or other arrangements to protect Owner's interest therein, all of which must be satisfactory to Owner.
2. Beginning with the second Application for Payment, each Application shall include an affidavit of Contractor (in a form approved by Owner) certifying that all previous progress

payments received on account of the Work have been applied to pay Contractor's Subcontractors and Suppliers and to otherwise discharge Contractor's legitimate obligations associated with prior Applications for Payment.

3. The amount of retainage with respect to progress payments is set forth in Paragraph 6.02.B of the Agreement.

B. Review of Applications:

1. Engineer will, within 10 days after receipt of each Application for Payment, indicate in writing a recommendation of payment or nonpayment and present the Application to Owner. If Contractor's Application for Payment is deficient, Owner shall reject the payment request and return it to Contractor within 20 business days after the date on which the payment request is stamped as received indicating in writing the reasons for refusing to recommend payment; Contractor shall make the necessary corrections and resubmit the Application.
2. Engineer's recommendation of any payment requested in an Application for Payment will constitute a representation by Engineer to Owner, based on Engineer's observations of the executed Work as an experienced and qualified design professional, and on Engineer's review of the Application for Payment and the accompanying data and schedules, that to the best of Engineer's knowledge, information and belief:
 - a. the Work has progressed to the point indicated;
 - b. the quality of the Work is generally in accordance with the Contract Documents (subject to an evaluation of the Work as a functioning whole prior to or upon Substantial Completion, the results of any subsequent tests called for in the Contract Documents, a final determination of quantities and classifications for Unit Price Work under Paragraph 9.07, and any other qualifications stated in the recommendation); and
 - c. the conditions precedent to Contractor's being entitled to such payment appear to have been fulfilled in so far as it is Engineer's responsibility to observe the Work.
3. By recommending any such payment Engineer will not thereby be deemed to have represented that:
 - a. inspections made to check the quality or the quantity of the Work as it has been performed have been exhaustive, extended to every aspect of the Work in progress, or involved detailed inspections of the Work beyond the responsibilities specifically assigned to Engineer in the Contract Documents; or
 - b. there may not be other matters or issues between the parties that might entitle Contractor to be paid additionally by Owner or entitle Owner to withhold payment to Contractor.
4. Neither Engineer's review of Contractor's Work for the purposes of recommending payments nor Engineer's recommendation of any payment, including final payment, will impose responsibility on Engineer:

- a. to supervise, direct, or control the Work, or
 - b. for the means, methods, techniques, sequences, or procedures of construction, or the safety precautions and programs incident thereto, or
 - c. for Contractor's failure to comply with Laws and Regulations applicable to Contractor's performance of the Work, or
 - d. to make any examination to ascertain how or for what purposes Contractor has used the moneys paid on account of the Contract Price, or
 - e. to determine that title to any of the Work, materials, or equipment has passed to Owner free and clear of any Liens.
5. Neither Engineer's review of Contractor's Work for purposes of recommending payments nor Engineer's recommendation of any payment shall relieve Contractor for any responsibility or liability with defects in the Work.
6. Engineer may refuse to recommend the whole or any part of any payment if, in Engineer's opinion, it would be incorrect to make the representations to Owner stated in Paragraph 14.02.B.2. Engineer may also refuse to recommend any such payment or, because of subsequently discovered evidence or the results of subsequent inspections or tests, revise or revoke any such payment recommendation previously made, to such extent as may be necessary in Engineer's opinion to protect Owner from loss because:
- a. the Work is defective, or completed Work has been damaged, requiring correction or replacement;
 - b. the Contract Price has been reduced by Change Orders;
 - c. Owner has been required to correct defective Work or complete Work in accordance with Paragraph 13.09; or
 - d. Engineer has actual knowledge of the occurrence of any of the events enumerated in Paragraph 15.02.A.

C. Payment Becomes Due:

1. Subject to the provisions of Paragraph 14.02.D and Florida Statute §218.735, Owner shall pay Contractor 25 business days after the date on which the payment request is stamped as received by Engineer.

D. Reduction in Payment:

1. Owner may refuse to make payment of the full amount recommended by Engineer because:
- a. claims have been made against Owner on account of Contractor's performance or furnishing of the Work;

- b. Liens have been filed in connection with the Work, except where Contractor has delivered a specific bond satisfactory to Owner to secure the satisfaction and discharge of such Liens;
 - c. there are other items entitling Owner to a set-off against the amount recommended; or
 - d. Owner has actual knowledge of the occurrence of any of the events enumerated in Paragraphs 14.02.B.5.a through 14.02.B.5.c or Paragraph 15.02.A.
- 2. If Owner refuses to make payment of the full amount recommended by Engineer, Owner will give Contractor immediate written notice (with a copy to Engineer) stating the reasons for such action and promptly pay Contractor any undisputed amount remaining after deduction of the amount so withheld. Owner shall promptly pay Contractor the amount so withheld, or any adjustment thereto agreed to by Owner and Contractor, when Contractor remedies the reasons for such action.
- 3. Upon a subsequent determination that Owner's refusal of payment was not justified, the amount wrongfully withheld shall be treated as an amount due as determined by Paragraph 14.02.C.1 and subject to interest as provided in the Agreement.

14.03 *Contractor's Warranty of Title*

- A. Contractor warrants and guarantees that title to all Work, materials, and equipment covered by any Application for Payment, whether incorporated in the Project or not, will pass to Owner no later than the time of payment free and clear of all Liens.

14.04 *Substantial Completion*

- A. When Contractor considers the entire Work ready for its intended use Contractor shall notify Owner and Engineer in writing that the entire Work is substantially complete and request that Engineer issue a certificate of Substantial Completion; provided, however, that Substantial Completion shall not occur until the governing building department issues a Certificate of Occupancy (or Certificate of Completion, if applicable) that allows Owner to utilize the entire Project for the purposes for which it is intended.
- B. Promptly after Contractor's notification, Owner, Contractor, and Engineer shall make an inspection of the Work to determine the status of completion. If Engineer does not consider the Work substantially complete, Engineer will notify Contractor in writing giving the reasons therefor.
- C. If Engineer considers the Work substantially complete, Engineer will deliver to Owner a tentative certificate of Substantial Completion which shall fix the date of Substantial Completion subject to the Certificate of Occupancy (or Completion).
- D. Owner shall have the right to exclude Contractor from the Site after the date of Substantial Completion subject to allowing Contractor reasonable access to remove its property and complete or correct items on the Punchlist.

14.05 *Partial Utilization*

- A. Prior to Substantial Completion of all the Work, Owner may use or occupy any substantially completed part of the Work which has specifically been identified in the Contract Documents, or which Owner, Engineer, and Contractor agree constitutes a separately functioning and usable part of the Work that can be used by Owner for its intended purpose without significant interference with Contractor's performance of the remainder of the Work, subject to the following conditions:
1. Owner at any time may request Contractor in writing to permit Owner to use or occupy any such part of the Work which Owner believes to be ready for its intended use and substantially complete. If and when Contractor agrees that such part of the Work is substantially complete, Contractor, Owner, and Engineer will follow the procedures of Paragraph 14.04.A through D for that part of the Work.
 2. Contractor at any time may notify Owner and Engineer in writing that Contractor considers any such part of the Work ready for its intended use and substantially complete and request Engineer to issue a certificate of Substantial Completion for that part of the Work.
 3. Within a reasonable time after either such request, Owner, Contractor, and Engineer shall make an inspection of that part of the Work to determine its status of completion. If Engineer does not consider that part of the Work to be substantially complete, Engineer will notify Owner and Contractor in writing giving the reasons therefor. If Engineer considers that part of the Work to be substantially complete, the provisions of Paragraph 14.04 will apply with respect to certification of Substantial Completion of that part of the Work and the division of responsibility in respect thereof and access thereto.
 4. No use or occupancy or separate operation of part of the Work may occur prior to compliance with the requirements of Paragraph 5.10 regarding property insurance.

14.06 *Final Completion- Punchlist*

- A. Within 30 days from Contractor achieving Substantial Completion the following must occur: Contractor shall notify Engineer and Owner in writing that the Project is complete in which case Engineer and Owner will promptly make a final inspection (or inspections, if necessary) with Contractor for the purpose of reviewing and developing a detailed Punchlist of items that are incomplete, unsatisfactory or unacceptable, or defective that Contractor is required to complete. However, if the Contract Price is \$10 million or more, the foregoing must occur within 60 days from Contractor achieving Substantial Completion.
- B. The Punchlist shall be provided to Contractor by Engineer and/or Owner no later than 5 days after the punchlist of items has been reviewed and developed in accordance with paragraph 14.06.A above. Contractor shall then have 30 days from its receipt of the Punchlist to perform and complete the corrective work identified therein.
- C. Final Completion shall be the date that Engineer or Owner determines that Contractor satisfactorily performed and completed the corrective work identified in the Punchlist in addition to any other work required of Contractor under the Contract Documents.

14.07 *Final Payment*

A. Application for Payment:

1. After Contractor achieves Final Completion and furnishes all required maintenance and operating instructions, schedules, guarantees, bonds, certificates or other evidence of insurance, certificates of inspection, marked-up or as-built record documents (as provided in Paragraph 6.12), and other documents, Contractor may make application for final payment inclusive of retainage following the procedure for progress payments.
2. The final Application for Payment shall be accompanied (except as previously delivered) by:
 - a. all documentation called for in the Contract Documents, including, but not limited to, the evidence that Contractor maintains completed operations coverage for its required commercial general liability (CGL) insurance;
 - b. consent of the surety, if any, to final payment;
 - c. a list of all Claims against Owner that Contractor believes are unsettled; and
 - d. complete and legally effective final releases or waivers (satisfactory to Owner) of all Lien rights or Liens filed in connection with the Work.
3. In lieu of the final releases or waivers of Liens specified in Paragraph 14.07.A.2.d and as approved by Owner, Contractor may furnish an affidavit of Contractor whereby Contractor swears that: (i) all payrolls, material and equipment bills, and other indebtedness connected with the Work for which Owner has paid Contractor through the date of Contractor's final Application for Payment have been paid by Contractor and (ii) all payrolls, material and equipment bills, and other indebtedness connected with the Work for which Owner will pay Contractor in the final Application for Payment will represent Contractor's receipt of all payments for the Work except for the specifically enumerated Claims (and Claims not specifically enumerated are deemed released and waived) and that Contractor will promptly pay its Subcontractors and Suppliers upon its receipt of the final payment.
4. The documents and materials that Contractor is required to submit to accompany its Final Application for Payment (as set forth in this Paragraph 14.07) are conditions precedent to final payment.

B. Engineer's Review of Application and Acceptance:

1. If, on the basis of Engineer's observation of the Work during construction and final inspection, and Engineer's review of the final Application for Payment and accompanying documentation as required by the Contract Documents, Engineer is satisfied that the Work has been completed and Contractor's other obligations under the Contract Documents have been fulfilled, Engineer will, within 10 days after receipt of the final Application for Payment, indicate in writing Engineer's recommendation of payment and present the Application for Payment to Owner for payment. At the same time Engineer will also give written notice to Owner and Contractor that the Work is acceptable subject to the provisions

of Paragraph 14.09 below. Otherwise, Engineer will return the Application for Payment to Contractor, indicating in writing the reasons for refusing to recommend final payment, in which case Contractor shall make the necessary corrections and resubmit the Application for Payment.

C. Payment Becomes Due:

1. Twenty-five (25) business days after the date on which the Application for Payment is stamped as received by Engineer, the amount recommended by Engineer, less any sum Owner is entitled to set off against Engineer's recommendation, including but not limited to liquidated damages, will become due and will be paid by Owner to Contractor.

14.08 *Final Completion Delayed*

- A. If, through no fault of Contractor, final completion of the Work is significantly delayed, and if Engineer so confirms, Owner shall, upon receipt of Contractor's final Application for Payment (for Work fully completed and accepted) and recommendation of Engineer, and without terminating the Contract, make payment of the balance due for that portion of the Work fully completed and accepted. If the remaining balance to be held by Owner for Work not fully completed or corrected is less than the retainage stipulated in the Agreement, and if bonds have been furnished as required in Paragraph 5.01, the written consent of the surety to the payment of the balance due for that portion of the Work fully completed and accepted shall be submitted by Contractor to Engineer with the Application for such payment. Such payment shall be made under the terms and conditions governing final payment, except that it shall not constitute a waiver of Claims.

14.09 *Waiver of Claims*

- A. The making and acceptance of final payment will constitute:
1. a waiver of all Claims by Owner against Contractor, except Claims arising from unsettled Liens, from defective Work, from failure to comply with the Contract Documents or the terms of any special guarantees specified therein, or from Contractor's continuing obligations under the Contract Documents; and
 2. a waiver of all Claims by Contractor against Owner other than those previously made in accordance with the requirements herein and expressly acknowledged by Owner in writing as still unsettled.

ARTICLE 15 – SUSPENSION OF WORK AND TERMINATION

15.01 *Owner May Suspend Work*

- A. At any time and without cause, Owner may suspend the Work or any portion thereof for a period of not more than 90 consecutive days by notice in writing to Contractor and Engineer which will fix the date on which Work will be resumed. Contractor shall resume the Work on the date so fixed. Contractor shall be granted an adjustment in the Contract Price or an extension of the

Contract Times, or both, directly attributable to any such suspension if Contractor makes a Claim therefor as provided in Paragraph 10.05.

15.02 *Owner May Terminate for Cause*

- A. The occurrence of any one or more of the following events will justify termination for cause:
1. Contractor's persistent failure to perform the Work in accordance with the Contract Documents (including, but not limited to, failure to supply sufficient skilled workers or suitable materials or equipment or failure to adhere to the Progress Schedule established under Paragraph 2.07 as adjusted from time to time pursuant to Paragraph 6.04);
 2. Contractor's disregard of Laws or Regulations of any public body having jurisdiction;
 3. Contractor's repeated disregard of the authority of Engineer;
 4. Contractor's violation in any substantial way of any provisions of the Contract Documents;
 5. Contractor's failure to timely pay Subcontractors and Suppliers after it receives payment from Owner; or
 6. Contractor's failure to obtain or maintain the insurance required of it in the Contract.
- B. If one or more of the events identified in Paragraph 15.02.A occur, Owner may, after giving Contractor (and surety) 5 days written notice of its intent to terminate the services of Contractor:
1. exclude Contractor from the Site, and take possession of the Work and of all Contractor's tools, appliances, construction equipment, and machinery at the Site, and use the same to the full extent they could be used by Contractor (without liability to Contractor for trespass or conversion);
 2. incorporate in the Work all materials and equipment stored at the Site or for which Owner has paid Contractor but which are stored elsewhere; and
 3. complete the Work as Owner may deem expedient.
- C. If Owner proceeds as provided in Paragraph 15.02.B, Contractor shall not be entitled to receive any further payment until the Work is completed. If the unpaid balance of the Contract Price exceeds all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) sustained by Owner arising out of or relating to completing the Work, such excess will be paid to Contractor. If such claims, costs, losses, and damages exceed such unpaid balance, Contractor shall pay the difference to Owner. When exercising any rights or remedies under this Paragraph, Owner shall not be required to obtain the lowest price for the Work performed.
- D. Notwithstanding Paragraphs 15.02.B and 15.02.C, Contractor's services will not be terminated if Contractor begins within 5 days of the notice of intent to terminate to correct its failure to

perform and proceeds diligently to cure such failure within no more than 30 days of receipt of said notice.

- E. Where Contractor's services have been so terminated by Owner, the termination will not affect any rights or remedies of Owner against Contractor then existing or which may thereafter accrue. Any retention or payment of moneys due Contractor by Owner will not release Contractor from liability.
- F. If and to the extent that Contractor has provided a performance bond under the provisions of Paragraph 5.01.A, the termination procedures of that bond shall supersede the provisions of Paragraphs 15.02.B and 15.02.C.

15.03 *Owner May Terminate For Convenience*

- A. Upon 5 days written notice to Contractor and Engineer, Owner may, without cause and without prejudice to any other right or remedy of Owner, terminate the Contract. In such case, Contractor shall be paid for (without duplication of any items):
 - 1. completed and acceptable Work executed in accordance with the Contract Documents prior to the effective date of termination, including fair and reasonable sums for overhead and profit on such Work;
 - 2. expenses sustained prior to the effective date of termination in performing services and furnishing labor, materials, or equipment as required by the Contract Documents in connection with uncompleted Work, plus fair and reasonable sums for overhead and profit on such expenses;
 - 3. N/A; and
 - 4. reasonable expenses directly attributable to termination such as demobilization expenses. Attorneys' fees, accountant fees, and home office overhead expenses shall not be deemed reasonable expenses.
- B. Contractor shall not be paid on account of loss of anticipated profits or revenue or other economic loss arising out of or resulting from such termination.

15.04 *Contractor May Stop Work or Terminate*

- A. If, through no act or fault of Contractor, (i) the Work is suspended for more than 90 consecutive days by Owner or under an order of court or other public authority or (ii) Contractor complies with all conditions precedent to payment and Owner fails for 60 days to pay Contractor the sum Owner undisputedly determined to be due to Contractor, then Contractor may, upon 7 days written notice to Owner and Engineer, and provided Owner or Engineer do not remedy such suspension or failure within that time, terminate the Contract and recover from Owner payment on the same terms as provided in Paragraph 15.03. Contractor, however, cannot terminate the Contract due to any dispute (i) concerning the amount of payment due Contractor or (ii) any amounts Owner is withholding from Contractor.

- B. In lieu of terminating the Contract and without prejudice to any other right or remedy, if Contractor complies with all conditions precedent to payment and Owner has failed for 60 days to pay Contractor any sum Owner undisputedly determined to be due to Contractor, Contractor may, 7 days after written notice to Owner and Engineer, stop the Work until payment is made of all such amounts due Contractor, including interest thereon. The provisions of this Paragraph 15.04 are not intended to preclude Contractor from making a Claim under Paragraph 10.05 for an adjustment in Contract Price or Contract Times or otherwise for expenses or damage directly attributable to Contractor's stopping the Work as permitted by this Paragraph. Contract, however, cannot stop the Work due to any dispute (i) concerning the amount of payment due Contractor or (ii) any amounts Owner is withholding from Contractor.

ARTICLE 16 – DISPUTE RESOLUTION

16.01 *Methods and Procedures*

- A. Mediation shall be a condition precedent to any dispute between Owner and Contractor relating to the Contract; provided, however, that Owner, in its sole discretion, can waive mediation as a condition precedent to pursue a claim / litigation against Contractor or defend a claim / litigation from Contractor. The party initiating mediation must submit written request to the other party of its desire to mediate and provide the names of suggested mediators. The parties shall work together to mutually agree on a mediator within 30 days from the written request. The parties shall mediate the dispute within 60 days from the written request unless a different date is agreed upon due to the availability of the mediator, the availability of the parties and their counsel, or upon the mutual agreement of the parties. If the parties are unable to agree on a mediator (and the Owner has not elected to waive mediation), the parties, subject to Paragraph 16.01.C below, agree to allow the court to unilaterally select the mediator and any litigation will be stayed pending the outcome of such mediation.
- B. *N/A.*
1. *N/A.*
- C. Any litigation arising out of or relating to the Contract shall be brought in the exclusive venue of Volusia County, Florida. The prevailing party shall be entitled to all attorneys' fees and court costs at the trial and appellate level. **CONTRACTOR VOLUNTARILY AND KNOWINGLY WAIVES IT RIGHT TO A TRIAL BY JURY.**

ARTICLE 17 – MISCELLANEOUS

17.01 *Giving Notice*

- A. Whenever any provision of the Contract Documents requires the giving of written notice, it will be deemed to have been validly given if:
1. delivered in person to the individual or to a member of the firm or to an officer of the corporation for whom it is intended; or

2. delivered at or sent by registered or certified mail, postage prepaid, or an overnight carrier (such as UPS or FedEx) to the last business address known to the giver of the notice.

17.02 *Computation of Times*

- A. When any period of time is referred to in the Contract Documents by days, it will be computed to exclude the first and include the last day of such period. If the last day of any such period falls on a Saturday or Sunday or on a day made a legal holiday by the law of the applicable jurisdiction, such day will be omitted from the computation.

17.03 *Cumulative Remedies*

- A. The duties and obligations imposed by these General Conditions and the rights and remedies available hereunder to the parties hereto are in addition to, and are not to be construed in any way as a limitation of, any rights and remedies available to any or all of them which are otherwise imposed or available by Laws or Regulations, by special warranty or guarantee, or by other provisions of the Contract Documents. The provisions of this Paragraph will be as effective as if repeated specifically in the Contract Documents in connection with each particular duty, obligation, right, and remedy to which they apply.

17.04 *Survival of Obligations*

- A. All representations, indemnifications, warranties, and guarantees made in, required by, or given in accordance with the Contract Documents, as well as all continuing obligations indicated in the Contract Documents, will survive final payment, completion, and acceptance of the Work or termination or completion of the Contract or termination of the services of Contractor.

17.05 *Controlling Law*

- A. This Contract is to be governed by the law of the state of Florida.

17.06 *Headings*

- A. Article and paragraph headings are inserted for convenience only and do not constitute parts of these General Conditions.



City of Port Orange
1000 City Center Circle
Port Orange, FL 32129

BID Opening Tabulation Total

**Bid Opening, Thursday August 27, 2015 at 2:30 P.M.
Council Chambers**

BID # 15-32: MOCKINGBIRD DRIVE PIPE REPLACEMENT AT CYPRESS COVE

Bid Release Date: July 24, 2015

Mandatory Pre-Bid Meeting Date & Time: August 4, 2015 at 8:30 a.m.

Last Day for Questions: August 11, 2015 by 5:00 p.m.

Bid Due Date & Time Envelope: August 27, 2015 at 2:30 p.m.

Bid packages shall be submitted using a one (1) envelope system. The envelope shall contain all required, technical, and price forms. The envelope will be opened and evaluated by the City's Purchasing Manager on the bid due date and time.

Bidder's Submittal Checklist:

Envelope: (1) original, (2) copies and (1) CD or flash drive version of the bid tabbed, indexed, and placed in the following order:

1. Bidder Acknowledgement Form: (Section 00030)
2. Insurance certificates: Submit a copy (Section 00080)
3. Statement of Bidder's Qualifications (Section 00130)
4. Listing of Previous Experience: (Section 00140)
5. Subcontractors List: (Section 00150)
6. Bid Bond (Section 00160)
7. Public Entity Crime Statement: (Section 00170)
8. Anti-Collusion Statement (Section 00180)
9. Drug Free/Tie Preference Statement (Section 00190)
10. Trench Safety Affidavit: (Section 00195)
11. Florida General Contractor's License (Section 00080)
12. Total Base Bid: (Section 00120)
13. Local Business Affidavit (Section 00125 -optional)

BID # 15-32: MOCKINGBIRD DRIVE PIPE REPLACEMENT AT CYPRESS COVE

Bid/Proposal Receipt List

15-32 Requirements				
	1 Original, 2 Copies, 1 CD or Flash	Maschi Corp	MCG Services	
1	Bidder Acknowledgement Form	✓	✓	
2	Insurance Certificate	✓	✓	
3	Statement of Bidder's Qualifications	✓	✓	
4	Listing of Previous Experience	✓	✓	
5	Subcontractors List	✓	✓	
6	Bid Bond	✓	✓	
7	Public Entity Crime Statement	✓	✓	
8	Anti-Collusion Statement	✓	✓	
9	Drug Free/Tie Preference Statement	✓	✓	
10	Trench Safety Affidavit	✓	✓	
11	Florida General Contractor's License	✓	✓	
12	Total Base Bid	\$ 277,940	\$ 246,402.00	
	Alternate #1 (Dock)	\$ 35,000	\$ 10,000.00	
13	Local Business Affidavit (optional)	Port Orange	Port Orange	

The following information is a record of the submitters as received at the time of opening. All proposals are subject to review by the City and award requires a formal contract and approval by City Council.

Opened & Tabulated By: Joseph A. Gomez, Purchasing Manager



**AGREEMENT
BETWEEN OWNER AND CONTRACTOR
FOR CONSTRUCTION CONTRACT (STIPULATED PRICE)**

**City of Port Orange
1000 City Center Circle
Port Orange, Florida 32129**

THIS AGREEMENT is by and between _____ (“Owner”) and
**MCG Services, LLC.
2915 Langley Park Court
Orlando, Florida 32835** _____ (“Contractor”).

The Effective Date of this Agreement shall be _____ (If no date is specified then the Effective Date shall be the date on which the Agreement is signed by the last of the two parties.)

Owner and Contractor hereby agree as follows:

ARTICLE 1 - WORK

1.01 Contractor shall complete all Work as specified in Bid No. 15-32 Mockingbird Drive Pipe Replacement at Cypresshead or indicated in the Contract Documents. The Work is generally described as follows: Pipe Replacement and Type C Inlet at Mockingbird Drive in Cypress Cove, Port Orange, Florida 32127.

ARTICLE 2 – THE PROJECT

2.01 The Project for which the Work under the Contract Documents may be the whole or only a part is generally described as follows: Excavate and remove 400 linear feet of 15” corrugated metal pipe (CMP) and replace with 400 linear feet of 15” reinforced concrete pipe (RCP) and install a Type C inlet on public rights of way for accessibility of the reinforced concrete pipe.

ARTICLE 3 – ENGINEER

3.01 The Project has been designed by Kenny Ho, P.E. (“Engineer”), which is to act as Owner’s representative, assume all duties and responsibilities, and have the rights and authority assigned to Engineer in the Contract Documents in connection with the completion of the Work in accordance with the Contract Documents. Engineer shall also serve as Owner’s agent for purposes of approving Contractor’s payment requests.

ARTICLE 4 – CONTRACT TIMES

4.01 *Time of the Essence*

A. All time limits for Substantial Completion and Final Completion as stated in the Contract Documents, particularly Paragraph 4.02 below, are of the essence of the Contract.

- B. All time limits for Milestone dates set forth in the Contract Documents are of the essence of the Contract.

4.02 *Days to Achieve Substantial Completion and Final Completion*

- A. Unless as otherwise modified in a Notice to Proceed issued after the Effective Date of the Agreement or an allowable extension of time in accordance with Paragraph 12.02 of the General Conditions, the Work shall be substantially completed within 60 days after the Effective Date of the Agreement.
- B. Unless as otherwise modified in a Notice to Proceed issued after the Effective Date of the Agreement or an allowable extension of time in accordance with Paragraph 12.02 of the General Conditions, the Work shall be finally completed in accordance with Paragraph 14.06 of the General Conditions within 90 days after the Effective Date of the Agreement.
- C. If a Notice to Proceed is issued more than 60 days from the Effective Date of this Agreement, then the dates for Substantial Completion and the Final Completion shall be extended by the same number of days. (For example, if the Notice to Proceed is issued 63 days after the Effective Date of the Agreement, then the Substantial Completion and Final Completion dates shall be extended by 3 days.)

4.03 *Liquidated Damages*

- A. Contractor and Owner agree and recognize that time is of the essence as stated in Paragraph 4.01 above and that Owner will suffer financial loss that is not readily ascertainable as of the Effective Date of this Agreement if the Work is delayed and not Substantially Completed within the time period specified in Paragraph 4.02 above, plus any allowable extension of time in accordance with Paragraph 12.02 of the General Conditions. Contractor agrees and recognizes that any delay to Substantial Completion shall constitute a material breach. Accordingly, Owner and Contractor agree that as liquidated damages for delay, Contractor shall pay Owner \$0.00 for each day that expires after the date the Work is required to be Substantially Completed until the Contractor achieves Substantial Completion with the Work. Contractor and Owner agree and recognize that the liquidated damages set forth herein shall not be treated as a penalty and are just damages that are proportionate to any damages that might reasonably be expected to follow from a delay to Substantial Completion.
- B. Owner may withhold Contractor's final payment in order offset the liquidated damages that Contractor owes Owner. Owner may also withhold progress payments if Owner reasonably believes that Contractor's final payment will not sufficiency cover the liquidated damages that Contractor owes Owner.

ARTICLE 5 – CONTRACT PRICE

5.01 Owner shall pay Contractor for completion of the Work in accordance with the Contract Documents an amount in current funds equal to the sum of the amounts determined pursuant to Paragraphs 5.01.A, 5.01.B, and 5.01.C below:

A. For all Work other than Unit Price Work, a lump sum of: \$256,402.00

Any allowances specifically identified and called for in the Contract Documents are included in the above price in accordance with Paragraph 11.02 of the General Conditions.

B. For all Unit Price Work in accordance with Paragraph 11.03 of the General Conditions, an amount equal to the sum of the established unit price for each separately identified item of Unit Price Work times the actual quantity of that item:

The Bid Unit Prices set forth above are guaranteed prices. Although the Estimated Quantities are estimates and may increase or decrease based on determinations of Engineer, Contractor agrees and understands that the Bid Unit Prices shall remain the same irrespective of the quantities. Contractor understands that in agreeing to any Bid Unit Price it is agreeing to bear the risk associated with any material price increase or escalation. Owner agrees and understands that in agreeing to any Bid Unit Price it is agreeing to bear the risk associated with any material price decrease or reduction.

C. For all Work, at the prices stated in Contractor's Bid, attached hereto as an exhibit.

ARTICLE 6 – PAYMENT PROCEDURES

6.01 *Submittal and Processing of Progress Payments*

A. Contractor shall submit Applications for Payment in accordance with Article 14 of the General Conditions.

6.02 *Progress Payments; Retainage*

A. Progress payments shall be made on account of the Contract Price on the basis of Contractor's Applications for Payment during performance of the Work in accordance with Paragraph 14.02 of the General Conditions. All such payments will be measured by the schedule of values established as provided in Paragraph 2.07.A of the General Conditions (and in the case of Unit Price Work based on the number of units completed). Progress payments will be made in an amount equal to the percentage of the Work completed in accordance with the Schedule of Values, less the aggregate of payments previously made, less the retainage, and less such amounts as Engineer may determine Owner may withhold, including, but not limited to, liquidated damages.

B. Owner shall withhold 10 percent of each progress payment as retainage until 50 percent completion. After 50 percent completion, Owner shall reduce retainage to 5 percent of each

progress payment. Fifty (50%) percent completion is the point at which Owner has expended 50 percent of the Contract Price, together with all increases in the Contract Price through allowable change orders. However, if Contractor elects to withhold more than 5 percent retainage from a subcontractor(s), it may not request the release of such retained funds from Owner.

6.03 *Final Payment*

- A. Final Payment inclusive of retainage shall be made to Contractor in accordance with Paragraph 14.07 of the General Conditions.

ARTICLE 7 – INTEREST

- 7.01 All monies not paid in strict accordance with Florida Statute §218.735 shall bear interest as provided for therein.

ARTICLE 8 – CONTRACTOR’S REPRESENTATIONS

- 8.01 In order to induce Owner to enter into this Agreement and in determining the Contract Price, Contractor makes the following representations:
 - A. Contractor has carefully examined and carefully studied the Contract Documents and the other related data identified in the Bidding Documents.
 - B. Contractor has visited the Site and become familiar with and is satisfied as to the general, local, and Site conditions that may affect cost, progress, and performance of the Work.
 - C. Contractor is familiar with and is satisfied as to all federal, state, and local Laws and Regulations that may affect cost, progress, and performance of the Work.
 - D. Contractor has carefully studied all: (1) reports of explorations and tests of subsurface conditions at or contiguous to the Site and all drawings of physical conditions relating to existing surface or subsurface structures at the Site (except Underground Facilities), if any, that have been identified in Paragraph SC-4.02 of the Supplementary Conditions as containing reliable "technical data," and (2) reports and drawings of Hazardous Environmental Conditions, if any, at the Site that have been identified in Paragraph SC-4.06 of the Supplementary Conditions as containing reliable "technical data." Contractor's receipt and study of such reports shall not relieve it of visiting the Site and becoming familiar with and satisfied with the Site conditions that may affect cost, progress, and performance of the Work.
 - E. Contractor has considered the information known to Contractor; information commonly known to contractors doing business in the locality of the Site; information and observations obtained from visits to the Site; the Contract Documents; and the Site-related reports and drawings identified in the Contract Documents, with respect to the effect of such information, observations, and documents on (1) the cost, progress, and performance of the Work; (2) the means, methods, techniques, sequences, and procedures of construction to be employed by Contractor, including any specific means, methods, techniques, sequences, and procedures of

construction expressly required by the Contract Documents; and (3) Contractor's safety precautions and programs.

- F. Based on the information and observations referred to in Paragraph 8.01.E above, Contractor does not consider that further examinations, investigations, explorations, tests, studies, or data are necessary for the performance of the Work at the Contract Price, within the Contract Times, and in accordance with the other terms and conditions of the Contract Documents.
- G. Contractor is aware of the general nature of work to be performed by Owner and others at the Site that relates to the Work as indicated in the Contract Documents.
- H. Contractor has given Engineer written notice of all conflicts, errors, ambiguities, or discrepancies that Contractor has discovered in the Contract Documents, and the written resolution thereof by Engineer is acceptable to Contractor.
- I. The Contract Documents are generally sufficient to indicate and convey understanding of all terms and conditions for performance and furnishing of the Work.

ARTICLE 9 – CONTRACT DOCUMENTS

9.01 Contents

- A. The Contract Documents consist of the following:
 - 1. This Agreement (pages 1 to 10, inclusive).
 - 2. Combination Payment and Performance Bond (pages 1 to 4, inclusive).
 - 3. Other bonds (pages N/A to N/A, inclusive).
 - 4. General Conditions (pages 1 to 63, inclusive). **In the event of any conflict between the Agreement and the General Conditions, the terms of this Agreement shall govern.**
 - 5. Supplementary Conditions (pages 1 to 5, inclusive). **In the event of any conflict between the Agreement and Supplementary Conditions, the terms of this Agreement shall govern. However, if there is any conflict between the terms of the General Conditions and the terms of the Supplementary Conditions, the Supplementary Conditions shall govern provided that the indemnification set forth in Paragraph 6.20 of the General Conditions shall govern over any indemnification set forth in the Supplementary Conditions.**
 - 6. Specifications and drawings consisting of 10 pages.
 - 7. Addenda (numbers 1, inclusive).
 - 8. Exhibits to this Agreement (enumerated as follows):
 - a. Contractor's Bid (pages 1, inclusive).

- b. Documentation submitted by Contractor prior to Notice of Award (pages N/A, inclusive).
 - c. Exhibit No. 2 Contractor's Bid (pages 1 to 29, inclusive).

Affidavit Regarding Workmen's Compensation
Certificate of Insurance for Workmen's Compensation
 - d. Composite Exhibit No. 3 City's Bid Request No. 15-32 (pages 1 to 45, inclusive).

Receipt and Release (Not Attached)
Consent and Surety for Final Payment (Not Attached)
9. The following which may be delivered or issued on or after the Effective Date of the Agreement and are not attached hereto:
- a. Notice to Proceed (pages ____ to ____, inclusive).
 - b. Work Change Directives.
 - c. Change Orders.
- B. The documents listed in Paragraph 9.01.A are attached to this Agreement (except as expressly noted otherwise above).
- C. There are no Contract Documents other than those listed above in this Article 9.
- D. The Contract Documents may only be amended, modified, or supplemented as provided in Paragraph 3.04 of the General Conditions.

ARTICLE 10 – MISCELLANEOUS

10.01 Terms

- A. Terms used in this Agreement will have the meanings stated in the General Conditions and the Supplementary Conditions.

10.02 Assignment of Contract

- A. No assignment by a party hereto of any rights under or interests in the Contract will be binding on another party hereto without the written consent of the party sought to be bound; and, specifically but without limitation, moneys that may become due and moneys that are due may not be assigned without such consent (except to the extent that the effect of this restriction may be limited by law), and unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under the Contract Documents.

10.03 *Successors and Assigns*

- A. Owner and Contractor each binds itself, its partners, successors, assigns, and legal representatives to the other party hereto, its partners, successors, assigns, and legal representatives in respect to all covenants, agreements, and obligations contained in the Contract Documents.

10.04 *Severability*

- A. Any provision or part of the Contract Documents held to be void or unenforceable under any Law or Regulation shall be deemed stricken, and all remaining provisions and parts shall continue to be valid and binding upon Owner and Contractor, who agree that the Contract Documents shall be reformed to replace such stricken provision or part thereof with a valid and enforceable provision or part that comes as close as possible to expressing the intention of the stricken provision.

10.05 *Contractor's Certifications*

- A. Contractor certifies that it has not engaged in corrupt, fraudulent, collusive, or coercive practices in competing for or in executing the Contract. For the purposes of this Paragraph 10.05:
 - 1. "corrupt practice" means the offering, giving, receiving, or soliciting of any thing of value likely to influence the action of a public official in the bidding process or in the Contract execution;
 - 2. "fraudulent practice" means an intentional misrepresentation of facts made (a) to influence the bidding process or the execution of the Contract to the detriment of Owner, (b) to establish Bid or Contract prices at artificial non-competitive levels, or (c) to deprive Owner of the benefits of free and open competition;
 - 3. "collusive practice" means a scheme or arrangement between two or more Bidders, with or without the knowledge of Owner, a purpose of which is to establish Bid prices at artificial, non-competitive levels; and
 - 4. "coercive practice" means harming or threatening to harm, directly or indirectly, persons or their property to influence their participation in the bidding process or affect the execution of the Contract.
- B. Contractor certifies that in the event a Lien is recorded on the Project by any person or entity providing labor, services, or materials with respect to any portion of the Work, it will immediately transfer such lien to its payment bond or take other appropriate action to immediately remove the encumbrance.

10.06 *No-Damage-for-Delay*

- A. Contractor shall not be entitled to any damages (including, without limitation, expenses, costs, fees, extended field overhead and general conditions, equipment costs, home office overhead, lost productivity and inefficiency damages, additional payroll and labor costs, etc.) for any delay to its Work. Contractor's sole and exclusive remedy for a delay to its Work that is not caused by Contractor (or a person or entity performing a portion of Contractor's scope of Work) shall be an extension of time to substantially complete and finally complete the Project; provided, however, that Owner granting Contractor an extension of time is not a condition precedent to this no-damage-for-delay provision. Contractor shall also not be entitled to any damages for disruption or interference to its Work or for having to accelerate or incur additional labor or payroll costs in order to make up or overcome a delay to its Work so that it can maintain the dates for Substantial Completion and Final Completion. Contractor agrees that in determining and agreeing to the Contract Price it considered this no-damage-for-delay provision and understands that it is not entitled to any damages whatsoever for a delay to its Work.

10.07 *No Intended Third Party Beneficiaries*

- A. There are no intended third party beneficiaries to the Contract.

IN WITNESS WHEREOF, Owner and Contractor have signed this Agreement. Counterparts have been delivered to Owner and Contractor. All portions of the Contract Documents have been signed or have been identified by Owner and Contractor or on their behalf.

CITY OF PORT ORANGE

Owner

By: Allen Green

Title: Mayor

Date:_____

Attest: Robin L. Fenwick, CMC

Title: City Clerk

Address for giving notices:

1000 City Center Circle

Port Orange, Florida 32129

Contractor: MCG Services, LLC

By: Jonathan D. Kephart

Title: Managing Member

Date: _____

(If Contractor is a corporation, partnership or joint venture, attach evidence of authority to sign.)

Attest: _____

Title: _____

Address for giving notices:

2915 Langley Park Court

Orlando, Florida 32835

kephartj@mcg-s.com

License No.: CGC1522751

CUC1225194

(407) 476-4476



CITY COUNCIL AGENDA ITEM

REQUESTED COUNCIL MEETING DATE 10/20/2015

Consent item: No

SUBJECT: Task Authorization No 1 under the Master Contract for Engineering Services with Arcadis U.S., Inc. for the Water Master Plan

DEPARTMENT: Public Utilities

RECOMMENDED MOTION: Move to approve Task Authorization No 1 under the Master Contract for Engineering with Arcadis U.S., Inc. for an amount not to exceed 498,179.75; and to authorize the Mayor and City Clerk to execute all required contract documents.

SUMMARY:

On September 22, 2015, City Council approved the FY16-21 Capital Improvement budget that will allow the Public Utilities Department to develop a Water Master Plan. Arcadis U.S., Inc. has provided a proposal for master planning the City's Potable Water System. This report will provide a review of the condition and capacity of the City's existing system and an evaluation over a 20-year planning period. The report will demonstrate a specific plan for modifications to the City's Potable Water system. Key features of the plan will include:

Water demand forecasting and future water supply needs identification
Water distribution/transmission system analysis, hydraulic modeling and renewal and replacement needs identification
Water treatment facility evaluation, capacity analysis biological and hydraulic modeling to determine capacity and process improvement needs
Capital project planning and long term financial planning

This master planning effort is consistent with The City Council adopted Strategic Plan dated March 18 and 19, 2015 to attain Goal 1, Infrastructure Preservation, Objective 2, Master Planning.

Task Authorization No 1 will allow staff to move forward with this project. This task is for an amount not to exceed \$498,179.75.

Project No.: MMP001
MMP001

Funding Account No.: 40508005336397
40303005366397

ATTACHMENTS:

1.	Task Authorization No. 1 - signed by vendor	Task Authorization No 1 - Water Master Plan.pdf
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Wiggins, Julia	Created/Initiated - 10/02/2015
Wilson, Rick	Approved - 10/02/2015
Neff, Andrew	Approved - 10/02/2015
Riehm, Tracey	Approved - 10/07/2015
Roberts, Margaret	Approved - 10/12/2015
Johansson, M. Jake	Final Approval - 10/15/2015

TASK AUTHORIZATION NO. 1
Master Contract for Engineering Services dated March 31, 2015
Between the City of Port Orange, Florida and Arcadis U.S., Inc.

THIS Task Authorization is entered into by and between the **CITY OF PORT ORANGE, FLORIDA**, a chartered municipal corporation with its principal place of business at 1000 City Center Circle, Port Orange, Florida 32129 (the "City") and **ARCADIS U.S., INC.**, a Florida corporation with its principal place of business at 630 Plaza Drive, Suite 100, Highlands Ranch, Colorado 80129 ("Contractor"), and hereinafter collectively referred to as the "Parties," and is to that certain Master Contract for Engineering Services dated March 31, 2015, and any amendments thereto, hereinafter collectively referred to as the "Contract." The Parties, in exchange for the mutual covenants contained herein and in the Contract, agree as follows:

1. This Task Authorization expressly modifies the Contract and in the event of a conflict, the terms and conditions of this Task Authorization shall prevail.
2. In addition to all other terms and conditions contained in the Contract, Contractor shall provide services relating to the City of Port Orange Water Master Plant as more particularly described in the Scope of Services attached hereto and incorporated herein as Task Authorization Exhibit "A."
3. Contractor shall complete the services to be provided herein within 540 days of the date of written notice by the City to the Contractor.
4. In return for the services identified above, the City agrees to compensate Contractor at the prices set forth in Exhibit "A" attached hereto and made a part hereof for all purposes, subject to a limit up to but not to exceed **Four Hundred Ninety-eight Thousand One Hundred Seventy-nine Dollars and seventy-five cents (\$498,179.75)**. 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.
5. This Task Authorization 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 Task Authorization shall be deemed valid as if an original signature was delivered. No contract shall be formed between the Contractor and the City until the City signs this Task Authorization.

[Remainder of this page intentionally left blank]

IN WITNESS WHEREOF, the Parties have made and executed this Task Authorization for the purposes herein expressed on the dates set forth below.

Witnesses:

ARCADIS U.S, INC.


Printed Name: Reed Meriwether 10/15/15


By: Christopher P. Hill, Associate Vice President


Printed Name: Timothy Ware 10/15/15

Date: 10/14/15

Witnesses:

CITY OF PORT ORANGE

By: _____
Printed Name: _____ Allen Green, Mayor

Date: _____
Printed Name: _____

Witnesses:

ATTEST:

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

Date: _____
Printed Name: _____

[CA ____]



CITY COUNCIL AGENDA ITEM

REQUESTED COUNCIL MEETING DATE 10/20/2015

Consent item: Yes

SUBJECT: Change Order No. 1 to Sparks Concrete, LLC contract for S. Spruce Creek Road Shared Use Path

DEPARTMENT: Community Development

RECOMMENDED MOTION: Move to approve Change Order No. 1 to Sparks Concrete, LLC for a 21 day extension of time, with no change in price for S. Spruce Creek Road Shared Use Path.

SUMMARY: Attached is Change Order No. 1 to provide for additional time to obtain and install sod to complete the project. Due to the frequency and amount of rain received throughout Central Florida in the month of September sod has not been available. The contractor requested an additional 21 days and provided documentation from local sod vendors to justify this request.

Since preparation of the change order, conditions have improved and the contractor was able to obtain sod. The project was determined to be complete on October 9, 2015.

Project	Funding Account
No.:	No.:

ATTACHMENTS:

1.	Sparks Change Order #1	Sparks concrete CO.pdf
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Momberger, Margaret
Clark, Wayne
Roberts, Margaret
Johansson, M. Jake

Created/Initiated - 10/07/2015
Approved - 10/07/2015
Approved - 10/12/2015
Final Approval - 10/13/2015

CHANGE ORDER NO. 1
To Construction Contract dated March 9, 2015
SPARKS CONCRETE, LLC, Contractor

Project: South Spruce Creek Road Shared Use Path, FPN No. 430079-1-58-01,
City Project No. OMI014, Bid No. 14-27

The following changes are hereby made to the Contract Documents:

CHANGE IN CONTRACT PRICE:	CHANGE IN CONTRACT TIMES:
Original Contract Price: \$313,696.41	Original Contract Times Substantial Completion: 90 days Final Completion 120 days
Net changes from previous Change Order: No. N/A: \$0.00	Changes in contract time from previous Change Orders: No. N/A: 0 days
Contract Price prior to this Change Order: \$313,696.41	Contract Completion Date prior to this Change Order: Final Completion: 9/14/2015
Net Increase (decrease) of this Change Order No. 1: \$0.00	Changes in contract time requested this Change Order No. 1: 25 days
Contract Price with all approved Change Orders: \$313,696.41	Contract Times with all approved Change Orders: Final Completion: 10/9/2015

CHANGES ORDERED:

- I. GENERAL: This Change Order is necessary to cover changes in the work to be performed under the Construction Contract entered into by and between the parties on March 9, 2015.
- II. REQUIRED CHANGES: To provide for additional time to provide sod due to unavailability of material beyond the control of the Contractor. No goods shall be delivered nor services commenced hereunder until this Change Order has been fully executed by all parties.
- III. JUSTIFICATION:
Due to the frequency and amount of rain received throughout Central Florida sod is not available. See attached documentation from local sod vendors.
- IV. PAYMENT: Payment for this Change Order shall be made in accordance with the terms of the Construction Contract subject to a limit up to but not to exceed \$313,696.41. All payments shall be governed by the Local Government Prompt Payment Act as set forth in Florida Statutes Section 218.70 through 218.79, as amended.

Acknowledgments:

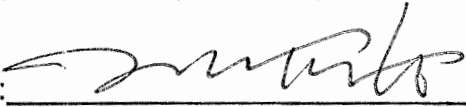
The aforementioned change, and work affected thereby, is subject to all provisions of the original contract not specifically changed by this Change Order;

It is expressly understood and agreed that the approval of the Change Order shall have no effect on the original contract other than matters expressly provided herein;

The prices quoted are fair and reasonable and in proper ratio to the cost of the original work contracted for under competitive bidding; and,

The change in price and/or delivery date described is considered to be fair and reasonable and has been mutually agreed upon in full agreement and final settlement of all claims arising out of this modification including all claims for delays and disruptions resulting from, caused by, or incident to such modifications and change orders.

RECOMMENDED BY:
COMMUNITY DEVELOPMENT
Department Project Manager

By: 
Printed Name: Kenny Ho, P.E.
Title: Interim Community Development Engineer

Date Signed: OCT 14, 2015

RECOMMENDED BY:
N/A
City's Representative

By: N/A
Printed Name: N/A
Title: N/A

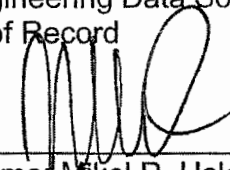
Date Signed: N/A

ACCEPTED BY:
SPARKS CONCRETE, LLC
Contractor

By: 
Printed Name: William C. Sparks
Title: Manager

Date Signed: 10-14-15

RECOMMENDED BY:
Traffic Engineering Data Solutions, Inc.
Engineer of Record

By: 
Printed Name: Mikal R. Hale, P.E.
Title: SR PROJECT MANAGER

Date Signed: 10/13/2015

APPROVED BY:
CITY OF PORT ORANGE
Department Head

By: Wayne Clark

Printed Name: Wayne Clark

Title: Community Development Director

Date Signed: 10/14/15

City Manager

By: Michael H. Johansson

Printed Name: Michael H. Johansson

Title: City Manager

Date Signed: 10/15/15

If Council approval is required:

Affirmed:

By: _____

Printed Name: Allen Green

Title: Mayor

Robin L. Fenwick, CMC, City Clerk

Date Signed: _____

Date Signed: _____



CITY COUNCIL AGENDA ITEM

REQUESTED COUNCIL MEETING DATE 10/20/2015

Consent item: Yes

SUBJECT: Task Authorization No. 3 to the contract with Traffic Engineering Data Solutions, Inc. (TEDS) for design and permitting of the McDonald Road sidewalk.

DEPARTMENT: Community Development

RECOMMENDED MOTION: Move to approve Task Authorization No. 3 to Traffic Engineering Data Solutions, Inc. (TEDS) for the design and permitting of the McDonald Road sidewalk in an amount not to exceed \$79,330.80, and authorize the Mayor and City Clerk to execute the Task Authorization.

SUMMARY: The City has entered into a LAP Agreement with the FDOT for the design of the McDonald Road sidewalk. The LAP Agreement includes \$71,429 of State and Federal funds and a City match of \$7,936. This project was identified as a needed project in the Sugar Mill Elementary School Safe Routes to School Study conducted in 2007. The City Council approved submittal of this project to the River to Sea Transportation Planning Organization (R2CTPO) as part of the call for 2011 prioritized XU Bicycle/Pedestrian projects. A feasibility study was completed in April 2015. The project design will provide a minimum five (5) foot wide sidewalk along the west side of McDonald Road extending approximately 2,640 feet from the intersection of Madeline Avenue and Sugarhouse Drive through the intersection of Sauls Street/Madeline Avenue to 6th Street.

Traffic Engineering Data Solutions, Inc. (TEDS) was ranked first by the selection committee for RFSQ #13-19 for LAP Design and Permitting Services and awarded a contract by City Council in 2014. The scope of services and fee included in this Task Authorization has been negotiated in accordance with the Consultants Competitive Negotiations Act (CCNA) and reviewed by FDOT. The design fee represents 17.3% for engineering design and permitting and 2% for survey of the 2017 estimated construction cost of the project which is \$407,110. Because this is a LAP project that utilizes State and Federal funds, additional design and bid package requirements above and beyond typical site plan design are needed, contributing to the additional man-hours and resulting fee. The fee is in line with the opinion of probable cost identified in the feasibility study prepared for the R2CTPO and current industry pricing within our area for comparable LAP projects.

Project No.: OMI019 Funding Account No.: 312-4310-541-63-97

ATTACHMENTS:

1.	TEDS Scope of Services	2015-06-30 - Exhibit A - Scope of Services - McDonald Rd Sidewalk.pdf
2.	Task Authorization No. 3	Task Authorization No. 3.pdf

Momberger, Margaret
Clark, Wayne
Riehm, Tracey
Roberts, Margaret
Johansson, M. Jake

Created/Initiated - 10/07/2015
Approved - 10/07/2015
Approved - 10/15/2015
Approved - 10/15/2015
Final Approval - 10/15/2015



EXHIBIT A

SCOPE OF SERVICES

Contract: Standard Contract for Services dated January 3, 2014
Task Authorization No.: 003
Project Name: McDonald Rd. Sidewalk From Sauls St. to 6th St. (FPN 435500-1-58-01)
TEDS Project Number: 10590
Date: June 30, 2015

Traffic Engineering Data Solutions, Inc. (TEDS) is pleased to offer this scope of services to the City of Port Orange (CITY) for providing professional engineering services for the above referenced project.

PROJECT UNDERSTANDING

- As of June 4, 2015, the CITY entered into a Local Agency Program (LAP) Agreement with the Florida Department of Transportation (FDOT) for design of the above referenced project, which requires the CITY to complete design and permitting prior to January 31, 2016, based on no right of way acquisition being required.
- Under contract to the River to Sea Transportation Planning Organization (R2CTPO), Kimley-Horn and Associates, Inc. (KHA) previously prepared a feasibility study for the project, entitled *McDonald Road Sidewalk Feasibility Study* in February 2013. A final version of this study was issued in April 2015 with Appendix D containing responses to a few additional comments from the FDOT.
- As depicted on the conceptual design plans contained in the study, 5' concrete sidewalk is proposed along the west side of McDonald Road right of way for approximately 2,640 LF, from 6th Street to north of Christy Drive, along with some additional sidewalk and/or ramp improvement at the intersections of 6th Street and Sauls Street. In addition, a new crosswalk across McDonald Road was proposed near Christy Drive, as well as reconfiguration of two (2) existing crosswalks across McDonald Road near Charles Street and Sauls Street. Intermittent lighting was depicted on the reconfigured crosswalk at Sauls Street.
- The CITY is the maintenance authority for McDonald Road and all other roadways within the vicinity of the project, which are local streets not located on the State Highway System (SHS). Within the vicinity of the project, the McDonald Road right of way was either dedicated by previous plats or through prescriptive right of way mapping declared in Resolution No. 07-54, which contains a specific purpose survey prepared by Sliger & Associates, Inc. (Sliger).
- The proposed sidewalk was terminated approximately 200' north of Christy Drive in the study. No sidewalk was proposed along the interior of the curve at the north end of the project adjacent to tax parcel 37-16-33-01-13-0014, which is owned by Volusia County. Wetlands are expected to exist near the southwestern right of way line in this area.
- Drainage improvements proposed in the study include only replacement of a culvert pipe under 6th Street. Required drainage design is limited to the modification of the existing shallow swales alongside the roadway and collection system components necessary to maintain the existing drainage patterns.
- No activity in, on, or over wetlands or other surface waters is anticipated, and so long as the project maintains the form of a sidewalk less than 6' in width, the project is expected to qualify for exemption from Environmental Resource Permit (ERP) with no other permitting required by the St. Johns River Water Management District (SJRWMD).

- The CITY owns and operates potable water, sanitary sewer, and/or reclaimed water utilities within the rights of way. Only minor adjustment of these utilities is expected, which should not warrant the need for water or sewer permits from the Florida Department of Environmental Protection (FDEP) or the Volusia County Health Department (VCHD).
- Landscape architecture, hardscape design, and irrigation design are not required in this project.

SCOPE OF SERVICES

Task 1 – Survey

TEDS will retain Sliger to prepare a topographic survey of the full McDonald Road right of way from 100' west of Sugar House Drive the 6th Street, including the full intersection of 6th Street, obtaining elevations at a minimum of 100' intervals and locating all above ground improvements, all trees 6" dbh and greater, and locating all above ground utilities. Sunshine One Call of Florida (SSOCOF) will be contacted to mark inaccessible underground utilities and if there are as-builts of utilities available, Sliger will show those on the survey. Right of way will be located sufficient for the CITY to certify the right of way as required in LAP process.

Task 2 – Environmental Assessment

TEDS will retain Environmental Services, Inc. (ESI) to field delineate the limits of jurisdictional wetlands pursuant to the current methodologies of the U.S. Army Corps of Engineers [(ACOE) 2010 Regional Supplement to the Corps of Engineers Wetland Delineation Manual: Atlantic and Gulf Coastal Plain Region (Version 2.0)], Florida Department of Environmental Protection (FDEP) and St. Johns River Water Management District [(SJRWMD) Florida Unified Wetland Delineation Methodology, Chapter 62-340, F.A.C.]. A flagging key map showing the approximate location of the jurisdictional line will be provided for the surveyor's benefit.

In addition, ESI will survey the property for the presence of any state or federally protected wildlife species and their habitat. If protected species or habitats are encountered, ESI will perform preliminary mapping of the potential habitat area. ESI will prepare a letter report outlining their findings, with any implications to the project for any identified protected species.

Task 3 – Design Development

TEDS will provide the following services to address the critical design elements of the project:

- Obtain and review record plan information for McDonald Road and adjacent developments that may be on file at the CITY, Volusia County, or SJRWMD
- Review the completed survey
- Conduct field review of project corridor with CITY staff
- Develop proposed alignment of sidewalk and typical section(s) based on avoidance of existing utilities and other above ground features or minimization of impacts
- Assess minor adjustments to existing drainage structures
- Assess minor adjustments to utilities
- Assess relocation and/or modification of existing signage / pavement markings within the right of way, as well as any proposed signage / pavement markings that may be necessary

Traffic Engineering Data Solutions, Inc.

Task 4 – Construction Plans

TEDS will prepare the following construction plans for the project:

- *Key Sheet (1 sheet)*
- *General Notes (1 sheet)*
- *Summary of Pay Items (1 sheet)*
- *Typical Sections (1 sheet)*
- *Plan Sheets (5 sheets) – signing / pavement marking & minor utility adjustments to be depicted here*
- *Cross-Sections (15 sheets) – 100' intervals*
- *Construction Details (2 sheets)*
- *Intermittent Lighting Details for Crosswalk (2 sheets)*
- *Traffic Control Plans (3 sheets) – includes Standard Index series 600 sheets only*
- *Stormwater Pollution Prevention Plan (SWPPP) Notes (1 sheet) – with notes to describe erosion control measures necessary for the contractor to maintain compliance with the National Pollutant Discharge Elimination System (NPDES) program during construction*

Design provided by TEDS will be based on the standard practices and publications utilized by the FDOT, including the PPM, the Florida Greenbook, Standard Indexes, Standard Specifications, the Utility Accommodation Manual (UAM), etc. Construction Plans will be prepared for progress review at 60%, and 90% levels of completion.

During preparation of construction plans, TEDS will provide the following coordination efforts:

- Preparation of an Engineer's Opinion of Probable Costs (EOPC's) at each level of completion
- Attend progress review meetings with the CITY at 60%, and 90% completion
- Attend City Council meeting(s) that may be required to discuss the project details
- Assist with preparation of LAP documentation

Task 5 – SSOCOF Design Ticket

TEDS will coordinate a new SSOCOF design ticket for the project in an attempt to identify any Utility Agency Owners (UAO's) that may currently be using the right of way. Upon completion of 60% construction plans, TEDS will transmit courtesy copies to the utility companies for their review of conflicts that may exist with the proposed construction and relocation(s) that may be required. Minor adjustments to be completed by the UAO's will be graphically shown on the plan sheets.

Task 6 – Permitting

At 60% and 90% levels of completion, TEDS will submit copies of the construction plans and pertinent LAP documentation to the CITY and for review. Once comments have been received from the CITY and FDOT, TEDS will revise the plans and respond to comments.

TEDS will prepare and submit a Request for Verification of Exemption from ERP, including provision of the \$100 check as required for review fee.



Task 7 – Bid Documents

Upon approval of 90% plans, TEDS coordinate with the CITY to understand current bidding requirements and/or preferences. A draft project manual will be prepared based on templates provided by the CITY in the format preferred by the CITY's Purchasing Division, including contract documents and specifications, along with other documents or specifications that may be required for federally funded LAP projects. Upon review of the project manual, TEDS will revise the documents per comments received from FDOT. The final version of the project manual will be provided to the City for bidding purposes.

Deliverables: Plans for this project will be printed at 1"=40' scale on 11"x17" sheets, and the project manual will be prepared for 8.5" x 11" sheets. TEDS will provide the following deliverables at each stage of the project noted below:

60% Completion

- Two (2) sets of the Construction Plans
- PDF of the Construction Plans
- PDF of the 60% EOPC

90% Completion

- Two (2) sets of the Construction Plans
- PDF of the Construction Plans
- PDF of the 90% EOPC

100% Completion

- Four (4) sets of the Approved Construction Plans (signed/sealed)
- PDF of the Approved Construction Plans
- AutoCAD files for the Approved Construction Plans
- Four (4) copies of the EOPC (signed/sealed)
- PDF of the Final EOPC
- MS Word copy of the Project Manual
- PDF copy of the Project Manual

FEES

TEDS shall conduct the work in the tasks described above for the lump sum fees indicated below:

Task	Fee
Task 1 - Survey	\$8,600
Task 2 - Environmental Assessment	\$2,100
Task 3 - Design Development	\$9,400
Task 4 - Construction Plans	\$27,070
Task 5 - SSOCOF Design Ticket	\$5,560
Task 6 - Permitting	\$10,850
Task 7 - Bid Documents	\$15,200
Reimbursable Expenses	\$550,80
Total	\$ 79,330.80

An estimate of man-hours and expenses is provided on the following pages.

**CITY OF PORT ORANGE
MAN-HOUR ESTIMATE**



June 30, 2015

TEDS PROJECT No.: 10590

TASK AUTHORIZATION No.: 003

McDONALD RD SIDEWALK FROM SAULS ST TO 6TH ST

CONTRACT DESCRIPTION: Standard Contract for Services (January, 3rd , 2014)

PROJECT DESCRIPTION: (FPN 435500-1-58-01)

PRIME CONSULTANT: Traffic Engineering Data Solutions, Inc.

ESTIMATE PREPARED BY: Mikal R. Hale, P.E.

ACTIVITY	Chief Engineer / Sr. Project Manager		Project Engineer		Engineer Intern		Sr. CADD Designer		Senior Technician		Admin. Assistant		TOTAL		
	Rate/Hr:	\$180.00	Rate/Hr:	\$110.00	Rate/Hr:	\$80.00	Rate/Hr:	\$85.00	Rate/Hr:	\$55.00	Rate/Hr:	\$55.00	Man-hours By Activity	Activity Cost	Avg. Hourly Rate
	Man Hours	Cost by Pos & Act	Man Hours	Cost by Pos & Act	Man Hours	Cost by Pos & Act	Man Hours	Cost by Pos & Act	Man Hours	Cost by Pos & Act	Man Hours	Cost by Pos & Act			
Task 3 - Design Development	19	3,420.00	12	1,320.00	37	2,960.00	20	1,700.00	0	0.00	0	0.00	88	9,400.00	106.82
Obtain / review record plans	2				4								6		
Review completed survey	1		2		2								5		
Conduct field walk-through	5				5								10		
Develop alignment and typical section for conceptual plans	5		5		15		20						45		
Assess minor adjustments to existing drainage structures	2				3								5		
Assess minor adjustments to utilities	2				3								5		
Assess signage/pavement marking	2		5		5								12		
Task 4 - Construction Plans	55	9,900.00	40	4,400.00	47	3,760.00	106	9,010.00	0	0.00	0	0.00	248	27,070.00	109.15
Key Sheet (1 Sheet)	1				2		1						4		
General Notes (1 Sheet)	2		2										4		
Summary of Pay Items (1 sheet)	1				5		2						8		
Typical Sections (1 sheet)	1		1				1						3		
Plan Sheets (5 sheets)	10		25				50						85		
Cross-Sections (15 sheets)	1				15		40						56		
Construction Details (2 sheets)			1				5						6		
Intermittent Lighting Details for Crosswalk (2 sheets)	2				5		5						12		
Traffic Control Plans (2 sheets)	1		1										2		
SWPPP Notes (1 sheet)	1				5		2						8		
Engineer's Opinion of Probable Costs (60%,90% & 100%)	5		10		15								30		
Attend progress meetings at 60%, 90%, & 100%	15												15		
Attend City Council meetings	3												3		
Assist with preparation of LAP documentation	8												8		
QA/QC	4												4		
Task 5 - SSOOF Design Ticket	3	540.00	5	550.00	24	1,920.00	30	2,550.00	0	0.00	0	0.00	62	5,560.00	89.68
Call in Design Ticket					1								1		
Prepare & send notification e-mails with plans	1		1		3								5		
Adjust location of existing utilities per UAO markups	1		2		10		20						33		
Depict relocations by UAO's per conflicts	1		2		10		10						23		

**CITY OF PORT ORANGE
MAN-HOUR ESTIMATE**



June 30, 2015

TEDS PROJECT No.: 10590

TASK AUTHORIZATION No.: 003

McDONALD RD SIDEWALK FROM SAULS ST TO 6TH ST

CONTRACT DESCRIPTION: Standard Contract for Services (January, 3rd , 2014)

PROJECT DESCRIPTION: (FPN 435500-1-58-01)

PRIME CONSULTANT: Traffic Engineering Data Solutions, Inc.

ESTIMATE PREPARED BY: Mikal R. Hale, P.E.

ACTIVITY	Chief Engineer / Sr. Project Manager		Project Engineer		Engineer Intern		Sr. CADD Designer		Senior Technician		Admin. Assistant		TOTAL		
	Rate/Hr:	\$180.00	Rate/Hr:	\$110.00	Rate/Hr:	\$80.00	Rate/Hr:	\$85.00	Rate/Hr:	\$55.00	Rate/Hr:	\$55.00	Man-hours By Activity	Activity Cost	Avg. Hourly Rate
	Man Hours	Cost by Pos & Act	Man Hours	Cost by Pos & Act	Man Hours	Cost by Pos & Act	Man Hours	Cost by Pos & Act	Man Hours	Cost by Pos & Act	Man Hours	Cost by Pos & Act			
Task 6 - Permitting	10	1,800.00	39	4,290.00	0	0.00	56	4,760.00	0	0.00	0	0.00	105	10,850.00	103.33
Submit 60% plans to City & FDOT	1		2				2						5		
Review comments and revise plans	3		15				25						43		
Submit 90% plans to City & FDOT	1		2				2						5		
Review comments and revise plans	3		15				25						43		
Submit FINAL plans to City & FDOT	1		2				2						5		
Prepare & submit SJRWMD ERP exemption verification	1		3										4		
Task 7 - Bid Documents	60	10,800.00	40	4,400.00	0	0.00	0	0.00	0	0.00	0	0.00	100	15,200.00	152.00
Coordinate bidding requirements with City	10												10		
Prepare contract documents	30		25										55		
Prepare specifications	5		5										10		
Prepare LAP checklist	5												5		
Revise bid documents per FDOT comments	10		10										20		
TOTALS	87.0	26,460.00	96.0	14,960.00	108.0	8,640.00	212.0	18,020.00	0.0	0.00	0.0	0.00	503	68,080.00	135.35

LABOR

\$68,080.00

EXPENSES *(Refer to backup provided on the following page)*

I. SUB-CONSULTANT FEES

\$10,700.00

II. REPRODUCTION

\$98.00

III. MILEAGE / TRAVEL

\$307.80

IV. PERMIT REVIEW FEES

\$100.00

V. SHIPPING / POSTAGE

\$45.00

SUB-TOTAL - EXPENSES

\$11,250.80

TOTAL LUMP SUM CONTRACT AMOUNT

\$79,330.80

CITY OF PORT ORANGE
EXPENSES
June 30, 2015



TEDS PROJECT No.: 10590		TASK AUTHORIZATION No.: 003	
CONTRACT DESCRIPTION: Standard Contract for Services (January, 3rd , 2014)		McDONALD RD SIDEWALK FROM SAULS ST TO 6TH ST	
PRIME CONSULTANT: Traffic Engineering Data Solutions, Inc.		PROJECT DESCRIPTION: (FPN 435500-1-58-01)	
		ESTIMATE PREPARED BY: Mikal R. Hale, P.E.	
I. SUB-CONSULTANT FEES			
Mark-up to Cover Administrative Costs:		0.00%	
Sub-Consultant		Description of Services	
		Fee Quote	Costs
a)	Sliger & Associates, Inc.	\$8,600.00	\$8,600.00
b)	Environmental Services, Inc.	\$2,100.00	\$2,100.00
c)			\$0.00
		Total Sub-Consultant Fees	\$10,700.00

II. REPRODUCTION								
Contract Rate		<u>Black / White:</u>	8.5" x 11"	\$0.10 / sheet	<u>Color:</u>	8.5" x 11"	\$1.20 / sheet	
			11" x 17"	\$0.20 / sheet		11" x 17"	\$2.00 / sheet	
			24" x 36"	\$3.00 / sheet		24" x 36"	\$20.00 / sheet	
Job Estimate		Number of Sheets						
		Black / White			Color			
Document Description		8.5" x 11"	11" x 17"	24" x 36"	8.5" x 11"	11" x 17"	24" x 36"	Number of Sets
a) Construction Plans - 60% Submittal			30					2
b) Construction Plans - 90% Submittal			30					2
c) Construction Plans - FINAL Submittal			30					4
d) Project Manual		250						2
		Total Reproduction Costs						\$98.00

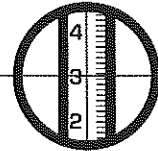
III. MILEAGE / TRAVEL			
Contract Rate		\$0.57 / mile (Current Federal Rate)	
Reason for Trip / Destination	Distance / Mileage (round trip)	Number of Trips	Cost
a) Conduct walk-through / project site	60	1	\$34.20
b) Coordination meetings / City Hall	60	8	\$273.60
c)			\$0.00
d)			\$0.00
e)			\$0.00
f)			\$0.00
g)			\$0.00
		Total Mileage / Travel Costs	\$307.80

IV. PERMIT REVIEW FEES		
Contract Rate		Cost
Description	Estimated Cost	
a) SJRWMD Exemption Verification	\$100.00	
b)		
Total Permit Review Fees		\$100.00

V. SHIPPING / POSTAGE		
Contract Rate		Cost
Description	Estimated Cost	
a) 60% Submittal	\$15.00	
b) 90% Submittal	\$15.00	
c) 100% Submittal (FINAL)	\$15.00	
Total Shipping / Postage Costs		\$45.00

June 26, 2015

SLIGER & ASSOCIATES
incorporated



Mr. Mikal R. Hale, P.E.
Traffic Engineering Data Solutions, Inc.
80 Spring Vista Drive
DeBary, Florida 32713

Delivered via email /Hard Copies to follow via mail

Re: *Proposal of Surveying and Mapping Services # 15-187*
McDonald Road Sidewalk, Port Orange, Florida

Dear Mike:

Sliger & Associates (S&A) is pleased to submit our proposal for Surveying and Mapping Services for the above referenced project.

SCOPE OF WORK

Task) Prepare topographic survey of the full right of way of McDonald Road from 100 feet west of Sugar House Drive to Sixth Street, including the full intersection of Sixth Street obtaining elevations at a minimum of 100 foot intervals and locating all above ground improvements, all trees 6" dbh and greater and locating all above ground utilities. Sunshine One Call will be contacted to mark inaccessible underground utilities and if there are as-builts of utilities available, we will show those on the survey.

FEE:

\$8,600.00

Any additional work will be prepared at our standard hourly rates or negotiated at that time.

• Professional Land Surveyor	\$110/hr
• Project Manager	\$110/hr
• Field Survey Crew	\$135/hr
• CAD Technician	\$80/hr
• Research	\$55/hr

M:\WINWORD\PROPOSAL\McDonaldRoadSidewalkTEDS15-187.doc

Phone 386.761.5385

Free 877.775.4437

Fax 386.760.0619

June 26, 2015

Page 2 of 2

Mr. Mikal R. Hale, P.E.

Re: *Proposal of Surveying and Mapping Services # 15-187*
McDonald Road Sidewalk, Port Orange, Florida

FEE FOR DELIVERABLES: Prints, Mylars, CDs and shipping charges will be billed at our current rates. An AutoCAD 2009 digital file will also be available.

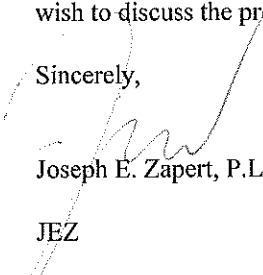
TERMS OF CONTRACT

S&A will invoice monthly in accordance with percent complete and at the conclusion of the project. Payment will be due upon receipt of invoice. Any past due balances over 30 days are subject to 1.5% interest per month (18% per annum). It is understood that this agreement is between S&A and the addressee and payment is not contingent on payment from a third party. If it becomes necessary to seek collections the client is responsible for the cost of collections including reasonable attorney's fees. In the event of a dispute the venue for the resolution of the dispute will be Volusia County, Florida.

We have included an acceptance block below. If this proposal is in accordance with your understanding of our agreement, an authorized agent of the firm accepting responsibility for payment should sign and return one copy of this proposal to execute the contract and expedite notice to proceed. S&A will begin work upon receipt of a signed copy.

Thank you for considering Sliger & Associates. Should you have any questions regarding our approach to this project or wish to discuss the project in more detail, please do not hesitate to call.

Sincerely,


Joseph E. Zapert, P.L.S., President

JEZ

cc: file

By signing this proposal I hereby acknowledge that I have read and accept the terms of this proposal individually and on behalf of the corporation.

Signature

Type/Print Name & Title

Date

Firm Name

ENVIRONMENTAL SERVICES, INC.
124 N. Nova Road, PMB 129
Ormond Beach, FL 32174

Phone 386-478-4350 * Fax 866-633-5688

www.environmentalservicesinc.com

30 June 2015

Mr. Mikal Hale
Traffic Engineering Data Solutions, Inc.
80 Spring Vista Drive
DeBary, Florida 32713

RE: McDonald Road Sidewalk (EJ13331.01)
Volusia County, Florida

Dear Mr. Hale:

Thank you for contacting Environmental Services, Inc. (ESI). Pursuant to our recent conversation, ESI is pleased to enclose the attached proposal. Please note under our Terms section at the end of the proposal that, as the client, you assure ESI that we have permission to work on the property being evaluated and that you will advise us regarding the proper procedures for accessing the property.

If the attached meets your requirements, please approve by signing and returning the enclosed document to us by mail to the address above, by fax (866-633-5688) or via email (sjulien@esinc.cc). We are prepared to proceed upon receipt of the signed contract. We look forward to working with you.

Please contact me should you have any questions. Thank you for selecting ESI to assist with your environmental consulting needs.

Sincerely yours,

ENVIRONMENTAL SERVICES, INC.



Shannon R. Julien
Vice President/Technical Director

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**PROPOSAL FOR SERVICES
ESI PROJECT NO. EJ13331.01**

The following Contract for Services is an agreement between Environmental Services, Inc., (ESI) and Traffic Engineering Data Solutions, Inc., (Client) with the terms specified herein. Client agrees that the company/individual signing this agreement has the ability to compensate ESI for the work described herein whether or not the proposed project materializes. ESI agrees to perform the following tasks for the associated fee.

Project Name: McDonald Road Sidewalk
Project Location: Volusia County, Florida

SCOPE OF SERVICES

FIXED FEE

Task 1. Wetland Delineation \$1,400.00

ESI will field delineate the limits of jurisdictional wetlands pursuant to the current methodologies of the U.S. Army Corps of Engineers [(ACOE) 2010 Regional Supplement to the Corps of Engineers Wetland Delineation Manual: Atlantic and Gulf Coastal Plain Region (Version 2.0)], Florida Department of Environmental Protection (FDEP) and St. Johns River Water Management District [(SJRWMD) Florida Unified Wetland Delineation Methodology, Chapter 62-340, F.A.C.]. We will provide you and your chosen land surveyor with a flagging key map showing the approximate location of the jurisdictional line.

This task does not include the formal mapping of the wetland boundary. A licensed land surveyor must perform this mapping.

Task 2. Protected Species Assessment \$700.00

ESI will survey the property for the presence of any state or federally protected wildlife species and their habitat. If protected species or habitats are encountered, ESI will perform preliminary mapping of the potential habitat area. Implications to development for any identified protected species will be addressed in the letter report.

Additional services not specifically addressed herein will be invoiced on a time and materials basis at standard ESI hourly rates. We will provide you with a written proposal for these tasks if, or when, they become necessary. We are prepared to proceed upon receipt of the signed contract.

ESI is committed to providing quality service to our clients. Every project is reviewed by a senior technical manager to ensure that the work has been performed in compliance with our goal of providing superior service and solutions to our clients.

ENVIRONMENTAL SERVICES, INC.

Project Name: McDonald Road Sidewalk (EJ13331.01)
Project Location: Volusia County, Florida

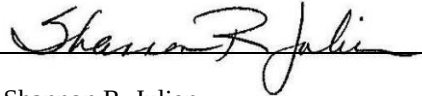
Task 1:	Wetland Delineation	Fee:	\$1,400.00
Task 2:	Protected Species Assessment	Fee:	\$700.00

TERMS:

- ESI will complete the work described above in a timely manner unless delayed by Client's request, lack of information, or intervening factors beyond our control.
- Client assures ESI that it has permission to work on the subject property and will advise ESI of proper procedures for accessing subject property.
- ESI will maintain a minimum \$1,000,000 errors and omissions (professional liability) insurance; \$1,000,000 per occurrence and \$2,000,000 aggregate general liability insurance for the duration of the project. If any additional insurance requirements are necessary, please return the specifications with the signed proposal. They will become a part of this contract as agreed by both parties.**
- Outside services and expenses such as subcontractors and special purchases will be invoiced with a handling fee of 15 percent.
- A retainer of \$0.00 is required; the retainer will be subtracted from the last invoice and is required by ESI to initiate work.**
- Client will provide ESI with any special billing formats or considerations with the signed contract.
- Billing is done monthly. **Payment is due immediately upon receipt of the invoice;** after 30 days the Client agrees to pay 1.5 percent late fee per month or portion thereof on unpaid balances. Unpaid balances after 60 days from the date of the invoice may result in work stoppage until overdue accounts are resolved.
- Failure to pay within 60 days from the date of invoice will be considered by ESI to be a breach of contract, and ESI may cease work and withhold all work product immediately without penalty from the Client.
- Client agrees that this contract is an agreement between Client and ESI. Payment is due from Client at the time services are performed. Payment shall not be contingent upon regulatory action or upon resolution of any legal matter that ESI is not a party to. If ESI is being contracted to complete work which Client will use in a legal dispute, Client agrees to pay ESI in a timely manner without regard to the current standing of that legal dispute. ESI fees may not be incorporated into real estate closings without prior written consent from ESI.
- Any disputes regarding payment for services will be resolved in a court in the county of the ESI office responsible for the work. Client agrees to pay all legal fees and other collection costs incurred by ESI to collect unpaid invoices.
- ESI rates change on March 1 of each year.
- This proposal is valid for a period of 60 days following the date of issuance.**

TERMS ACCEPTED:

ENVIRONMENTAL SERVICES, INC.

SIGNATURE: _____	SIGNATURE: <u></u>
NAME: _____	NAME: <u>Shannon R. Julien</u>
FIRM: _____	FIRM: <u>Environmental Services, Inc.</u>
TITLE: _____	TITLE: <u>Vice President/Technical Director</u>
DATE: _____	DATE: <u>30 June 2015</u>

BILLING ADDRESS AND CONTACT IF DIFFERENT FROM ABOVE:

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ENVIRONMENTAL SERVICES, INC.

**ENVIRONMENTAL SERVICES, INC.
SCHEDULE OF LABOR AND EXPENSE RATES**

<u>POSITION</u>	<u>RATE</u>	<u>EXPENSE</u>	<u>CHARGE</u>
<u>Technical</u>		<u>Additional Services</u>	
Assistant Scientist	\$40.00/Hour	CADD/GIS Usage	\$30.00/Hour
Environmental Technician	\$50.00/Hour	Global Positioning System	\$50.00/Day
Project Scientist	\$55.00/Hour	ATV Usage	\$50.00/Day
Senior Scientist	\$70.00/Hour	Boat Usage	\$100.00/Day
Senior Geologist	\$115.00/Hour	Local Courier Service	\$13.00/Delivery
Project Archaeologist	\$45.00/Hour	Outside Graphics	Cost + 15%
Senior Archaeologist	\$55.00/Hour	All Subcontracted Services	Cost + 15%
Historic Resource Specialist	\$75.00/Hour	<u>Travel</u>	
Sustainability Specialist	\$95.00/Hour	Vehicle Mileage Rate	\$0.575/Mile
Project Manager	\$95.00/Hour	Travel Expenses	Cost
Senior Manager	\$105.00/Hour	<u>Copies</u>	
VP/Technical Director	\$140.00/Hour	Photocopy Per Page	\$0.15
SR VP/Technical Director	\$155.00/Hour	Color Copy Per Page	\$1.50 8 ½ x 11
SR VP II/Technical Director	\$175.00/Hour		\$2.50 8 ½ x 14
Principal	\$200.00/Hour		\$3.00 11 x 17
<u>Administrative</u>		Full Size Copy Per Page	\$2.00 24 x 36
Receptionist	\$35.00/Hour		or 36 x 48 b/w
Administrative Assistant	\$50.00/Hour		\$20.00 24 x 36
Exec. Admin Assistant	\$65.00/Hour		or 36 x 48 color
<u>Graphics</u>		Blueprints or Xerox Per Page	\$2.50
CAD/GIS Technician	\$55.00/Hour	Aerial Photography	\$50 0 - 15 acres
CAD/GIS Analyst	\$75.00/Hour		\$100 16 - 50 acres
CAD/GIS Manager	\$100.00		\$200 51 - 100 acres
			\$300 101 - 999 acres
			\$500 1000+ acres
		Fax Per Page	\$0.50

TASK AUTHORIZATION NO. 3
Standard Contract for Services dated January 3, 2014
Between the City of Port Orange, Florida and Traffic Engineering Data Solutions, Inc.

THIS Task Authorization is entered into by and between the **CITY OF PORT ORANGE, FLORIDA**, a chartered municipal corporation with its principal place of business at 1000 City Center Circle, Port Orange, Florida 32129 (the "City") and **TRAFFIC ENGINEERING DATA SOLUTIONS, INC.**, a Florida corporation with its principal place of business at 80 Spring Vista Drive, DeBary, Florida 32713-1821 ("Contractor"), and hereinafter collectively referred to as the "Parties," and is to that certain Standard Contract for Services dated January 3, 2014, and any amendments thereto, hereinafter collectively referred to as the "Contract." The Parties, in exchange for the mutual covenants contained herein and in the Contract, agree as follows:

1. This Task Authorization expressly modifies the Contract and in the event of a conflict, the terms and conditions of this Task Authorization shall prevail.
2. In addition to all other terms and conditions contained in the Contract, Contractor shall provide services for the design and permitting of the project more particularly described in the Scope of Services attached hereto and incorporated herein as Exhibit "A" to Task Authorization No. 3.
3. In return for the services identified above, the City agrees to compensate Contractor in an amount subject to a limit up to but not to exceed \$79,330.80. 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.
4. Contractor shall complete the services to be provided herein on or before February 29, 2016.

IN WITNESS WHEREOF, the Parties have made and executed this Task Authorization for the purposes herein expressed on the dates set forth below.

Witnesses:

TRAFFIC ENGINEERING DATA SOLUTIONS, INC.

_____	By: _____
Printed Name: _____	Printed Name: Deanna F. Ferrell
	Title: President
_____	Date: _____
Printed Name: _____	

Witnesses:

CITY OF PORT ORANGE

Printed Name: _____ By: _____
Allen Green, Mayor

Printed Name: _____ Date: _____

Witnesses: ATTEST:

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

Printed Name: _____ Date: _____



EXHIBIT A

SCOPE OF SERVICES

Contract: Standard Contract for Services dated January 3, 2014
Task Authorization No.: 003
Project Name: McDonald Rd. Sidewalk From Sauls St. to 6th St. (FPN 435500-1-58-01)
TEDS Project Number: 10590
Date: June 30, 2015

Traffic Engineering Data Solutions, Inc. (TEDS) is pleased to offer this scope of services to the City of Port Orange (CITY) for providing professional engineering services for the above referenced project.

PROJECT UNDERSTANDING

- As of June 4, 2015, the CITY entered into a Local Agency Program (LAP) Agreement with the Florida Department of Transportation (FDOT) for design of the above referenced project, which requires the CITY to complete design and permitting prior to January 31, 2016, based on no right of way acquisition being required.
- Under contract to the River to Sea Transportation Planning Organization (R2CTPO), Kimley-Horn and Associates, Inc. (KHA) previously prepared a feasibility study for the project, entitled *McDonald Road Sidewalk Feasibility Study* in February 2013. A final version of this study was issued in April 2015 with Appendix D containing responses to a few additional comments from the FDOT.
- As depicted on the conceptual design plans contained in the study, 5' concrete sidewalk is proposed along the west side of McDonald Road right of way for approximately 2,640 LF, from 6th Street to north of Christy Drive, along with some additional sidewalk and/or ramp improvement at the intersections of 6th Street and Sauls Street. In addition, a new crosswalk across McDonald Road was proposed near Christy Drive, as well as reconfiguration of two (2) existing crosswalks across McDonald Road near Charles Street and Sauls Street. Intermittent lighting was depicted on the reconfigured crosswalk at Sauls Street.
- The CITY is the maintenance authority for McDonald Road and all other roadways within the vicinity of the project, which are local streets not located on the State Highway System (SHS). Within the vicinity of the project, the McDonald Road right of way was either dedicated by previous plats or through prescriptive right of way mapping declared in Resolution No. 07-54, which contains a specific purpose survey prepared by Sliger & Associates, Inc. (Sliger).
- The proposed sidewalk was terminated approximately 200' north of Christy Drive in the study. No sidewalk was proposed along the interior of the curve at the north end of the project adjacent to tax parcel 37-16-33-01-13-0014, which is owned by Volusia County. Wetlands are expected to exist near the southwestern right of way line in this area.
- Drainage improvements proposed in the study include only replacement of a culvert pipe under 6th Street. Required drainage design is limited to the modification of the existing shallow swales alongside the roadway and collection system components necessary to maintain the existing drainage patterns.
- No activity in, on, or over wetlands or other surface waters is anticipated, and so long as the project maintains the form of a sidewalk less than 6' in width, the project is expected to qualify for exemption from Environmental Resource Permit (ERP) with no other permitting required by the St. Johns River Water Management District (SJRWMD).

- The CITY owns and operates potable water, sanitary sewer, and/or reclaimed water utilities within the rights of way. Only minor adjustment of these utilities is expected, which should not warrant the need for water or sewer permits from the Florida Department of Environmental Protection (FDEP) or the Volusia County Health Department (VCHD).
- Landscape architecture, hardscape design, and irrigation design are not required in this project.

SCOPE OF SERVICES

Task 1 – Survey

TEDS will retain Sliger to prepare a topographic survey of the full McDonald Road right of way from 100' west of Sugar House Drive the 6th Street, including the full intersection of 6th Street, obtaining elevations at a minimum of 100' intervals and locating all above ground improvements, all trees 6" dbh and greater, and locating all above ground utilities. Sunshine One Call of Florida (SSOCOF) will be contacted to mark inaccessible underground utilities and if there are as-builts of utilities available, Sliger will show those on the survey. Right of way will be located sufficient for the CITY to certify the right of way as required in LAP process.

Task 2 – Environmental Assessment

TEDS will retain Environmental Services, Inc. (ESI) to field delineate the limits of jurisdictional wetlands pursuant to the current methodologies of the U.S. Army Corps of Engineers [(ACOE) 2010 Regional Supplement to the Corps of Engineers Wetland Delineation Manual: Atlantic and Gulf Coastal Plain Region (Version 2.0)], Florida Department of Environmental Protection (FDEP) and St. Johns River Water Management District [(SJRWMD) Florida Unified Wetland Delineation Methodology, Chapter 62-340, F.A.C.]. A flagging key map showing the approximate location of the jurisdictional line will be provided for the surveyor's benefit.

In addition, ESI will survey the property for the presence of any state or federally protected wildlife species and their habitat. If protected species or habitats are encountered, ESI will perform preliminary mapping of the potential habitat area. ESI will prepare a letter report outlining their findings, with any implications to the project for any identified protected species.

Task 3 – Design Development

TEDS will provide the following services to address the critical design elements of the project:

- Obtain and review record plan information for McDonald Road and adjacent developments that may be on file at the CITY, Volusia County, or SJRWMD
- Review the completed survey
- Conduct field review of project corridor with CITY staff
- Develop proposed alignment of sidewalk and typical section(s) based on avoidance of existing utilities and other above ground features or minimization of impacts
- Assess minor adjustments to existing drainage structures
- Assess minor adjustments to utilities
- Assess relocation and/or modification of existing signage / pavement markings within the right of way, as well as any proposed signage / pavement markings that may be necessary

Traffic Engineering Data Solutions, Inc.

Task 4 – Construction Plans

TEDS will prepare the following construction plans for the project:

- *Key Sheet (1 sheet)*
- *General Notes (1 sheet)*
- *Summary of Pay Items (1 sheet)*
- *Typical Sections (1 sheet)*
- *Plan Sheets (5 sheets) – signing / pavement marking & minor utility adjustments to be depicted here*
- *Cross-Sections (15 sheets) – 100' intervals*
- *Construction Details (2 sheets)*
- *Intermittent Lighting Details for Crosswalk (2 sheets)*
- *Traffic Control Plans (3 sheets) – includes Standard Index series 600 sheets only*
- *Stormwater Pollution Prevention Plan (SWPPP) Notes (1 sheet) – with notes to describe erosion control measures necessary for the contractor to maintain compliance with the National Pollutant Discharge Elimination System (NPDES) program during construction*

Design provided by TEDS will be based on the standard practices and publications utilized by the FDOT, including the PPM, the Florida Greenbook, Standard Indexes, Standard Specifications, the Utility Accommodation Manual (UAM), etc. Construction Plans will be prepared for progress review at 60%, and 90% levels of completion.

During preparation of construction plans, TEDS will provide the following coordination efforts:

- Preparation of an Engineer's Opinion of Probable Costs (EOPC's) at each level of completion
- Attend progress review meetings with the CITY at 60%, and 90% completion
- Attend City Council meeting(s) that may be required to discuss the project details
- Assist with preparation of LAP documentation

Task 5 – SSOCOF Design Ticket

TEDS will coordinate a new SSOCOF design ticket for the project in an attempt to identify any Utility Agency Owners (UAO's) that may currently be using the right of way. Upon completion of 60% construction plans, TEDS will transmit courtesy copies to the utility companies for their review of conflicts that may exist with the proposed construction and relocation(s) that may be required. Minor adjustments to be completed by the UAO's will be graphically shown on the plan sheets.

Task 6 – Permitting

At 60% and 90% levels of completion, TEDS will submit copies of the construction plans and pertinent LAP documentation to the CITY and for review. Once comments have been received from the CITY and FDOT, TEDS will revise the plans and respond to comments.

TEDS will prepare and submit a Request for Verification of Exemption from ERP, including provision of the \$100 check as required for review fee.

Traffic Engineering Data Solutions, Inc.

Task 7 – Bid Documents

Upon approval of 90% plans, TEDS coordinate with the CITY to understand current bidding requirements and/or preferences. A draft project manual will be prepared based on templates provided by the CITY in the format preferred by the CITY's Purchasing Division, including contract documents and specifications, along with other documents or specifications that may be required for federally funded LAP projects. Upon review of the project manual, TEDS will revise the documents per comments received from FDOT. The final version of the project manual will be provided to the City for bidding purposes.

Deliverables: Plans for this project will be printed at 1"=40' scale on 11"x17" sheets, and the project manual will be prepared for 8.5" x 11" sheets. TEDS will provide the following deliverables at each stage of the project noted below:

60% Completion

- Two (2) sets of the Construction Plans
- PDF of the Construction Plans
- PDF of the 60% EOPC

90% Completion

- Two (2) sets of the Construction Plans
- PDF of the Construction Plans
- PDF of the 90% EOPC

100% Completion

- Four (4) sets of the Approved Construction Plans (signed/sealed)
- PDF of the Approved Construction Plans
- AutoCAD files for the Approved Construction Plans
- Four (4) copies of the EOPC (signed/sealed)
- PDF of the Final EOPC
- MS Word copy of the Project Manual
- PDF copy of the Project Manual

Traffic Engineering Data Solutions, Inc.

FEES

TEDS shall conduct the work in the tasks described above for the lump sum fees indicated below:

Task	Fee
Task 1 - Survey	\$8,600
Task 2 - Environmental Assessment	\$2,100
Task 3 - Design Development	\$9,400
Task 4 - Construction Plans	\$27,070
Task 5 - SSOCOF Design Ticket	\$5,560
Task 6 - Permitting	\$10,850
Task 7 - Bid Documents	\$15,200
Reimbursable Expenses	\$550.80
Total	\$ 79,330.80

An estimate of man-hours and expenses is provided on the following pages.

Traffic Engineering Data Solutions, Inc.



CITY OF PORT ORANGE
MAN-HOUR ESTIMATE

June 30, 2015

TEDS PROJECT No.: 10590

TASK AUTHORIZATION No.: 003

McDONALD RD SIDEWALK FROM SAULS ST TO 6TH ST

CONTRACT DESCRIPTION: Standard Contract for Services (January, 3rd, 2014)

PROJECT DESCRIPTION: (PPN 435500-1-58-01)

PRIME CONSULTANT: Traffic Engineering Data Solutions, Inc.

ESTIMATE PREPARED BY: Mikal R. Hale, P.E.

ACTIVITY	Chief Engineer /			Project Engineer			Engineer Intern			Sr. CADD Designer			Senior Technician			Admin. Assistant			TOTAL		
	Sr. Project Manager Rate/Hr: \$180.00	Man Hours	Cost by Pos & Act	Rate/Hr: \$110.00	Man Hours	Cost by Pos & Act	Rate/Hr: \$80.00	Man Hours	Cost by Pos & Act	Rate/Hr: \$85.00	Man Hours	Cost by Pos & Act	Rate/Hr: \$55.00	Man Hours	Cost by Pos & Act	Rate/Hr: \$55.00	Man Hours	Cost by Pos & Act	Man-hours By Activity	Activity Cost	Avg. Hourly Rate
Task 6 - Permitting	10	1,800.00	39	4,290.00	0	0.00	0	0.00	56	4,760.00	0	0.00	0	0.00	105	10,850.00					103.33
Submit 60% plans to City & FDOT	1		2						2										5		
Review comments and revise plans	3		15						25										43		
Submit 90% plans to City & FDOT	1		2						2										5		
Review comments and revise plans	3		15						25										43		
Submit FINAL plans to City & FDOT	1		2						2										5		
Prepare & submit SURVMD ERI exemption verification	1		3																4		
Task 7 - Bid Documents	60	10,800.00	40	4,400.00	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	100	15,200.00					152.00
Coordinate bidding requirements with City	10																		10		
Prepare contract documents	30		25																55		
Prepare specifications	5		5																10		
Prepare LAP checklist	5		5																5		
Revise bid documents per FDOT comments	10		10																20		
TOTALS	87.0	26,460.00	96.0	14,960.00	108.0	8,640.00	212.0	18,020.00	0.0	0.00	0.0	0.00	0.0	0.00	503	68,080.00					135.35

LABOR

\$68,080.00

EXPENSES (Refer to backup provided on the following page)

I. SUB-CONSULTANT FEES	\$10,700.00
II. REPRODUCTION	\$98.00
III. MILEAGE / TRAVEL	\$307.80
IV. PERMIT REVIEW FEES	\$100.00
V. SHIPPING / POSTAGE	\$45.00
SUB-TOTAL - EXPENSES	\$11,250.80

TOTAL LUMP SUM CONTRACT AMOUNT

\$79,330.80

123

TASK AUTHORIZATION No.: 003

CONTRACT DESCRIPTION: Standard Contract for Services (January, 3rd, 2014)
PRIME CONSULTANT: Traffic Engineering Data Solutions, Inc.
PROJECT DESCRIPTION: (FPN 435500-1-58-01)
ESTIMATE PREPARED BY: Mikal R. Hale, P.E.
 McDONALD RD SIDEWALK FROM
 SAULS ST TO 6TH ST

100

Mark-up to Cover Administrative Costs:			0.00%	
Sub-Consultant		Description of Services	Fee Quote	Costs
a)	Sliger & Associates, Inc.	Task 1 - Survey	\$8,600.00	\$8,600
b)	Environmental Services, Inc.	Task 2 - Environmental Assessment	\$2,100.00	\$2,100
c)				\$0.00

100

Contract Rate	Black / White:	8.5" x 11"	11" x 17"	24" x 36"	\$0.10 / sheet \$0.20 / sheet \$3.00 / sheet	Color:	8.5" x 11"	11" x 17"	24" x 36"	\$1.20 / sheet \$2.00 / sheet \$70.00 / sheet
Job Estimate										
Document Description										
a)	Construction Plans - 60% Submittal	8.5" x 11"	11" x 17"	24" x 36"	8.5" x 11"	11" x 17"	24" x 36"	Number of Sets	Cost	
b)	Construction Plans - 90% Submittal		30					2	\$12.00	
c)	Construction Plans - FINAL Submittal		30					4	\$24.00	
d)	Project Manual	250						2	\$50.00	
									Total Reproduction Costs	\$98.00

100

Contract Rate		\$0.57 / mile (Current Federal Rate)	
Reason for Trip / Destination	Distance / Mileage (round trip)	Number of Trips	Cost
a) Conduct walk-through / project site	60	1	\$34.20
b) Coordination meetings / City Hall	60	8	\$273.60
c)			\$0.00
d)			\$0.00
e)			\$0.00
f)			\$0.00
g)			\$0.00
Total Mileage / Travel Costs			\$307.80

[illegible]

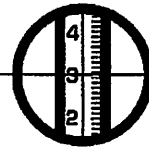
Contract Rate		Cost
	Description	Estimated Cost
	a) SJRWMD Exemption Verification	\$100.00
	b)	
Total Permit Review Fees		\$100.00

1000

Contract Rate		Cost
Description		Estimated Cost
a) 60% Submittal		\$15.00
b) 90% Submittal		\$15.00
c) 100% Submittal (FINAL)		\$15.00
Total Shipping / Postage Costs		\$45.00

June 26, 2015

SLIGER & ASSOCIATES
incorporated



Mr. Mikal R. Hale, P.E.
Traffic Engineering Data Solutions, Inc.
80 Spring Vista Drive
DeBary, Florida 32713

Delivered via email /Hard Copies to follow via mail

Re: *Proposal of Surveying and Mapping Services # 15-187*
McDonald Road Sidewalk, Port Orange, Florida

Dear Mike:

Sliger & Associates (S&A) is pleased to submit our proposal for Surveying and Mapping Services for the above referenced project.

SCOPE OF WORK

Task) Prepare topographic survey of the full right of way of McDonald Road from 100 feet west of Sugar House Drive to Sixth Street, including the full intersection of Sixth Street obtaining elevations at a minimum of 100 foot intervals and locating all above ground improvements, all trees 6" dbh and greater and locating all above ground utilities. Sunshine One Call will be contacted to mark inaccessible underground utilities and if there are as-builts of utilities available, we will show those on the survey.

FEE:

\$8,600.00

Any additional work will be prepared at our standard hourly rates or negotiated at that time.

• Professional Land Surveyor	\$110/hr
• Project Manager	\$110/hr
• Field Survey Crew	\$135/hr
• CAD Technician	\$80/hr
• Research	\$55/hr

M:\WINWORD\PROPOSAL\McDonaldRoadSidewalkTEDS15-187.doc

Phone 386.761.5385

Free 877.775.4437

Fax 386.760.0619

June 26, 2015

Page 2 of 2

Mr. Mikal R. Hale, P.E.

Re: *Proposal of Surveying and Mapping Services # 15-187*
McDonald Road Sidewalk, Port Orange, Florida

FEE FOR DELIVERABLES: Prints, Mylars, CDs and shipping charges will be billed at our current rates. An AutoCAD 2009 digital file will also be available.

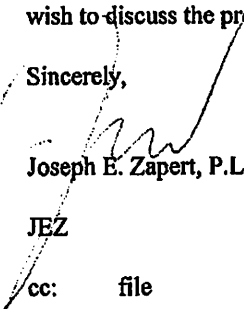
TERMS OF CONTRACT

S&A will invoice monthly in accordance with percent complete and at the conclusion of the project. Payment will be due upon receipt of invoice. Any past due balances over 30 days are subject to 1.5% interest per month (18% per annum). It is understood that this agreement is between S&A and the addressee and payment is not contingent on payment from a third party. If it becomes necessary to seek collections the client is responsible for the cost of collections including reasonable attorney's fees. In the event of a dispute the venue for the resolution of the dispute will be Volusia County, Florida.

We have included an acceptance block below. If this proposal is in accordance with your understanding of our agreement, an authorized agent of the firm accepting responsibility for payment should sign and return one copy of this proposal to execute the contract and expedite notice to proceed. S&A will begin work upon receipt of a signed copy.

Thank you for considering Sliger & Associates. Should you have any questions regarding our approach to this project or wish to discuss the project in more detail, please do not hesitate to call.

Sincerely,


Joseph E. Zapert, P.L.S., President

JEZ

cc: file

By signing this proposal I hereby acknowledge that I have read and accept the terms of this proposal individually and on behalf of the corporation.

Signature

Type/Print Name & Title

Date

Firm Name

ENVIRONMENTAL SERVICES, INC.
124 N. Nova Road, PMB 129
Ormond Beach, FL 32174

Phone 386-478-4350 * Fax 866-633-5688

www.environmentalservicesinc.com

30 June 2015

Mr. Mikal Hale
Traffic Engineering Data Solutions, Inc.
80 Spring Vista Drive
DeBary, Florida 32713

RE: McDonald Road Sidewalk (EJ13331.01)
Volusia County, Florida

Dear Mr. Hale:

Thank you for contacting Environmental Services, Inc. (ESI). Pursuant to our recent conversation, ESI is pleased to enclose the attached proposal. Please note under our Terms section at the end of the proposal that, as the client, you assure ESI that we have permission to work on the property being evaluated and that you will advise us regarding the proper procedures for accessing the property.

If the attached meets your requirements, please approve by signing and returning the enclosed document to us by mail to the address above, by fax (866-633-5688) or via email (sjulien@esinc.cc). We are prepared to proceed upon receipt of the signed contract. We look forward to working with you.

Please contact me should you have any questions. Thank you for selecting ESI to assist with your environmental consulting needs.

Sincerely yours,

ENVIRONMENTAL SERVICES, INC.



Shannon R. Julien
Vice President/Technical Director

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ENVIRONMENTAL SERVICES, INC.

**PROPOSAL FOR SERVICES
ESI PROJECT NO. EJ13331.01**

The following Contract for Services is an agreement between Environmental Services, Inc., (ESI) and Traffic Engineering Data Solutions, Inc., (Client) with the terms specified herein. Client agrees that the company/individual signing this agreement has the ability to compensate ESI for the work described herein whether or not the proposed project materializes. ESI agrees to perform the following tasks for the associated fee.

Project Name: McDonald Road Sidewalk
Project Location: Volusia County, Florida

SCOPE OF SERVICES

FIXED FEE

Task 1. Wetland Delineation **\$1,400.00**

ESI will field delineate the limits of jurisdictional wetlands pursuant to the current methodologies of the U.S. Army Corps of Engineers [(ACOE) 2010 Regional Supplement to the Corps of Engineers Wetland Delineation Manual: Atlantic and Gulf Coastal Plain Region (Version 2.0)], Florida Department of Environmental Protection (FDEP) and St. Johns River Water Management District [(SJRWMD) Florida Unified Wetland Delineation Methodology, Chapter 62-340, F.A.C.]. We will provide you and your chosen land surveyor with a flagging key map showing the approximate location of the jurisdictional line.

This task does not include the formal mapping of the wetland boundary. A licensed land surveyor must perform this mapping.

Task 2. Protected Species Assessment **\$700.00**

ESI will survey the property for the presence of any state or federally protected wildlife species and their habitat. If protected species or habitats are encountered, ESI will perform preliminary mapping of the potential habitat area. Implications to development for any identified protected species will be addressed in the letter report.

Additional services not specifically addressed herein will be invoiced on a time and materials basis at standard ESI hourly rates. We will provide you with a written proposal for these tasks if, or when, they become necessary. We are prepared to proceed upon receipt of the signed contract.

ESI is committed to providing quality service to our clients. Every project is reviewed by a senior technical manager to ensure that the work has been performed in compliance with our goal of providing superior service and solutions to our clients.

ENVIRONMENTAL SERVICES, INC.

Project Name: McDonald Road Sidewalk (EJ13331.01)
Project Location: Volusia County, Florida

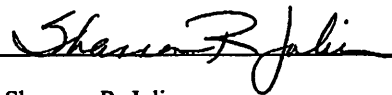
Task 1: Wetland Delineation Fee: \$1,400.00
Task 2: Protected Species Assessment Fee: \$700.00

TERMS:

- ESI will complete the work described above in a timely manner unless delayed by Client's request, lack of information, or intervening factors beyond our control.
- Client assures ESI that it has permission to work on the subject property and will advise ESI of proper procedures for accessing subject property.
- **ESI will maintain a minimum \$1,000,000 errors and omissions (professional liability) insurance; \$1,000,000 per occurrence and \$2,000,000 aggregate general liability insurance for the duration of the project. If any additional insurance requirements are necessary, please return the specifications with the signed proposal. They will become a part of this contract as agreed by both parties.**
- Outside services and expenses such as subcontractors and special purchases will be invoiced with a handling fee of 15 percent.
- **A retainer of \$0.00 is required; the retainer will be subtracted from the last invoice and is required by ESI to initiate work.**
- Client will provide ESI with any special billing formats or considerations with the signed contract.
- Billing is done monthly. **Payment is due immediately upon receipt of the invoice;** after 30 days the Client agrees to pay 1.5 percent late fee per month or portion thereof on unpaid balances. Unpaid balances after 60 days from the date of the invoice may result in work stoppage until overdue accounts are resolved.
- Failure to pay within 60 days from the date of invoice will be considered by ESI to be a breach of contract, and ESI may cease work and withhold all work product immediately without penalty from the Client.
- Client agrees that this contract is an agreement between Client and ESI. Payment is due from Client at the time services are performed. Payment shall not be contingent upon regulatory action or upon resolution of any legal matter that ESI is not a party to. If ESI is being contracted to complete work which Client will use in a legal dispute, Client agrees to pay ESI in a timely manner without regard to the current standing of that legal dispute. ESI fees may not be incorporated into real estate closings without prior written consent from ESI.
- Any disputes regarding payment for services will be resolved in a court in the county of the ESI office responsible for the work. Client agrees to pay all legal fees and other collection costs incurred by ESI to collect unpaid invoices.
- ESI rates change on March 1 of each year.
- **This proposal is valid for a period of 60 days following the date of issuance.**

TERMS ACCEPTED:

ENVIRONMENTAL SERVICES, INC.

SIGNATURE:	_____	SIGNATURE:	
NAME:	_____	NAME:	Shannon R. Julien
FIRM:	_____	FIRM:	Environmental Services, Inc.
TITLE:	_____	TITLE:	Vice President/Technical Director
DATE:	_____	DATE:	30 June 2015

BILLING ADDRESS AND CONTACT IF DIFFERENT FROM ABOVE:

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ENVIRONMENTAL SERVICES, INC.

**ENVIRONMENTAL SERVICES, INC.
SCHEDULE OF LABOR AND EXPENSE RATES**

<u>POSITION</u>	<u>RATE</u>	<u>EXPENSE</u>	<u>CHARGE</u>
<u>Technical</u>		<u>Additional Services</u>	
Assistant Scientist	\$40.00/Hour	CADD/GIS Usage	\$30.00/Hour
Environmental Technician	\$50.00/Hour	Global Positioning System	\$50.00/Day
Project Scientist	\$55.00/Hour	ATV Usage	\$50.00/Day
Senior Scientist	\$70.00/Hour	Boat Usage	\$100.00/Day
Senior Geologist	\$115.00/Hour	Local Courier Service	\$13.00/Delivery
Project Archaeologist	\$45.00/Hour	Outside Graphics	Cost + 15%
Senior Archaeologist	\$55.00/Hour	All Subcontracted Services	Cost + 15%
Historic Resource Specialist	\$75.00/Hour	<u>Travel</u>	
Sustainability Specialist	\$95.00/Hour	Vehicle Mileage Rate	\$0.575/Mile
Project Manager	\$95.00/Hour	Travel Expenses	Cost
Senior Manager	\$105.00/Hour	<u>Copies</u>	
VP/Technical Director	\$140.00/Hour	Photocopy Per Page	\$0.15
SR VP/Technical Director	\$155.00/Hour	Color Copy Per Page	\$1.50 8 ½ x 11
SR VP II/Technical Director	\$175.00/Hour		\$2.50 8 ½ x 14
Principal	\$200.00/Hour		\$3.00 11 x 17
<u>Administrative</u>		Full Size Copy Per Page	\$2.00 24 x 36
Receptionist	\$35.00/Hour		or 36 x 48 b/w
Administrative Assistant	\$50.00/Hour		\$20.00 24 x 36
Exec. Admin Assistant	\$65.00/Hour		or 36 x 48 color
<u>Graphics</u>		Blueprints or Xerox Per Page	\$2.50
CAD/GIS Technician	\$55.00/Hour	Aerial Photography	\$50 0 - 15 acres
CAD/GIS Analyst	\$75.00/Hour		\$100 16 - 50 acres
CAD/GIS Manager	\$100.00		\$200 51 - 100 acres
			\$300 101 - 999 acres
			\$500 1000+ acres
		Fax Per Page	\$0.50



CITY COUNCIL AGENDA ITEM

REQUESTED COUNCIL MEETING DATE 10/20/2015

Consent item: No

SUBJECT: Victoria Gardens Boulevard Sidewalk TPO Project

DEPARTMENT: Community Development

RECOMMENDED MOTION: Provide direction to fund the project and move forward with design or withdraw the project from the Projects Ready for Funding list

SUMMARY: The Victoria Gardens Boulevard sidewalk project is currently on the Volusia Transportation Planning Organization's (TPO) Projects Ready for Funding List and is anticipated to receive funding for design this year (FY2015) and for construction in FY 2016. The estimated cost of the project has gone up substantially due to a recent FDOT requirement and the City must decide to add funding to continue with the project or withdraw the application.

The project was initially submitted in 2011 and consisted of the construction of a five (5) foot wide sidewalk along the east side of a 1,600 linear foot segment of Victoria Gardens Boulevard between Applevue Way and Clyde Morris Boulevard and crosswalk improvements at the intersections with Crescent View Drive and Applevue Way. Currently there is an eight (8) foot wide sidewalk along the west side of Victoria Gardens Boulevard between Dunlawton Avenue and Clyde Morris Boulevard (Exhibit A).

A Feasibility Study was prepared by the TPO and reviewed FDOT in February 2013. The 2013 study estimated the project cost at \$186,579 (design and construction). Two years after the Feasibility Study was completed, in February 2015, FDOT issued a comment that additional right-of-way would need to be acquired for necessary grading to stabilize the slope located near Crescent View Drive and Applevue Way (Exhibit A). An updated Feasibility Study was prepared to reevaluate the proposed project and update the cost estimate. The updated Feasibility Study was completed in August 2015 and included the additional constraints not identified in the 2013 Feasibility Study that substantially increased the cost of the project including potential right-of-way acquisition or construction of a gravity wall for slope stabilization. According to the 2015 Feasibility Study, the estimated project cost is \$489,083. TPO funding for design and construction is based on the feasibility study estimate and the City is required to pay 10% of the estimated project cost.

The project is currently in the City's Capital Improvement Program (CIP). When preparing the CIP for FY 16 – FY 21 in early spring 2015, the revised feasibility study was just starting so staff had to estimate the amount of increase to the design and construction cost. Staff estimated a cost of \$367,560 that included costs associated with the gravity wall. Based on the estimate, the CIP contains \$36,756 as the City match, leaving a shortage of approximately \$12,000 if the City elects to continue with

the project.

	2013 Estimated Project Cost	2013 City Estimated Share	2015 Estimated Project Cost	2015 City Estimated Share	Current Funding in CIP
Engineering & Planning (FY 15)	\$37,377	\$3,738	\$100,602	\$10,060	\$6,372
Construction (FY 16)	\$149,202	\$14,920	\$388,481	\$38,848	\$30,384
Total	\$186,579	\$18,658	\$489,083	\$48,908	\$36,756

At this time the City must decide whether to fund the project and move forward with design or withdraw the project from the Projects Ready for Funding list. Should Council decide to proceed with this project, sufficient funding is available within Fund 312 (transportation impact).

Project Funding Account
No.: No.:

ATTACHMENTS:

1.	Exhibit A - Victoria Garden Blvd. Sidewalk	VICTORIA GARDEN SIDEWALK EXHIBIT A.pdf
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Schmotzer, Melanie	Created/Initiated - 10/08/2015
Clark, Wayne	Approved - 10/08/2015
Riehm, Tracey	Approved - 10/15/2015
Johansson, M. Jake	Final Approval - 10/15/2015

EXHIBIT A

