



REGULAR CITY COUNCIL MEETING

6:30 PM – COUNCIL CHAMBERS – CITY HALL

OCTOBER 20, 2020

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. Invocation by Pastor Tom Nelson of First United Methodist Church
2. Pledge of Allegiance
3. Roll Call

B. PROCLAMATIONS

4. Florida City Government Week Proclamation

C. CONSENT AGENDA

5. Public Comments on Consent Agenda Items Only
6. Agenda Approval
7. Approval of Minutes
 - a. October 6, 2020 - Regular City Council Meeting
8. Bid Awards and Contract Items
 - a. Intent to Award ITB #20-17 to G&G Outdoors, LLC for Landscape Maintenance Services for Police Dept. Shooting Range
9. Resolution No. 20-58 - Rate Adjustment for PD Special Details
10. Resolution No. 20-59 - Approving the Conveyance of a Parcel of Land Adjacent to McDonald Road and Releasing the Associated Easement through a Quit Claim Deed
11. Approval of Minor Special Event – Christmas Tree Sales at Dunlawton Square Shopping Center located at 3813 Nova Road

D. CITIZEN PARTICIPATION (Agenda)

12. Derek LaMontagne - Supporting Volusia Forever and Smarter Growth Management

13. Debbie Darino - Proposed revisions to the City's animal code

E. CITIZEN PARTICIPATION (Non-Agenda – 20 minutes)

F. COUNCIL COMMENTS

14. Comments/Concerns from Council Members

G. BOARD APPOINTMENTS, INTERVIEWS, REPORTS

15. Citizen Advisory Committee for TPO

H. PUBLIC HEARING

16. Second Reading - Ordinance No. 2020-30 - Rezoning/4116 Nova Road

17. First Reading - Ordinance No. 2020-34 - 20-2 Large Scale Future Land Use Amendment/3835 Clyde Morris Boulevard (Osprey Point Apartments)

18. First Reading - Ordinance No. 2020-35 - Rezoning/3835 Clyde Morris Boulevard (Osprey Point Apartments)

19. First Reading - Ordinance No. 2020-36 - LDC Amendment/Chapter 3 - Neighborhood Meetings (Case No. 20-25000006)

I. REGULAR AGENDA

20. First Reading - Ordinance No. 2020-37 - Amending Chapter 54, Article V, Police Pension Fund, Section 54-139, Internal Revenue Code Compliance

J. ADDITIONAL ITEMS

21. City Attorney

22. City Manager

K. COUNCIL COMMITTEE REPORTS

23. City Council Committee Reports

a. First Step Shelter

b. Port Orange/South Daytona Chamber of Commerce

c. Roundtable of Elected Officials

L. ADJOURNMENT

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NOTICES – PURSUANT TO SECTION 286.0105 OF THE FLORIDA STATUTES, IF ANY PERSON DECIDES TO APPEAL ANY DECISION MADE BY THE CITY COUNCIL WITH RESPECT TO ANY MATTER CONSIDERED AT THIS PUBLIC MEETING OR HEARING, SUCH PERSON WILL NEED A RECORD OF THE PROCEEDINGS, AND THAT, FOR SUCH PURPOSE, SUCH PERSON MAY NEED TO ENSURE THAT A VERBATIM RECORD OF THE PROCEEDINGS IS MADE, WHICH RECORD INCLUDES THE TESTIMONY AND EVIDENCE UPON WHICH THE APPEAL IS TO BE BASED. THE CITY DOES NOT PREPARE OR PROVIDE SUCH A RECORD.



FOR SPECIAL ACCOMMODATIONS, PLEASE NOTIFY THE CITY CLERK'S OFFICE (PHONE: 386-506-5563) AS FAR IN ADVANCE AS POSSIBLE, BUT PREFERABLY WITHIN 2 WORKING DAYS OF YOUR RECEIPT OF THIS NOTICE OR 5 DAYS PRIOR TO THE MEETING OR HEARING DATE.



HELP FOR THE HEARING IMPAIRED IS AVAILABLE THROUGH THE ASSISTIVE LISTENING SYSTEM. RECEIVERS CAN BE OBTAINED FROM THE CITY CLERK'S OFFICE.

IN ACCORDANCE WITH THE AMERICANS WITH DISABILITIES ACT (ADA), IF YOU ARE A PERSON WITH A DISABILITY WHO NEEDS AN ACCOMMODATION IN ORDER TO PARTICIPATE IN THIS PROCEEDING, YOU ARE ENTITLED, AT NO COST TO YOU, 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, CITYCLERK@PORT-ORANGE.ORG, AS FAR IN ADVANCE AS POSSIBLE, BUT PREFERABLY WITHIN 2 WORKING DAYS OF YOUR RECEIPT OF THIS NOTICE OR 5 DAYS PRIOR TO THE MEETING OR HEARING DATE. IF YOU ARE HEARING OR VOICE IMPAIRED, CONTACT THE RELAY OPERATOR AT 7-1-1 or 1-800-955-8771.

UPON REQUEST BY A QUALIFIED INDIVIDUAL WITH A DISABILITY, THIS DOCUMENT WILL BE MADE AVAILABLE IN AN ALTERNATE FORMAT. IF YOU NEED TO REQUEST THIS DOCUMENT IN AN ALTERNATE FORMAT, PLEASE CONTACT THE CITY CLERK WHOSE CONTACT INFORMATION IS PROVIDED ABOVE.

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

PUBLIC PARTICIPATION INSTRUCTIONS

Due to the Novel Coronavirus Disease 2019 (COVID-19) and Federal, State, County, and the City's Declarations of State of Emergency, and City of Port Orange Executive Order 9, the City of Port Orange will be calling meetings only when necessary, and conducting public meetings using communications media technology until the Local State of Emergency has concluded. Those wishing to attend meetings are encouraged to join the meeting through electronic means.

The October 20, 2020 City Council Meeting will be conducted physically in Council Chambers at City Hall, 1000 City Center Circle with an opportunity to participate virtually. Access in Council Chambers will be limited in order to comply with the safety instructions relating to COVID-19.

To view and/or participate in the City Council meeting on October 20, 2020, which begins at 6:30 p.m., you have the following additional options:

1. Watch the meeting online, but not participate:

You may watch the meeting via Spectrum Channel 498 or through the City's YouTube Channel:
<https://www.youtube.com/channel/UCTYNmc7tZVRrB2NH5-Oj7hg>

2. Watch the meeting online and provide public comment prior to the meeting:

You may watch the meeting as listed above, and also provide written comments no less than 3 hours prior to the meeting time by emailing City Clerk Robin Fenwick at cityclerk@port-orange.org, regular mail at 1000 City Center Circle, Port Orange, FL 32129, or place it in the Drop Box at the front door of City Hall. Please include your full name, city of residence, and comments by the deadline and your comments will be read into the record. There is also a form located on the City's website at: www.port-orange.org/publiccomments which can be submitted electronically. Time limits will be enforced so written comments must be limited to no more than 3 minutes.

3. Watch the meeting online and provide public comment during the meeting:

Request to Speak instructions:

To request to attend virtually and speak during the meeting, you must complete the Request to Speak form prior to the start of the meeting to be placed on a list. You may access the form by visiting www.port-orange.org/publiccomments. You must fill out all required information for the form to be submitted. Forms are due to the City Clerk no later than 24 hours prior to the meeting date/time. Once the form is received, the meeting link and instructions will be provided to you via email.

For additional information or for special assistance prior to the meeting, please contact Robin Fenwick, City Clerk, cityclerk@port-orange.org or (386) 506-5563.

REGULAR CITY COUNCIL MEETING MINUTES
COUNCIL CHAMBERS – CITY HALL
1000 CITY CENTER CIRCLE
PORT ORANGE, FLORIDA
OCTOBER 6, 2020

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

Silent Invocation

Pledge of Allegiance

Roll Call

Present:

Council Member Marilyn Ford
Council Member Chase Tramont
Council Member Scott Stiltner
Vice Mayor Drew Bastian
Mayor Donald Burnette

Also Present:

Acting City Manager Jamie Miller
City Attorney Matthew Jones
City Clerk Robin Fenwick

PROCLAMATIONS

4. Domestic Violence Awareness

Mayor Don Burnette read the proclamation for Domestic Violence Awareness.

5. Breast Cancer Awareness

Mayor Don Burnette read the proclamation for Breast Cancer Awareness.

CONSENT AGENDA

6. Public Comments on Consent Agenda Items Only

There were none.

7. Agenda Approval

There were no changes to the Agenda requested by Council.

Motion to approve the agenda as presented was made by Vice Mayor Drew Bastian and Seconded by Council Member Marilyn Ford. Motion carried unanimously by roll call vote.

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8. Approval of Minutes

- a. September 15, 2020 - Regular City Council Meeting
- b. September 23, 2020 - Special City Council Meeting
- c. September 29, 2020 - Special City Council Meeting

9. Bid Awards and Contract Items

- a. Renewal of MetLife for employee dental, vision, and group term life insurance for 2021
- b. Approval of Change Order 1 with VerdeGo Landscape, LLC for the Dunlawton Median project
- c. Approval of Change Order 2 with VerdeGo Landscape, LLC for the Dunlawton Median project
- d. Ratification of the Police Benevolent Association Lieutenants (PBA Lt.) 2020-2023 Collective Bargaining Agreement

10. Resolution No. 20-54 - Dedication of right-of-way along the south side of Herbert Street, adjacent to 956 Herbert Street

11. Resolution No. 20-55- Approval of Subcontract from University of North Florida Training and Services Institute Inc., d/b/a Institute of Police Technology and Management for Florida's Bicycle Pedestrian Focused Initiative: Communication and High Visibility and Enforcement Project

Motion to approve the consent agenda was made by Vice Mayor Drew Bastian and Seconded by Council Member Marilyn Ford. Motion carried unanimously by roll call vote.

SPECIAL REPORTS

12. Report from KemperSports on the Cypress Head Golf

Bob Duquette, General Manager, provided details on the financial reports and course conditions and answered questions from Council.

CITIZEN PARTICIPATION (Non-Agenda – 20 minutes)

Robert Reinhausen, citizen, spoke regarding the Assistant City Manager position.

COUNCIL COMMENTS

13. Comments/Concerns from Council Members

Mayor Don Burnette recognized the Port Orange/South Daytona Chamber of Commerce Leadership 2020 Class. He also spoke regarding Trunk or Treat and the measures the City has taken to control the environment for everyone's safety. He reminded residents to respond to the census.

PUBLIC HEARING

14. Second Reading - Ordinance No. 2020-31- LDC Amendment/Chapter 2 and 16 – Atypical fences and Special setbacks

Mayor Don Burnette read Ordinance No. 2020-31.

ORDINANCE NO. 2020-31

AN ORDINANCE OF THE CITY OF PORT ORANGE, VOLUSIA COUNTY, FLORIDA AMENDING THE LAND DEVELOPMENT CODE CHAPTERS 2 AND 16 UPDATING THE DEFINITION FOR ATYPICAL LOTS AND TYPE OF FENCING ALLOWED ON AN ATYPICAL LOT, AND PROVIDING A DEFINITION AND SPECIAL SETBACKS FOR PERGOLA AND GAZEBO; PROVIDING FOR REPEAL OF CONFLICTING ORDINANCES; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

Motion to approve Ordinance No. 2020-31 was made by Vice Mayor Drew Bastian and Seconded by Council Member Scott Stiltner.

Penelope Cruz, Planning Manager, explained the changes as discussed during first reading.

Motion carried unanimously by roll call vote.

15. Second Reading - Ordinance No. 2020-32 - LDC Amendment – Chapter 16, Section 1; and Code of Ordinances Amendment – Sections 70-48 and 70-50/Residential Storage

Mayor Don Burnette read Ordinance No. 2020-32.

ORDINANCE NO. 2020-32

AN ORDINANCE OF THE CITY OF PORT ORANGE, VOLUSIA COUNTY, FLORIDA, AMENDING THE LAND DEVELOPMENT CODE, CHAPTER 16, SECTION 1(e)(1)(b) RELATING TO OUTSIDE STORAGE TO ADD A REGULATION FOR INOPERABLE, DISABLED, ABANDONED, AND UNREGISTERED/UNLICENSED RECREATIONAL VEHICLES AND EQUIPMENT; AMENDING THE CODE OF ORDINANCES SECTION 70-48 TO ADD A REGULATION PERTAINING TO INOPERABLE DISABLED, ABANDONED, AND UNREGISTERED/

UNLICENSED RECREATIONAL VEHICLES AND EQUIPMENT AND TO ADD PRIVATE MOTOR COACHES TO THE DEFINITION OF RECREATIONAL VEHICLES; AMENDING THE CODE OF ORDINANCES SECTION 70-50 BY DELETING OBSOLETE PROVISIONS AND PROVIDING FOR GENERAL ENFORCEMENT; PROVIDING FOR REPEAL OF CONFLICTING ORDINANCES; PROVIDING FOR CODIFICATION; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

Motion to approve Ordinance No. 2020-32 was made by Vice Mayor Drew Bastian and Seconded by Council Member Scott Stiltner. Motion carried unanimously by roll call vote.

16. First Reading - Ordinance No. 2020-30 - Rezoning/4116 Nova Road

Mayor Don Burnette read Ordinance No. 2020-30.

ORDINANCE NO. 2020-30

AN ORDINANCE OF THE CITY OF PORT ORANGE, VOLUSIA COUNTY, FLORIDA, REZONING PROPERTY CONSISTING OF APPROXIMATELY +9.68 ACRES FROM FLOOD-PLAIN CONSERVATION (F-C) TO COMMERCIAL INDUSTRIAL (CI); AUTHORIZING REVISION OF THE OFFICIAL ZONING ATLAS; AND PROVIDING AN EFFECTIVE DATE.

Motion to approve Ordinance No. 2020-30 was made by Vice Mayor Drew Bastian and Seconded by Council Member Scott Stiltner.

Mrs. Cruz provided details of the rezoning project and advised no wetlands will be altered.

Dana Crosby Collier, Attorney for the applicant, spoke regarding the project and answered questions from Council.

Council Members Chase Tramont and Scott Stiltner, as well as Vice Mayor Drew Bastian and Mayor Don Burnette, discussed their concerns with the conservation areas. Council Member Marilyn Ford supports the rezoning.

Mrs. Cruz provided further details regarding the rezoning requirements and the positive changes that would occur with the rezoning. This rezoning is consistent with the FLU approved by City Council in 2012.

Motion carried 3-2 by roll call vote with Council Member Scott Stiltner and Vice Mayor Drew Bastian voting no.

REGULAR AGENDA

17. Approval of YMCA Waiver and Deferral Letter

Motion to approve the Waiver and Deferral Letter with the YMCA was made by Vice Mayor Drew Bastian and Seconded by Council Member Marilyn Ford.

Alan Rosen, Assistant City Manager, provided details of the agreement being presented and answered questions from Council.

Chris Seilkop, YMCA, also answered questions from Council regarding Brooks Rehab/Halifax Health lease, which rents space at the YMCA.

Phil Madson, Anytime Fitness, provided questions he believes Council should ask of the YMCA.

Council is willing to support this agreement but needs more discussion and wants to see a better business model moving forward.

Motion carried 4-1 by roll call vote with Vice Mayor Drew Bastian voting no.

ADDITIONAL ITEMS

18. City Attorney

There was nothing further.

19. City Manager

a. Update on Lang Settlement

Jamie Miller, Acting City Manager, provided details of the Lang Settlement Agreement as presented and asked for Council's approval.

Motion to approve the agreement was made by Council Member Marilyn Ford and Seconded by Vice Mayor Drew Bastian. Motion carried unanimously by roll call vote.

COUNCIL COMMITTEE REPORTS

20. City Council Committee Reports

a. River to Sea TPO - Council Member Scott Stiltner provided details of the recent meeting, specifically relating to the project list and funding.

b. General Employees' Pension Plan - Meeting was cancelled for lack of agenda items.

ADJOURNMENT - 7:50 p.m.

Mayor Donald O. Burnette

Attest:

Robin Fenwick, MMC
City Clerk



CITY COUNCIL AGENDA ITEM

REQUESTED COUNCIL MEETING DATE 10/20/2020

Consent item: Yes

SUBJECT: (C8a) Intent to Award ITB #20-17 to G&G Outdoors, LLC for Landscape Maintenance Services for Police Dept. Shooting Range

DEPARTMENT: Police Services

GOAL:

RECOMMENDED MOTION: Move to approve award of ITB #20-17, Landscape Maintenance Services for the Police Department Shooting Range to G&G Outdoors LLC and authorize the Mayor and City Clerk to execute all contract documents.

SUMMARY: The City received four (4) bids for ITB #20-17, for landscape maintenance services of the police department shooting range.

The scope of work is to perform grounds maintenance services which include all three ranges (x24 per year) to include berms (x4 per year), storm water pond areas, parking areas and fencing (x20 per year).

After close evaluation and review of the bid submittals, staff recommends award to the lowest responsive bidder, G&G Outdoors LLC. This contract amount is within the anticipated budget.

Project No.: Funding Account No.:

Presenter: Thomas Grimaldi

ATTACHMENTS:

1.	G&G Outdoors, LLC Standard Contract with the City of Port Orange	G&G Outdoors, LLC Standard Contract with the City of Port Orange.pdf
2.	ITB 20-17 Landscape Maintenance Services for Police Department Shooting Range FINAL 8.14.20	ITB 20-17 Landscape Maintenance Services for Police Department Shooting Range FINAL 8.14.20.pdf
3.	ITB 20-17 Landscape Maintenance Services for Police Department Shooting Range NOTICE of INTENT 9.17.20	ITB 20-17 Landscape Maintenance Services for Police Department Shooting Range NOTICE of INTENT 9.17.20.pdf

4.	ITB 20-17 LANDSCAPE MAINTENANCE SERVICES FOR POLICE DEPARTMENT SHOOTING RANGE PRICING SHEET FINAL 8.11.20	ITB 20-17 LANDSCAPE MAINTENANCE SERVICES FOR POLICE DEPARTMENT SHOOTING RANGE PRICING SHEET FINAL 8.11.20.xlsx
5.	ITB 20-17 LANDSCAPING MAINTENANCE SERVICES FOR POLICE DEPARTMENT SHOOTING RANGE Bid Tabulation Sheet FINAL 9.17.2020	ITB 20-17 LANDSCAPING MAINTENANCE SERVICES FOR POLICE DEPARTMENT SHOOTING RANGE Bid Tabulation Sheet FINAL 9.17.2020.pdf
6.	ITB 20-17 G&G Response	Vendor Response.pdf

Eric Fisher	Created/Initiated - 9/18/2020
William Proctor	Approved - 9/22/2020
Thomas Grimaldi	Approved - 9/28/2020
Lupe Reyna-Coffin	Approved - 10/5/2020
Scott Neils	Approved - 10/5/2020
Matthew Jones	Approved - 10/9/2020
Jamie Miller	Approved - 10/9/2020
Robin Fenwick	Final Approval - 10/9/2020



CITY OF PORT ORANGE STANDARD CONTRACT FOR SERVICES

This Standard Contract for Services ("Contract") is entered into this ____ day of _____, 2020, 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 **G&G OUTDOORS, LLC**, a Florida limited liability corporation whose principal address is 4059 Quail Nest Lane, New Smyrna Beach, Florida ("Contractor"). The City and Contractor are collectively referred to herein as the "Parties."

1. Provision of Services

(a) The Contractor hereby agrees to provide to the City Landscape Maintenance Services for the Police Shooting Range, pursuant to Intent to Bid 20-17 ("ITB 20-17"). This Contract together with ITB 20-17, Addenda, and Contractor's proposal, all of which may be referred to as the "Contract" and all of which are made a part hereof by reference shall constitute the formal written contract between the City and Contractor. For convenience, Section 3, Scope of Services, of ITB 20-17 and the Bid Tabulation as submitted by Contractor in Contractor's Proposal, are attached hereto as **Exhibit "1"**. A complete copy of ITB 20-17, Addenda, and Contractor's Proposal are available in the Office of the City Clerk. Contractor represents that they are familiar with the documents that make up the Contract, as referenced hereinabove.

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

Term: The initial term of this Contract shall become effective on the last date the Contract is signed by the Parties and shall continue for a period of one-year ("Initial Term").

Renewals: Upon written agreement of the Parties, this Contract may be renewed for three (3) one-year periods, subject to review and approval of the City Manager and budget appropriation.

Manner and Place: The work shall be performed 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 this Contract.

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 upon issuance of a Notice to Proceed and a written Purchase Order issued by the City and executed by the City Manager. The City reserves the right to contract with other parties for the goods and services contemplated by this Contract, as determined in the City's sole and absolute discretion.

2. City Obligations. In return for the services identified above, the City agrees to compensate the Contractor at the pricing set forth in Exhibit "1," attached hereto, in an amount not to exceed Twenty-Two Thousand Four Hundred

and 00/100 Dollars (\$22,400.00). 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.

3. Contract Documents. The following forms, attached as Exhibit "2," are an integral part of this Contract and must be completed, signed, witnessed and notarized as indicated and returned with the signed Contract:

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

4. Contract Administration. The Police Chief, Thomas Grimaldi, shall perform contract administration of this Contract. The City may change the contract administrator, from time to time and at any time, upon written notice to Contractor. For notice provisions, see the paragraph below entitled "Notice."

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

6. 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 23 of this contract concerning disputes.

7. 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.

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

9. 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.

10. 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 required by the City to perform the service.

(b) Upon request from the City's custodian of public records, provide the City with a copy of the requested record or allow the records to be inspected or copied within a reasonable time 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 from public records disclosure requirements are not disclosed except as authorized by law for the duration of the Contract term and following completion of the Contract if the Contractor does not transfer the records to the City.

(d) Upon completion of the Contract, Contractor shall transfer to the City, at no cost, all public records in possession of the Contractor and destroy any duplicate public records that are exempt from public records disclosure requirements. All records stored electronically must be provided to the City, upon request from the City's custodian of public records, 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 deem the non-compliance a breach of this Contract, and the Contractor may be subject to penalties under Section 119.0701, Florida Statutes.

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

11. 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.

12. Insurance. Contractor shall maintain insurance, as required herein, during the life of this Contract. Contractor shall provide to the City, a certificate of insurance endorsing the City of Port Orange as an additional named insured. All insurance coverages of the Contractor shall be primary and non-contributory. All insurance coverages of the Contractor shall not seek contribution from any other insurance or self-insurance available to the City. For workers' compensation coverage, the Contractor's insurance certificate shall include the insurer's waiver of subrogation in lieu of endorsing the City as an additional insured for workers' compensation. The City shall not accept Workers' Compensation Exemptions. Contractor may use leased employees if the Contractor ensures that all workers who access the jobsite are employees covered by the employee leasing company, and no non-employees are permitted to access the jobsite. Any Contractor using a leased employee shall complete the City's Leased Employee Affidavit Form Exhibit. Policies for Workers' Compensation may be issued by companies authorized as a group self-insurer by F.S. 440.572.

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. Contractor shall not commence work under this Contract until the City has received a certificate or certificates of insurance with endorsement evidencing

the required insurance. Insurer shall provide the City written notice of cancellation, nonrenewal or any other changes in coverage no later than thirty (30) days prior to the effective date of the change and shall provide notice to the City no later than 10 days after non-payment. The Certificates of Insurance and required insurance policies shall contain provisions that thirty (30) days prior written notice shall be given to the City of any cancellation, intent not to renew, or reduction in the policies or coverages.

Contractor shall require and ensure each of its subcontractors to maintain, until the completion of the subcontractor's work, insurance of the types and to the limits set forth herein. All insurance coverages shall be primary and non-contributory. All insurance coverages of the subcontractors shall not seek contribution from any other insurance or self-insurance available to the City. The Contractor is responsible for ensuring that its subcontractors maintain the required coverage. Failure of the Contractor to ensure the subcontractors maintain the required coverage, shall not relieve the Contractor of any contractual responsibility, obligation or liability.

The City reserves the right to increase insurance coverage as determined for higher risk contracts.

The acceptance by the City of any Certificate of Insurance does not constitute approval or agreement by the City that the insurance requirements have been satisfied or that the insurance policy shown on the Certificate of Insurance is in compliance with this Contract and does not waive the insurance required by this Contract.

Should at any time the Contractor or subcontractors not maintain the insurance coverages required herein, the City may terminate the Contract or at its sole discretion shall be authorized to purchase such coverages and charge the Contractor for such coverages purchased. The City shall be under no obligation to purchase such insurance, nor shall it be responsible for the coverages purchased or the insurance company or companies used. The decision of the City to purchase such insurance coverages shall in no way be construed to be a waiver of any of its rights under the Contract.

Standard Insurance Requirements				
	Insurance	Standards		Additional Requirements
☒	<u>Workers' Compensation</u> The Contractor shall maintain coverage for its employees with statutory workers' compensation limits, and no less than the limits indicated in the Schedule of Limits for Employers' Liability. Said coverage shall include a waiver of subrogation in favor of the City. The City will not accept elective exemptions. Any contractor using an employee leasing company shall complete the Leased Employee Affidavit Form Exhibit.	<u>Contract Amount</u> Up to \$10 million \$10 - \$20 million Contracts over \$20 million To Be Determined by the City.	<u>Limits</u> Statutory/\$500,000 Statutory/\$1,000,000	☐ If Contract requires work on or about navigable waters, Longshoreman's and Harbor Workers' Coverage required. ☐ If vessels involved, Jones Act coverage with limits of \$500,000 required.

☒	Comprehensive General Liability (including Completed Operations and Contractual Liability)	<u>Limits:</u> Combined Single Limit Bodily Injury and Property damage \$1,000,000 occurrence \$1,000,000 aggregate	☐ When work is 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 owned, hired and non-owned automobiles.	<u>Limits:</u> Auto Liability Body Injury and Property Damage: \$1,000,000 each occurrence \$1,000,000 aggregate	
Additional Insurance Requirements			
☐	Property Insurance Builders Risk. <u>Additional Coverage:</u>	<u>Limits:</u> Buildings - Completed value of Contract. "All Risk" coverage on latest ISO for or its equivalent. Permission granted to occupy. Owner named as insured AIMA	If Agreement 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	<u>Limits:</u> Coverage - \$1,000,000	
☐	Installation Floater (IT)	<u>Limits:</u> Coverage - \$ <u>To be determined.</u>	
☐	Contractor Pollution Liability	<u>Limits:</u> Coverage - \$1,000,000	
☐	Errors and Omissions	<u>Limits:</u> Coverage - \$1,000,000	
☐	Umbrella Policy	<u>Limits:</u> Coverage - \$ <u>To be determined.</u>	
☒	Payment and Performance Bond Required	<u>Limits:</u> Coverage - Equal to amount of Contract.	
☐	City Manager waives Payment and Performance Bond for work under \$25,000.00.		
☐	Unless otherwise required by law, City Manager waives Insurance for FOB goods under \$25,000.00.		

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

14. 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.

15. 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.

16. 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.

17. 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.

18. 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.

19. 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 Contractor's expense.

20. 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.

21. Liability for Loss or Damage.

(a) 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.

(b) To the fullest extent permitted by law, in addition to the express duty to indemnify City when there is any causal connection between Contractor's work and any injury, loss, damage, death or property damage, Contractor expressly undertakes a duty to defend City as a separate duty, independent of and broader than the duty to indemnify. The duty to defend agreed to by Contractor hereby expressly include all costs of litigation, attorney's fees, settlement costs and reasonable expenses in connection with the litigation, whether or not the claims made for loss, injury, damage or property damage are valid or groundless and regardless of whether the defense of City is maintained by the City or assumed by Contractor as long as the claims made could be causally connected to Contractor as reasonable determined by City.

22. 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.

23. Disputes. The City Manager, who shall reduce his decision to writing and mail or otherwise furnish a copy thereof to Contractor, shall decide disputes with respect to this Agreement. The decision by the City Manager shall be final and binding unless, within five (5) business days from the date of delivery of the decision of the City Manager,

appeal is made to the City Council in writing and delivered to the City Clerk, Robin L. Fenwick, MMC. 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.

24. 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.

25. 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.**

26. Additional Provisions. This Contract includes all additional provisions as may have been outlined in written quotes and purchase orders and any attachments or exhibits to this Contract whether delivered herewith or subsequently approved as a part hereof, such as drawings or technical specifications prepared in the performance of this work. In the event of a conflict between any attachments or exhibits to this Contract, and this Contract, the language of this Contract shall control.

27. 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.

28. 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: Thomas Grimaldi, Police Chief 1000 City Center Circle Port Orange, Florida 32129 (386) 506-5870
Contractor:	G&G Outdoors, LLC Attention: Ander M. Goiriena, Managing Member 4059 Quail Nest Lane New Smyrna Beach, Florida 32168 (386) 631-4008 – Telephone ggoutdoorsllc@gmail.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.

29. 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.

30. 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]

G&G OUTDOORS, LLC

Witnesses:

By: _____

Ander M. Goiriena, Managing Member

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

Printed Name: _____

Printed Name: _____

Date: _____

STATE OF FLORIDA
COUNTY OF VOLUSIA

The foregoing instrument was acknowledged before me by means of ___ physical presence or ___ online notarization, this _____ day of _____, 2020, by Ander M. Goiriena, as Managing Member of G&G Outdoors, a Florida corporation. He is ___ personally known or ___ produced _____ as identification.

Notary Public, State of Florida

Printed, typed or stamped name, commission and expiration:

Witnesses:

CITY OF PORT ORANGE

Printed Name: _____

By: _____
Donald O. Burnette, Mayor

Printed Name: _____

Date: _____

STATE OF FLORIDA
COUNTY OF VOLUSIA

The foregoing instrument was acknowledged before me by means of ____ physical presence or ____ online notarization, this ____ day of _____, 2020, by Donald O. Burnette, as Mayor of the City of Port Orange, a Florida municipal corporation, on behalf of the city. He is ____ personally known or ____ produced _____ as identification.

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

Witnesses:

ATTEST:

Printed Name: _____

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

Printed Name: _____

Date: _____

STATE OF FLORIDA
COUNTY OF VOLUSIA

The foregoing instrument was acknowledged before me, by means of ____ physical presence or ____ online notarization, this ____ day of _____, 2020, by Robin L. Fenwick, as City Clerk of the City of Port Orange, a Florida municipal corporation, on behalf of the city. She is ____ personally known or ____ produced _____ as identification.

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

EXHIBIT “1”

Contractor’s Schedule to Unit Prices and Scope of Work

Consisting of 8 Pages



**"ATTACHMENT 1" SCHEDULE OF UNIT PRICING
BID FORM
CITY OF PORT ORANGE
ITB #20-17**

LANDSCAPING MAINTENANCE SERVICES FOR POLICE DEPARTMENT SHOOTING RANGE

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

Instruction to save Attachment from DemandStar website:
Perform "File Save As" and save spreadsheet to your computer. Fill in pricing in highlighted cells electronically.

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

NAME OF BUSINESS:	G&G Outdoors, LLC
CONTACT PERSON:	Ander Goiriena
EMAIL ADDRESS:	ggoutdoorsllc@gmail.com
AUTHORIZED NAME:	Ander Goiriena
AUTHORIZED SIGNATURE:	

	DESCRIPTION	SQUARE FOOTAGE	ACRES	COST PER VISIT	MAINTENANCE VISITS PER YEAR	TOTAL ANNUAL COST
	Shooting Range Maintenance Levels					
1	Tactical, Handgun, and Rifle Range	196,020	4.5	\$ 155.00	24	\$ 3,720.00
2	Remaining Property (Ponds)	609,840	14	\$ 380.00	20	\$ 7,600.00
3	Berms	25,000	0.57	\$ 425.00	4	\$ 1,700.00
4	Fenceline	N/A	N/A	\$ 515.00	12	\$ 6,180.00
5	Fertilization	196,020	4.5	\$ 1,000.00	2	\$ 2,000.00
6	Disease and Insect Control	196,020	4.5	\$ 1,200.00	1	\$ 1,200.00
					Total Price:	\$ 22,400.00

SECTION 3 - SCOPE OF WORK and REQUIREMENTS

STATEMENT OF RESPONSIBILITIES

The Contractor shall be responsible for providing machinery, equipment, tools, materials, labor, supervision, transportation, supplies, insurance, proper safety measures and all incidentals necessary to provide and perform grounds maintenance services to the Police Department Shooting Range, which includes the Tactical, Handgun, Rifle Ranges, stormwater pond areas, parking areas, and fencing.

Please note, while the City has provided the square footage and acre measurements on each area covered under this contract, these measurements are APPROXIMATE only. Contractor awarded bid shall be responsible for all maintenance required in each respective area. The Non-Mandatory Pre-Bid conference will include a site visit to the area. It is highly recommended that each bidder attends the non-mandatory meeting.

Number of Site Visits

Tactical, handgun, and rifle ranges - A total of twenty-four (24) maintenance visits shall be provided each calendar year to include mowing, edging, weed eating and trimming of the Tactical, handgun, and rifle ranges to include the areas around the bathrooms and storage buildings; approximately 4.5 acres.

Berms - A total of four (4) maintenance visits shall be provided each calendar year to include mowing, weed eating and trimming of all berms located on the property.

Remaining property - A total of twenty (20) maintenance visits shall be provided each calendar year to include mowing, edging, weed eating and trimming the remaining property approximately 14 acres. Fence lines shall be cut back and/or chemically sprayed with weed killer at least once (1) per month or more as needed.

Minimum Level of Service Required for Each Site

TRASH / DEBRIS CLEANUP

The Contractor shall be responsible for removing all litter and debris prior to mowing from all turf grass areas, parking areas, and sidewalks. This includes but is not limited to the following: excessive leaves, acorns, blooms, paper, bottles, cans, and palm fronds tree limbs from all sites covered in this bid document. The Contractor is responsible for disposal of trash and debris in accordance with all federal, state, and local laws, rules and regulations.

MOWING OF TURF GRASS AREAS

All turf grass areas within specified shall be cleaned of all trash and/or debris prior to mowing. Mowing of trash and debris to shred into smaller pieces is not allowed.

All turf grass areas shall be mowed as specified in this document. The grass shall not be cut so low as to damage or stress the grass and shall not be allowed to reach a height of six (6) inches or more unless otherwise requested by the City. Heights may vary per location. However, heights shall be as follows:

- St. Augustine –3-3.5 inches
- Argentine Bahia – 3 inches
- Bermuda and Zoysia – 1-2 inches

Areas where large mowers are impractical or where repeated tracks may cause ruts shall be serviced using small push mowers or string trimmers. In the event ruts and or divots are created or damage to the sod occurs, the contractor will be responsible for repairs to or replacement of the sod immediately. Mowing of wet turf grass shall be avoided unless permission is authorized by the City. The Contractor shall leave surrounding areas in a clean condition free of accumulated debris, including but not limited to grass clippings, after each mowing. Large clumps of clippings will be distributed by mechanical blowing or collected and removed. Materials removed from grounds shall be disposed of off-site by the Contractor in a lawful manner.

FERTILIZATION, DISEASE AND INSECT CONTROLS

All landscaped areas shall be treated as outlined below to maintain all turf grass in good, healthy appearance and color. An application schedule along with the specified products must be submitted and approved by the City prior to applications.

- **TURF GRASS FERTILIZATION** St. Augustine turf grass and Argentine Bahia grass shall receive two (2) pounds of nitrogen per 1,000 square feet during the growing season. Turf grass shall be fertilized two (2) times per year and no more than one (1) pound of nitrogen per 1,000 square feet shall be applied during each scheduled visit. In addition, a complete fertilizer shall be granular in composition and contain thirty to fifty percent (30% - 50%) or more of the nitrogen in a slow release form. The ratio of nitrogen to potash shall be 1:1 or 2:1. A complete fertilizer shall be applied twice per year in March and October.
- **DISEASE, INSECT, and WEED CONTROL** Contractor shall be responsible for the immediate control and identification of any insect or disease-causing organisms that may arise in any landscape area. Upon confirmation of a specific problem requiring treatment, pesticides shall be applied as needed on a spot treatment basis, whenever possible using the least toxic, effective pesticide. Fire Ant control at the Tactical, Handgun, and Rifle Range shall be applied once (1) annually. Spot treatment may need to be applied throughout the year upon request by the City. All applications of pesticides and fertilizations shall be performed when temperatures are below 90 degrees and wind drift is negligible. **All applicators shall have a State licensed, certified, operator on staff or use a City approved sub-contractor that is licensed and certified for pest control.**

MAINTENANCE OF CONCRETE AREAS

Concrete areas are including but not limited to, sidewalks, curbs and concrete areas around buildings. These areas shall be kept free of ALL debris including but not limited to grass clippings, grass remaining after edging, and crack grass growing in the concrete joints.

EDGING OF TURF GRASS

Contractor shall edge all appropriate surfaces with suitable mechanical equipment, i.e. a mechanical edger. In the event the service area is unable to be serviced with an edger, parking areas, walkways, fences, plant beds and tree wells, so that no grass, ground cover or weeds are left extending beyond or over the surface being edged. This includes edging between adjoining beds of dissimilar ground cover types. Edging should not be more than 3 inches from the mulch of plant beds and tree wells. **Chemical edging of plant beds and tree wells is not permitted.** Contractor shall leave surrounding areas in a clean condition free of accumulated debris, including but not limited to grass, after edging. This includes but

not limited to pavement, curbs, gutters, concrete medians, sidewalk joints, driveway joints, driveway aprons, mulch beds, rock beds, etc.

STRING TRIMMING OF TURF GRASS

Final string trimming around permanent objects such as metal posts and concrete curbing shall be accomplished with suitable mechanical equipment and at the same cutting heights as the rest of the turf areas. String trimming around tree trunks with mechanical devices is prohibited. Non-mechanical means must be utilized where string trimming may damage wooden posts, decorative light poles or other City property. Ponds, lakes, and ditches(swales) **MUST** be string trimmed to the water line.

Areas where crack grass is present, MUST be string trimmed (burned down) and then chemically sprayed with weed killer to deter new weed growth. This includes but not limited to pavement, curbs, gutters, concrete medians, sidewalk joints, driveway joints, driveway aprons, etc.

BLOWING OF DEBRIS AND TURF GRASS CUTTINGS

Contractor shall blow all appropriate surfaces with suitable mechanical equipment including, but not limited to roadways, driveways, curbs, parking areas, walkways, turf grass areas, plant beds and tree wells as required to leave the area clean and free of debris. Grass clippings and other organic debris **shall not** be blown into the roadway, ponds, lakes, or storm drains.

Clumping of turf grass is NOT permitted. If clumping occurs, the contractor MUST blow to disperse, mulch the clumping, or rake and remove the debris.

ADJUSTING AND REMOVING TREE STAKE KITS

Contractor is required to maintain all newly planted trees in a straight vertical position by adjusting tree stake kits as needed. The contractor shall also be responsible to completely remove all stake kits approximately six (6) months to one (1) year after initial planting. The contractor shall notify the City representative to advise of a defective stake kit for immediate replacement.

PRUNING OF ORNAMENTAL SHRUBS AND GROUNDCOVERS

Contractor shall prune and shape all ornamental shrubs and ground cover to maintain the natural form of the plant material and maintain its growth within the limitations of the plant bed, to eliminate damaged or diseased wood, and to provide sight distance requirements. **Pruning shall be performed monthly.**

All pruning shall be performed in accordance with the latest approved ANSI-A300 pruning standards.

REMOVING DEAD PLANT MATERIAL

Contractor shall remove and dispose of all dead ornamental trees, shrubs, and ground cover during each scheduled visit. The contractor is responsible to notify the City to determine if a replacement is necessary. The City will determine type/size of replacement. Contractor is only responsible to remove dead ornamental plants as directed by the City.

REPLACEMENT OF PLANT MATERIALS

The City will be responsible to replace all plant materials that are frozen, stolen, vandalized, or otherwise destroyed by unforeseen or unpreventable circumstances. **However, if the City**

determines that the poor condition of plant materials is due to improper maintenance, the Contractor shall be responsible for replacing such plant material at the Contractor's sole expense. The City shall be notified of plants or areas in distress. These areas need to be evaluated for plan of action and monitored by Contractor. No dead plant material shall remain in landscaping. All replacements shall be done within one (1) week of notification. The City inspector/representative shall approve all plant replacements, sizes and specifications.

EROSION

If there is noticeable erosion at any site, the Contractor shall immediately notify the City of its location. The Contractor shall be responsible for any erosion damage caused by contractor's equipment or performance of duties.

EQUIPMENT

The Contractor shall have on hand at all times and in good working order such equipment to permit the Contractor to adequately and efficiently perform its contractual duties. All equipment shall be kept in good repair, appearance, and in a sanitary and clean condition at all times. **All equipment shall be cleaned of any debris after each site use and prior to moving to another site to prevent transfer of unwanted weeds, grasses, and/or fungus.**

All vehicles shall have the name of the Contractor, business telephone number and the vehicle identification number not less than three (3) inches high on each side of the vehicle. The contractor may also place its corporate logo on the vehicles. No offensive or political stickers shall be affixed to any equipment utilized on City property. The Contractor shall supply the City with a listing of the vehicle numbers normally assigned to performance of duties and shall keep the list current.

All equipment shall be kept in good safe operating condition with sharp blades and no leaking of oil and gasoline.

EQUIPMENT STORAGE

The Contractor shall be responsible for storing all equipment and supplies off site. The City will not provide any storage space for the Contractor.

EQUIPMENT FUELING AND LUBRICATING

Mowers and power equipment shall be fueled and lubricated using proper tools and equipment. Any fuel or oil spills are the sole responsibility of the Contractor to clean up and / or remove at the Contractor's expense. Any damage to median plant material by such fuel or oil spills shall be replaced within three (3) days by Contractor at the Contractor's expense.

CONTRACTOR SCHEDULE

Contractor shall submit a calendar schedule of all work. A copy of the yearly calendar shall be submitted to the City. Contractor shall update the schedule based on shooting range activity and provide mow schedule to the City Inspector/Representative. The contractor **must** coordinate with the Police Shooting Range Manager for mow times. The use of noise making equipment is restricted to the hours of 7:00 a.m. to 7:00 p.m. daily.

SUPERVISION

The Contractor shall be responsible for all personnel and supervision required in performing work in accordance with these specifications. Supervision will be required for all working hours of the contract.

The Contractor shall comply with all City regulations.

Contractor shall notify the City (via fax, e-mail or in person) daily when the specified scheduled services are fully completed. This is to allow the City to inspect for contract compliance and authorization for scheduled payments. City approved representatives of the Contractor shall be available to meet with the City as required to accomplish the City's objectives. All meetings with the City will be at no charge.

CONTACT PERSON

The Contractor shall provide the name and telephone number of a contact person in case of an emergency. The Contractor shall provide the name and telephone number of a representative to meet periodically with the City. The City reserves the right to accept or reject any employee of the Contractor.

All personnel must be visible as Contractor's employee(s) by uniform while on City property. The Contractor's work force shall be neat and clean in appearance and shall wear identification. Identification shall include the employee's name and company name.

[Remainder of this page left intentionally blank]

SECTION 6 – SPECIAL CONDITIONS

PERIOD OF OFFER VALIDITY

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

CONTRACT TERM

The term of the contract shall be for an initial one (1) year with three (3) one (1) year renewal options agreed upon by both parties. Renewal will be approved by the City Manager and the budget will be approved by City Council.

EXTRAORDINARY OCCURRENCES

It is agreed that in no event shall the City or Contractor be liable or responsible to each other or any other person to perform work herein provided, where such stoppages or delays result from inclement weather, drought or excessive rain, acts of God, fire, or any other cause not within the control of the City and/or the Contractor.

CONTRACT PERFORMANCE

It is the intent of the City to ensure that the Contractor provides a quality level of landscape and ground maintenance services. All complaints will be reported to, and promptly resolved by the Contractor. The Contractor shall have twenty-four (24) hours to resolve any such complaints. The City may levy administrative charges for infractions by the Contractor at \$100.00 per day per incident. Such infractions shall include, but not be limited to:

- a) Failure to resolve complaints within twenty-four (24) hour period.
- b) Failure to provide safe equipment.
- c) Failure to provide required documentation in a timely and accurate manner.
- d) Failure to report damage to irrigation system(s).
- e) Failure to report property damage or personal injury.
- f) Failure to remove all trash from site(s).
- g) Failure to perform scheduled service.
- h) Landscape employees not adhering to uniform/protective clothing requirements.

For the purpose of this section, the City may deduct any charges from payments due the Contractor. The City shall notify the Contractor in writing of any action to be taken. In the event the Contractor wishes to contest such assessment, the contractor shall submit a written protest within five (5) days after receiving such notice for an opportunity to be heard by the City and present a defense to such assessment. The City will notify the Contractor in writing of any action taken with respect to Contractor's claims. The decision of the City shall be final.

Based on limited funds, the City may eliminate certain contracted areas or groups in order to stay within the budget. The City may, at its discretion, add or delete similar sized areas as a result of construction or unanticipated impacts. Therefore, the City reserves the right to reject any and all the bids, eliminate areas from the contract and/or reduce maintenance to any given area when it is in the City's best interest.

INVOICING

Payment shall be determined monthly based on sites inspected and verified. A template will be provided to the contractor, from the City, by Excel format. The template will detail and itemize the contractor's service areas for the month.

DEDUCTIONS will occur if areas are not completed upon inspection and invoice has been submitted.

ELIGIBILITY OF VENDOR

To be eligible to respond to this ITB, the Vendors must have prior experience working with the services described in this ITB. Please provide eligibility experience with your submittal.

NOTICE

The City reserves the right to consider cooperative contracts, federal, state municipal etc.; in the evaluation process. If in the City's best interest, the City may utilize a cooperative contract in lieu of making an award.

BID BOND

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 BOND

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.

LICENSES AND PERMITS

Contractor is responsible for all applicable local and state licenses, permits and fees.

[Remainder of this page left intentionally blank]

EXHIBIT "2"

Payment and Performance Bond

Consisting of 4 Pages

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: G&G Outdoors, LLC
Principal Business Address: 4059 Quail Nest Lane
New Smyrna Beach, Florida 32168
Contact Person: Ander M. Goiriena, Managing Member
Phone Number: (386) 631-4008

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: \$22,400.00

City Case/ ITB 20-17 Landscape Maintenance Services for Police Shooting Range

Description of Work: ITB 20-17 Landscape Maintenance Services for Police Shooting Range

Project Location: City of Port Orange Police Shooting Range, Pioneer Trail, New Smyrna Beach, Volusia County, Florida 32168.

Legal Description: Portions of Tax Parcel ID Number: 72-10-00-00-0010.
Pioneer Trail, New Smyrna Beach, Volusia County, Florida 32168
See Exhibit "A"

Front Page

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

**City of Port Orange Police Department Shooting Range
Pioneer Trail, New Smyrna Beach, Volusia County, Florida 32168**

Tax Parcel ID:

72-10-00-00-0010

Legal Description:

A portion of the Parcel ID listed above.

EXHIBIT "A"

G&G Outdoors, LLC

ITB 20-17 Landscape Maintenance Services for Police Shooting Range

Bond No. _____

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

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

BY THIS BOND, We, **G&G Outdoors, LLC**, 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 **TWENTY-TWO THOUSAND FOUR HUNDRED AND 00/100 DOLLARS (\$22,400.00)**, 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 _____, 2020, entered into by and between the Principal and the City, for City Landscape Maintenance at the Police Shooting Range, 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 255.05(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 and shall be deemed an original, this _____, day of _____, 2020.

Attest:

G&G OUTDOORS, LLC
(Principal)

(As to Corporate Principal) Secretary

By: _____
Ander M. Goiriena, Managing Member

(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, FLORIDA

INVITATION TO BID

LANDSCAPE MAINTENANCE SERVICES FOR POLICE DEPARTMENT SHOOTING RANGE



ITB #20-17

City of Port Orange Purchasing Division

Prepared by: Michael Hall, Buyer

Release Date: August 20, 2020

Bid Due Date & Time: September 17, 2020 at 2:30 P.M.

City of Port Orange, Florida
1000 City Center Circle
Port Orange, FL 32129
(386) 506-5740

purchdiv@port-orange.org

www.port-orange.org



Legal Notice to Proposers

ITB #20-17

LANDSCAPE MAINTENANCE SERVICES FOR POLICE DEPARTMENT SHOOTING RANGE

Notice is hereby given that the City of Port Orange is soliciting bids for ITB #20-17 LANDSCAPE MAINTENANCE SERVICES FOR POLICE DEPARTMENT SHOOTING RANGE. Bids will be accepted in the City Clerk's Office, Port Orange City Hall, 1000 City Center Circle, Port Orange, Florida 32129 until **2:30 P.M. on September 17, 2020** which may be amended by addendum issued by the City. All untimely Bids will not be considered and will be returned to the Bidder unopened. All Bids will be evaluated to ensure they contain all required forms in order to deem the Bidder responsive or non-responsive. **Bids will be opened and read aloud at 2:30 P.M. in Council Chambers.**

There will be a Non-Mandatory Pre-Bid and Site Visit Conference for the project at **10:00 A.M.** (local time) on **August 27, 2020** at City Hall, Council Chambers (1st floor), 1000 City Center Circle, Port Orange, Florida 32129. All attendees to the Pre-Bid Conference must sign in. The representative of each Bidder shall be an authorized employee of the Bidder and shall sign in accordingly. Bidders are urged to obtain Bid documents and familiarize themselves with the documents prior to the Pre-Bid meeting.

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

DESCRIPTION: *The City of Port Orange is soliciting sealed Bids to acquire the services for Professional landscape maintenance services for the shooting range which includes the tactical, handgun and rifle ranges; stormwater retention ponds, parking areas and fencing.*

Bidders must be a commercial entity licensed to do business in the State of Florida and perform the services identified herein.

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

Copies of the Bid documents, requirements, the scope of service and all other pertinent information necessary to submit a complete package may be obtained electronically from the City of Port Orange website at www.port-orange.org/bids.aspx and (DemandStar) via their website at www.demandstar.com. All questions shall be directed in writing to the Buyer, Michael Hall, mhall@port-orange.org or purchdiv@port-orange.org and reference **"Questions on ITB #20-17 LANDSCAPE MAINTENANCE SERVICES FOR POLICE DEPARTMENT SHOOTING RANGE"** in the subject line. Last day for questions will be **September 3, 2020 at 5:00 P.M.**

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

NO bid shall be withdrawn for a period of ninety (90) days subsequent to the bid opening without the consent of the City of Port Orange, Florida.

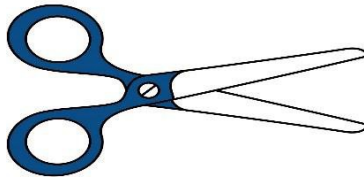
No Bids received after the time and date specified for the opening will be considered. The City of Port Orange, Florida reserves the right to reject any and all Bids, to waive any and all non-substantial irregularity in Bids received, whenever such waiver or rejection is in the best interest of the City.

Bids shall be **submitted to the City Clerk's office** with one (1) original and one (1) identical digital (CD or flash drive) version in PDF format, addressed to Michael Hall, Buyer, Finance Department, City Hall, 1000 City Center Circle, Port Orange, Florida 32129 in a **SEALED ENVELOPE/ PACKAGE** plainly marked on the outside: **"ITB #20-17 LANDSCAPE MAINTENANCE SERVICES FOR POLICE DEPARTMENT SHOOTING RANGE"**.

Michael Hall – Buyer
Legal Ad - One Time – **August 20, 2020**

[Remainder of this page left intentionally blank]

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



SEALED BID • DO NOT OPEN

SEALED BID NO. ITB #20-17

BID TITLE: LANDSCAPE MAINTENANCE
SERVICES FOR POLICE
DEPARTMENT SHOOTING RANGE

DUE DATE/TIME: September 17, 2020 at 2:30 P.M.

SUBMITTED BY: (Name of Company)

DELIVER TO: **City of Port Orange City Clerk's
Office Attn: Michael Hall - Buyer
Finance Department
1000 City Center Circle
Port Orange, Florida 32129**

DATE/TIME RECEIVED: (To be stamped by Clerk's Office)

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SECTION 1 – PURPOSE AND OVERVIEW

The purpose of this Invitation to Bid (ITB) is to solicit competitive sealed bids from Firms or Companies (Vendors) for the provision of contracting for Professional landscape maintenance services for the shooting range which includes the tactical, handgun and rifle ranges; stormwater retention ponds, parking areas and fencing.

Bidders must be a commercial entity licensed to do business in the State of Florida and perform the services identified herein.

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

[Remainder of this page left intentionally blank]

SECTION 2 – INSTRUCTIONS TO BIDDERS

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

TIMELINE (Local Time)

The City reserves the right to alter dates as needed.

Date of Distribution: August 20, 2020

Non-Mandatory Pre-Bid and Site Visit Conference: August 27, 2020 at 10:00 A.M.

Deadline for Questions: September 3, 2020 by 5:00 P.M.

Final Addendum Posting: September 10, 2020 by 5:00 P.M.

Bids Due: September 17, 2020 by 2:30 P.M.

City Council Meeting for Approval of Recommendation of Award To Be Determined

Bids must be delivered in a sealed envelope/package and delivered to:

City of Port Orange City Clerk's Office
Attn: Michael Hall - Buyer
Finance Department
1000 City Center Circle
Port Orange, Florida 32129

Sealed Bids must be delivered no later than the date and time listed in the Timeline above. All times referenced are local time.

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

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

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

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

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

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

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

PRE-BID CONFERENCE/SITE VISIT

There will be a Non-Mandatory Pre-Bid and Site Visit Conference for the project on the date and time referenced in the Timeline above at City Hall, Council Chambers (1st Floor), 1000 City Center Circle, Port Orange, Florida 32129. All attendees to the Non-Mandatory Pre-Bid Conference must sign in. The representative of each Vendor shall be an authorized employee of the Vendor and shall sign in accordingly.

QUESTIONS REGARDING THIS ITB

All questions shall reference “**ITB #20-17 LANDSCAPE MAINTENANCE SERVICES FOR POLICE DEPARTMENT SHOOTING RANGE**” in the subject line. All questions concerning this ITB shall be submitted in writing no later than the date and time referenced in the Timeline above to:

Michael Hall - Buyer
1000 City Center Circle
Port Orange, FL 32129
mhall@port-orange.org or
purchdiv@port-orange.org

ADDENDA REGARDING THE INVITATION TO BID

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

Written responses, in the form of an addendum, will be provided via the City website www.port-orange.org/bids.aspx and Demand Star websites. www.demandstar.com.

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

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

CLARIFICATIONS

It is the Vendor's responsibility to become familiar with and fully informed regarding the terms, conditions and specifications of this ITB. Lack of understanding and/or misinterpretation of any portions of this ITB shall not be cause for withdrawal of your Bid after opening or for subsequent protest of award.

MINIMUM QUALIFICATIONS

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

Vendors must be a commercial entity licensed to do business in the State of Florida and perform the services identified herein and properly registered and licensed to provide the goods or services identified in the scope of work, by all applicable state and local agencies.

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

NO LOBBYING

All Vendors are hereby placed on notice that the City of Port Orange Council, City Employees/Staff, nor Members of the Evaluation Committee (with the exception of the City of Port Orange Purchasing Division personnel designated to receive requests for interpretations or corrections) are not to be lobbied, directly or indirectly either individually or collectively, regarding this ITB. During the entire procurement process, all Vendors and their subcontractors, sub-consultants, or agents are hereby placed on notice that they are

not to contact any persons listed above for such purposes as holding meetings of introduction, dinners, etc. if they intend to submit or have submitted Bids for this project. Any Vendor contacting individuals mentioned herein in violation of this warning may automatically be disqualified from further consideration for this ITB.

PRICING SHEETS

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

EXCEPTIONS TO SPECIFICATIONS

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

BID SUBMISSION AND WITHDRAWAL

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

CORRECTION OF BIDS

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

WITHDRAWAL OF BIDS

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

OPENING OF BIDS

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

LITIGATION HISTORY

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

DEBARMENT HISTORY

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

issue of responsibility, the failure to provide debarment history as required in the Proposal Submittal and Requirements Section may result in a recommendation of non-responsive by the Purchasing Manager.

REJECTION OF BIDS

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

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

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

OWNERSHIP OF DOCUMENTS

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

AMERICANS WITH DISABILITIES ACT (ADA)

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

REQUIRED DOCUMENTS FOR AWARDED BIDDER

The awarded Bidder shall return all of the required post-award documents within 10 days after the issuance of the Notice of Intent to Award in order to execute the contract.

[Remainder of this page left intentionally blank]

SECTION 3 - SCOPE OF WORK and REQUIREMENTS

STATEMENT OF RESPONSIBILITIES

The Contractor shall be responsible for providing machinery, equipment, tools, materials, labor, supervision, transportation, supplies, insurance, proper safety measures and all incidentals necessary to provide and perform grounds maintenance services to the Police Department Shooting Range, which includes the Tactical, Handgun, Rifle Ranges, stormwater pond areas, parking areas, and fencing.

Please note, while the City has provided the square footage and acre measurements on each area covered under this contract, these measurements are APPROXIMATE only. Contractor awarded bid shall be responsible for all maintenance required in each respective area. The Non-Mandatory Pre-Bid conference will include a site visit to the area. It is highly recommended that each bidder attends the non-mandatory meeting.

Number of Site Visits

Tactical, handgun, and rifle ranges - A total of twenty-four (24) maintenance visits shall be provided each calendar year to include mowing, edging, weed eating and trimming of the Tactical, handgun, and rifle ranges to include the areas around the bathrooms and storage buildings; approximately 4.5 acres.

Berms - A total of four (4) maintenance visits shall be provided each calendar year to include mowing, weed eating and trimming of all berms located on the property.

Remaining property - A total of twenty (20) maintenance visits shall be provided each calendar year to include mowing, edging, weed eating and trimming the remaining property approximately 14 acres. Fence lines shall be cut back and/or chemically sprayed with weed killer at least once (1) per month or more as needed.

Minimum Level of Service Required for Each Site

TRASH / DEBRIS CLEANUP

The Contractor shall be responsible for removing all litter and debris prior to mowing from all turf grass areas, parking areas, and sidewalks. This includes but is not limited to the following: excessive leaves, acorns, blooms, paper, bottles, cans, and palm fronds tree limbs from all sites covered in this bid document. The Contractor is responsible for disposal of trash and debris in accordance with all federal, state, and local laws, rules and regulations.

MOWING OF TURF GRASS AREAS

All turf grass areas within specified shall be cleaned of all trash and/or debris prior to mowing. Mowing of trash and debris to shred into smaller pieces is not allowed.

All turf grass areas shall be mowed as specified in this document. The grass shall not be cut so low as to damage or stress the grass and shall not be allowed to reach a height of six (6) inches or more unless otherwise requested by the City. Heights may vary per location. However, heights shall be as follows:

- St. Augustine –3-3.5 inches
- Argentine Bahia – 3 inches
- Bermuda and Zoysia – 1-2 inches

Areas where large mowers are impractical or where repeated tracks may cause ruts shall be serviced using small push mowers or string trimmers. In the event ruts and or divots are created or damage to the sod occurs, the contractor will be responsible for repairs to or replacement of the sod immediately. Mowing of wet turf grass shall be avoided unless permission is authorized by the City. The Contractor shall leave surrounding areas in a clean condition free of accumulated debris, including but not limited to grass clippings, after each mowing. Large clumps of clippings will be distributed by mechanical blowing or collected and removed. Materials removed from grounds shall be disposed of off-site by the Contractor in a lawful manner.

FERTILIZATION, DISEASE AND INSECT CONTROLS

All landscaped areas shall be treated as outlined below to maintain all turf grass in good, healthy appearance and color. An application schedule along with the specified products must be submitted and approved by the City prior to applications.

- **TURF GRASS FERTILIZATION** St. Augustine turf grass and Argentine Bahia grass shall receive two (2) pounds of nitrogen per 1,000 square feet during the growing season. Turf grass shall be fertilized two (2) times per year and no more than one (1) pound of nitrogen per 1,000 square feet shall be applied during each scheduled visit. In addition, a complete fertilizer shall be granular in composition and contain thirty to fifty percent (30% - 50%) or more of the nitrogen in a slow release form. The ratio of nitrogen to potash shall be 1:1 or 2:1. A complete fertilizer shall be applied twice per year in March and October.
- **DISEASE, INSECT, and WEED CONTROL** Contractor shall be responsible for the immediate control and identification of any insect or disease-causing organisms that may arise in any landscape area. Upon confirmation of a specific problem requiring treatment, pesticides shall be applied as needed on a spot treatment basis, whenever possible using the least toxic, effective pesticide. Fire Ant control at the Tactical, Handgun, and Rifle Range shall be applied once (1) annually. Spot treatment may need to be applied throughout the year upon request by the City. All applications of pesticides and fertilizations shall be performed when temperatures are below 90 degrees and wind drift is negligible. **All applicators shall have a State licensed, certified, operator on staff or use a City approved sub-contractor that is licensed and certified for pest control.**

MAINTENANCE OF CONCRETE AREAS

Concrete areas are including but not limited to, sidewalks, curbs and concrete areas around buildings. These areas shall be kept free of ALL debris including but not limited to grass clippings, grass remaining after edging, and crack grass growing in the concrete joints.

EDGING OF TURF GRASS

Contractor shall edge all appropriate surfaces with suitable mechanical equipment, i.e. a mechanical edger. In the event the service area is unable to be serviced with an edger, parking areas, walkways, fences, plant beds and tree wells, so that no grass, ground cover or weeds are left extending beyond or over the surface being edged. This includes edging between adjoining beds of dissimilar ground cover types. Edging should not be more than 3 inches from the mulch of plant beds and tree wells. **Chemical edging of plant beds and tree wells is not permitted.** Contractor shall leave surrounding areas in a clean condition free of accumulated debris, including but not limited to grass, after edging. This includes but

not limited to pavement, curbs, gutters, concrete medians, sidewalk joints, driveway joints, driveway aprons, mulch beds, rock beds, etc.

STRING TRIMMING OF TURF GRASS

Final string trimming around permanent objects such as metal posts and concrete curbing shall be accomplished with suitable mechanical equipment and at the same cutting heights as the rest of the turf areas. String trimming around tree trunks with mechanical devices is prohibited. Non-mechanical means must be utilized where string trimming may damage wooden posts, decorative light poles or other City property. Ponds, lakes, and ditches(swales) **MUST** be string trimmed to the water line.

Areas where crack grass is present, MUST be string trimmed (burned down) and then chemically sprayed with weed killer to deter new weed growth. This includes but not limited to pavement, curbs, gutters, concrete medians, sidewalk joints, driveway joints, driveway aprons, etc.

BLOWING OF DEBRIS AND TURF GRASS CUTTINGS

Contractor shall blow all appropriate surfaces with suitable mechanical equipment including, but not limited to roadways, driveways, curbs, parking areas, walkways, turf grass areas, plant beds and tree wells as required to leave the area clean and free of debris. Grass clippings and other organic debris **shall not** be blown into the roadway, ponds, lakes, or storm drains.

Clumping of turf grass is NOT permitted. If clumping occurs, the contractor MUST blow to disperse, mulch the clumping, or rake and remove the debris.

ADJUSTING AND REMOVING TREE STAKE KITS

Contractor is required to maintain all newly planted trees in a straight vertical position by adjusting tree stake kits as needed. The contractor shall also be responsible to completely remove all stake kits approximately six (6) months to one (1) year after initial planting. The contractor shall notify the City representative to advise of a defective stake kit for immediate replacement.

PRUNING OF ORNAMENTAL SHRUBS AND GROUNDCOVERS

Contractor shall prune and shape all ornamental shrubs and ground cover to maintain the natural form of the plant material and maintain its growth within the limitations of the plant bed, to eliminate damaged or diseased wood, and to provide sight distance requirements. **Pruning shall be performed monthly.**

All pruning shall be performed in accordance with the latest approved ANSI-A300 pruning standards.

REMOVING DEAD PLANT MATERIAL

Contractor shall remove and dispose of all dead ornamental trees, shrubs, and ground cover during each scheduled visit. The contractor is responsible to notify the City to determine if a replacement is necessary. The City will determine type/size of replacement. Contractor is only responsible to remove dead ornamental plants as directed by the City.

REPLACEMENT OF PLANT MATERIALS

The City will be responsible to replace all plant materials that are frozen, stolen, vandalized, or otherwise destroyed by unforeseen or unpreventable circumstances. **However, if the City**

determines that the poor condition of plant materials is due to improper maintenance, the Contractor shall be responsible for replacing such plant material at the Contractor's sole expense. The City shall be notified of plants or areas in distress. These areas need to be evaluated for plan of action and monitored by Contractor. No dead plant material shall remain in landscaping. All replacements shall be done within one (1) week of notification. The City inspector/representative shall approve all plant replacements, sizes and specifications.

EROSION

If there is noticeable erosion at any site, the Contractor shall immediately notify the City of its location. The Contractor shall be responsible for any erosion damage caused by contractor's equipment or performance of duties.

EQUIPMENT

The Contractor shall have on hand at all times and in good working order such equipment to permit the Contractor to adequately and efficiently perform its contractual duties. All equipment shall be kept in good repair, appearance, and in a sanitary and clean condition at all times. **All equipment shall be cleaned of any debris after each site use and prior to moving to another site to prevent transfer of unwanted weeds, grasses, and/or fungus.**

All vehicles shall have the name of the Contractor, business telephone number and the vehicle identification number not less than three (3) inches high on each side of the vehicle. The contractor may also place its corporate logo on the vehicles. No offensive or political stickers shall be affixed to any equipment utilized on City property. The Contractor shall supply the City with a listing of the vehicle numbers normally assigned to performance of duties and shall keep the list current.

All equipment shall be kept in good safe operating condition with sharp blades and no leaking of oil and gasoline.

EQUIPMENT STORAGE

The Contractor shall be responsible for storing all equipment and supplies off site. The City will not provide any storage space for the Contractor.

EQUIPMENT FUELING AND LUBRICATING

Mowers and power equipment shall be fueled and lubricated using proper tools and equipment. Any fuel or oil spills are the sole responsibility of the Contractor to clean up and / or remove at the Contractor's expense. Any damage to median plant material by such fuel or oil spills shall be replaced within three (3) days by Contractor at the Contractor's expense.

CONTRACTOR SCHEDULE

Contractor shall submit a calendar schedule of all work. A copy of the yearly calendar shall be submitted to the City. Contractor shall update the schedule based on shooting range activity and provide mow schedule to the City Inspector/Representative. The contractor **must** coordinate with the Police Shooting Range Manager for mow times. The use of noise making equipment is restricted to the hours of 7:00 a.m. to 7:00 p.m. daily.

SUPERVISION

The Contractor shall be responsible for all personnel and supervision required in performing work in accordance with these specifications. Supervision will be required for all working hours of the contract.

The Contractor shall comply with all City regulations.

Contractor shall notify the City (via fax, e-mail or in person) daily when the specified scheduled services are fully completed. This is to allow the City to inspect for contract compliance and authorization for scheduled payments. City approved representatives of the Contractor shall be available to meet with the City as required to accomplish the City's objectives. All meetings with the City will be at no charge.

CONTACT PERSON

The Contractor shall provide the name and telephone number of a contact person in case of an emergency. The Contractor shall provide the name and telephone number of a representative to meet periodically with the City. The City reserves the right to accept or reject any employee of the Contractor.

All personnel must be visible as Contractor's employee(s) by uniform while on City property. The Contractor's work force shall be neat and clean in appearance and shall wear identification. Identification shall include the employee's name and company name.

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SECTION 4 – STANDARD PURCHASE DEFINITIONS

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

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

22. **Intent to Award** is a document, published on Onvia/DemandStar, that informs the public and respondents of the City's decision to award a contract pursuant to a previously issued competitive solicitation.
23. **Invitation to Bid (ITB) or Bid** means a formal request to prospective vendors requesting pricing for a specified Good or Service which has been advertised for Bid in a newspaper.
24. **Invitation to Negotiate (ITN)** means a formal request to prospective vendors requesting proposed specifications and pricing of a product and/or service which has been advertised for replies in a newspaper.
25. **Issues** means points, matters, or concerns to be addressed during negotiations.
26. **Lead Negotiator** is the negotiator responsible for leading and facilitating the formal negotiation discussions and selecting other required negotiation team members. Is often the "driver of change" and seeks alternatives/options.
27. **Lowest Responsible Bid means the responsive Bid** meeting all requirements of the specifications, terms, and conditions of the Invitation to Bid resulting in the lowest cost to the City in a total cost concept or based solely on price, taking into consideration the financial and practical ability of the Bidder to perform the Contract, past performance of the Bidder, and compliance with all City ordinances concerning the purchasing process.
28. **Lowest Responsible Bidder** means the Bidder submitting Lowest Responsible Bid.
29. **Negotiation Team** is a temporary group of City personnel who are responsible for negotiations as part of an Invitation to Negotiate (ITN).
30. **Negotiator** is a member of the negotiation team.
31. **Non-Professional Services** are services performed that are not of a professional nature such as lawn care, security, janitorial, etc.
32. **Offer** means a complete signed Response submitted to the City in response to a Solicitation including, but not limited to, a Bid submitted in response to an Invitation to Bid, a Proposal submitted in response to a Request for Proposal, a Quote submitted in response to a Request for Quotation, a Statement of Qualifications and interest submitted in response to a Request for Statements of Qualifications, or a Reply submitted in response to an Invitation to Negotiate.
33. **Onvia/DemandStar** is the official online repository for all City competitive solicitations.
34. **Outlier** is a bid, offer, or proposal which is determined by the Purchasing Director or Manager to be significantly dissimilar to or inconsistent with, competing bids or offers.
35. **Pre-Bid/Proposal/Statement/Reply Conference** means a meeting conducted by the Purchasing Office, held in order to allow Vendors to ask questions about the proposed Contract and particularly the Contract specifications with the City department requesting the goods/services.
36. **Price Analysis** is an evaluation of the total cost of a contract in order to determine if the price is reasonable.
37. **Procurement (Process)** is a term used in the governmental sector for the combined functions of acquiring (purchasing) needed goods and/or services, receiving and inspection, inventory management, contract administration, and disposal/surplus.
38. **Professional Services** means those services within the scope of the practice of architecture, professional engineering, landscape architecture, or registered surveying and mapping, as defined by the laws of the state, or those performed by any architect, professional engineer, landscape architect, or registered surveyor and mapper in connection with his or her professional employment or practice.
39. **Protest** is a formalized process by which respondents have an opportunity to challenge a procurement practice or contract award.
40. **Proposal** is a complete, properly signed Response to a Request for Proposal, based on performance that is offered rather than on that of price alone, which if accepted, would bind the Vendor to perform the resultant Contract.
41. **Purchase Order** is an order placed by the Purchasing Division for the purchase of Goods or Services written on the City's standard Purchase Order form and which, when accepted by the Bidder, becomes a contract. The Purchase Order is the Bidder's authority to deliver and invoice the City for Goods or Services specified, and the City's commitment to accept the Goods or Services for an agreed upon price.

42. **Request for Proposal (RFP)** means a formal request to prospective vendors requesting qualifications of the vendor and pricing for a specified Good or Service which has been advertised for Proposal in a newspaper.
43. **Request for Statement of Qualifications (RFSQ)** means a formal request to prospective vendors requesting statements of qualifications pursuant to Florida Statute 287.055 "Consultant's Competitive Negotiation Act" which has been advertised for Statement in a newspaper.
44. **Respondent** means an entity that has (or will, i.e. "prospective respondents") submitted a response to a competitive solicitation conducted to create a contractual relationship for the provision of commodities or services.
45. **Response/Submission** means all materials submitted to the City by a respondent as part of a solicitation. A response may be called a bid, proposal, statement of qualifications, or a reply, depending on the type of competitive solicitation being issued.
46. **Responsible (Vendor)** is a vendor who has the capability in all respects to fully perform the contract requirements and the integrity and reliability that will assure good faith performance.
47. **Responsive (Vendor)** is a vendor that has submitted a bid, proposal, statement of qualifications, or reply that conforms in all material respects to the solicitation.
48. **Scope** means the extent of the area or subject matter that something deals with or to which it is relevant.
49. **Scope of Work** means a description of the work activities, deliverables, and/or timeline that a vendor must execute in terms of delivering specific commodities or in performance of contractual services.
50. **Services** include all work or labor performed for the City on an independent contractor basis other than construction.
51. **Solicitation** means a formal request, as applicable, for prospective vendors to submit responses to an Invitation to Bid, Request for Proposal, Request for Qualifications, Invitation to Negotiate, or a Request for Quotation.
52. **Solicitation Document** means a document, or collection of documents, either paper or electronic, that contains all information required to conduct a competitive procurement project according to § 287.057, Florida Statutes.
53. **Stakeholder** means an individual, who is not likely to become a vendor, who has an interest in the commodities/contractual services needed.
54. **Subcontractor** means a person, firm or entity providing goods or services to a Vendor to be used in the performance of the Vendor's obligations under the Contract.
55. **Subject Matter Expert** means a person who has working or expert knowledge about a particular topic or field.
56. **Unbalanced Bid** means a Bid that is based on prices which are significantly less than cost for some bid items and significantly more than cost for others.
57. **Vendor** is a person, firm, or entity that provides commodities or services and submits a Response to a Solicitation. Any Vendor may be represented by an agent after submitting evidence demonstrating the agent's authority. The agent cannot certify as to his own agency status. (Also called "Bidder" or "Proposer".)

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SECTION 5 – GENERAL TERMS AND CONDITIONS

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

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

1. ACCEPTANCE BY CITY

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

2. ADDENDUM

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

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

3. ADDITIONAL GOODS

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

4. **ANTI-COLLUSION STATEMENT**

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

5. **APPLICABLE LAWS**

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

6. **ASSIGNMENT**

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

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

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

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

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

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

8. AWARDS

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

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

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

9. AWARD AND EXECUTION OF CONTRACT

When a bid received has been determined to be satisfactory, a Contract will be awarded, or Purchase Order issued to the LOWEST Responsible Bidder within the time designated in the Contract Documents.

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

10. BID RETURNS

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

11. BID PROTEST

Any person who is adversely affected by the City's decision or intended decision shall file with the City Purchasing Manager a notice of protest in writing within 72 hours after the posting of the notice of decision or intended decision. With respect to a protest of the terms, conditions, and specifications contained in a solicitation, including any provisions governing the methods for ranking Bids, Proposals, Statements, or Replies, awarding contracts, reserving rights of further negotiation, or modifying or amending any contract, the notice of protest shall be filed in writing within 72 hours after the posting of the Solicitation. Saturdays, Sundays, and state holidays shall be excluded in the computation of the 72-hour time established herein. The formal written protest shall be filed with the Purchasing Manager in writing within ten (10) days after the date the notice of protest is filed. The formal written protest shall state with particularity the facts and law upon which the protest is based. Failure to file a notice of protest or failure to file a formal written protest shall constitute a waiver of proceedings. Upon receipt of the formal written protest that has been timely filed, the City shall stop the solicitation or contract award process until the subject of the protest is resolved by final City action. However, the City may continue the solicitation or award process, provided the City Manager sets forth in writing particular facts and circumstances which require the continuance of the solicitation or contract award process without delay in order to avoid an immediate and serious danger to the public health, safety, or welfare. The City shall provide an opportunity to resolve the protest by mutual agreement between the parties. The policy this City has established is as follows:

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

12. BID/PROPOSAL TABULATION

Vendors who wish to receive a copy of the bid/proposal tabulation may obtain it via www.demandstar.com or on the City of Port Orange website, Bid opportunities page at www.port-orange.org/bids.aspx or by email purchdiv@port-orange.org.

13. BONDS

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

14. CERTIFICATE OF INSURANCE

Upon issuance of a notice of intent to award and contract resulting from this solicitation, the selected Vendor will be required to submit a Certificate of Insurance showing proof of adequate coverage for professional general liability, errors and omissions and workers' compensation as identified under the insurance requirements of this solicitation and listing the City of Port Orange as a Certificate Holder prior to execution of the contract.

15. CHANGE ORDERS

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

16. CHANGE ORDER REQUEST NOTIFICATION

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

17. CLEAN UP

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

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

18. CONDUCT OF VENDORS

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

19. CONE OF SILENCE

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

The Cone of Silence is defined as the period beginning with the issuance of the solicitation document and continues through the execution of the award document. During this time vendors, service providers and the like are prohibited from all communications regarding the solicitation with City staff, City consultants, City legal counsel, City Agents, or elected officials. Any

vendor who initiates any discussions or attempts to influence a member or members of the aforementioned shall be disqualified from continued participation in the procurement process with regard to that particular solicitation.

Exceptions to the Cone of Silence:

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

20. CONFLICT OF INTEREST

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

21. CONFLICT OF INSTRUCTIONS

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

22. CONTRACT

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

23. CONTRACT OBLIGATION

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

24. CONTRACT RENEWALS

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

25. COOPERATIVE PURCHASING

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

26. COPYRIGHT AND PATENT RIGHTS

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

27. COST INCURRED BY VENDOR

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

28. DAMAGE

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

29. DEBARMENT HISTORY

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

30. DEFAULT PROVISIONS

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

31. DELIVERY OF GOODS/SERVICES

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

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

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

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

32. DETERMINATION OF LOWEST AND BEST RESPONSIBLE BIDDER /PROPOSER

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

- a. The ability, capacity and skill of the Bidder/Proposer to perform the contract.
- b. Whether the Bidder/Proposer can perform the contract within the time specified, without delay or interference.
- c. The character, integrity, reputation, judgment, experience, and efficiency of the Bidder/Proposer.
- d. The quality of performance of previous contracts.
- e. The previous and existing compliance by the Bidder/Proposer with laws and ordinances relating to the contract.
- f. The sufficiency of the financial resources and ability of the Bidder/Proposer to perform the contract or provide the service.
- g. The quality, availability and adaptability of the supplies or contractual services to the particular use required.

- h. The ability of the Bidder/Proposer to provide further maintenance and service for the use of the subject of the contract.
- i. The number and scope of conditions attached to the bid.
- j. Such other factors as appear to the city council to be pertinent to the bid or the contract under all of the circumstances involved.

33. DISCLOSURE OF CONFLICTS

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

34. DISQUALIFICATION OF BIDDER/PROPOSER

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

35. EVALUATION

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

36. EXCEPTIONS TO SPECIFICATIONS

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

37. E-VERIFY

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

38. FACILITIES

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

39. FAILURE TO RESPOND

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

40. FINANCIAL STABILITY

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

41. FORCE MAJEURE

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

42. GOVERNING FORMS

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

43. GOVERNING LAW

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

The City of Port Orange is also governed by the Consultants' Competitive Negotiation Act, Section 287.055, Florida Statutes, as the method of selecting architects, engineers and land surveyors. The City has utilized the procedures in the Act for Professional counselors, environmentalists,

planners, general contractors, computer systems, designers, telecommunications consultants, maintenance technicians, financial services and other professional services.

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

44. GRANT FUNDING

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

45. HIPAA COMPLIANCE

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

46. IDENTICAL TIE BIDS

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

47. INDEMNIFICATION/HOLD HARMLESS

(a) 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.

(b) To the fullest extent permitted by law, in addition to the express duty to indemnify City when there is any causal connection between Contractor's work and any injury, loss, damage, death or property damage, Contractor expressly undertakes a duty to defend City as a separate duty, independent of and broader than the duty to indemnify. The duty to defend agreed to by Contractor hereby expressly include all costs of litigation, attorney's fees, settlement costs and reasonable expenses in connection with the litigation, whether or not the claims made for loss, injury, damage or property damage are valid or groundless and regardless of whether the defense of City is maintained by the City or assumed by Contractor as long as the claims made could be causally connected to Contractor as reasonable determined by City.

48. INDEPENDENT CONTRACTOR

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

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

49. INSPECTIONS AND TESTING

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

50. INSURANCE CANCELLATION

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

51. INSURANCE REQUIREMENTS

Contractor shall maintain insurance, as required herein, during the life of this Contract. Contractor shall provide to the City, a certificate of insurance endorsing the City of Port Orange as an additional named insured. All insurance coverages of the Contractor shall be primary and non-contributory. All insurance coverages of the Contractor shall not seek contribution from any other insurance or self-insurance available to the City. For workers' compensation coverage, the Contractor's insurance certificate shall include the insurer's waiver of subrogation in lieu of endorsing the City as an additional insured for workers' compensation.

IMPORTANT: The City does not accept Workers' Compensation Exemptions. Contractor may use leased employees if the Contractor ensures that all workers who access the jobsite are employees covered by the employee leasing company, and no non-employees are permitted to access the jobsite. Any Contractor using a leased employee shall complete the City's Leased Employee Affidavit Form Exhibit. Policies for Workers' Compensation may be issued by companies authorized as a group self-insurer by F.S. 440.572.

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. Contractor shall not commence work under this Contract until the City has received a certificate or certificates of insurance with endorsement evidencing the required insurance. Insurer shall provide the City written notice of cancellation, nonrenewal or any other changes in coverage no later than thirty (30) days prior to the effective date of the change and shall provide notice to the City no later than 10 days after non-payment. The Certificates of Insurance and required insurance policies shall contain provisions that thirty (30) days prior written notice shall be given to the City of any cancellation, intent not to renew, or reduction in the policies or coverages.

Contractor shall require and ensure each of its subcontractors to maintain, until the completion of the subcontractor's work, insurance of the types and to the limits set forth herein. All insurance coverages shall be primary and non-contributory. All insurance coverages of the subcontractors shall not seek contribution from any other insurance or self-insurance available to the City. The Contractor is responsible for ensuring that its subcontractors maintain the required coverage. Failure of the Contractor to ensure the subcontractors maintain the required coverage, shall not relieve the Contractor of any contractual responsibility, obligation or liability.

The City reserves the right to increase insurance coverage as determined for higher risk contracts. The acceptance by the City of any Certificate of Insurance does not constitute approval or agreement by the City that the insurance requirements have been satisfied or that the insurance policy shown on the Certificate of Insurance is in compliance with and does not waive the insurance required by this.

Should at any time the Contractor or subcontractors not maintain the insurance coverages required herein, the City may terminate the Contract or at its sole discretion shall be authorized to purchase such coverages and charge the Contractor for such coverages purchased. The City shall be under no obligation to purchase such insurance, nor shall it be responsible for the coverages purchased or the insurance company or companies used. The decision of the City to purchase such insurance coverages shall in no way be construed to be a waiver of any of its rights under the Contract.

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<i>Standard Insurance Requirements</i>			
	Insurance	Standards	Additional Requirements
REQUIRED	<u>Workers' Compensation</u> The Contractor shall maintain coverage for its employees with statutory workers' compensation limits, and no less than the limits indicated in the Schedule of Limits for Employers' Liability. Said coverage shall include a waiver of subrogation in favor of the City. The City will not accept elective exemptions. Any contractor using an employee leasing company shall complete the Leased Employee Affidavit Form Exhibit.	<u>Contract Amount Limits</u> Up to \$10 million Statutory/\$500,000 \$10 - \$20 million Statutory/\$1,000,000 Contracts over \$20 million To Be Determined by the City.	☐ If Contract requires work on or about navigable waters, Longshoreman's and Harbor Workers' Coverage required. ☐ If vessels involved, Jones Act coverage with limits of \$500,000 required.
REQUIRED	Comprehensive General Liability (including Completed Operations and Contractual Liability)	<u>Limits:</u> Combined Single Limit Bodily Injury and Property damage \$1,000,000 occurrence \$1,000,000 aggregate	☐ When work is 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.
REQUIRED	Comprehensive Business, Automobile Liability to include all owned, hired and non-owned automobiles.	<u>Limits:</u> Auto Liability Body Injury and Property Damage: \$1,000,000 each occurrence \$1,000,000 aggregate	
<i>Additional Insurance Requirements</i>			
☐	Property Insurance Builders Risk. <u>Additional Coverage:</u>	Limits: Buildings - Completed value of Contract. "All Risk" coverage on latest ISO for or its equivalent. Permission granted to occupy. Owner named as insured AIMA	If Agreement 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	Limits: Coverage - \$1,000,000	
☐	Installation Floater (IT)	Limits: Coverage - \$ <u>To be determined.</u>	
☐	Contractor Pollution Liability	Limits: Coverage - \$1,000,000	
☐	Errors and Omissions	Limits: Coverage - \$1,000,000	
☐	Umbrella Policy	Limits: Coverage – \$ <u>To be determined.</u>	
REQUIRED	Payment and Performance Bond Required	Limits: Coverage - Equal to amount of Contract.	
☐	City Manager waives Payment and Performance Bond for work under \$25,000.00.		
☐	Unless otherwise required by law, City Manager waives Insurance for FOB goods under \$25,000.00.		

52. INVOICES AND PAYMENTS

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

53. IRREVOCABILITY OF RESPONSES

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

54. LATE SUBMISSIONS, LATE MODIFICATIONS AND LATE WITHDRAWALS

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

55. LEGAL REQUIREMENTS

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

56. LICENSES, PERMITS AND TAXES

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

57. LITERATURE (if applicable)

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

58. LOCAL PREFERENCE

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

(a) Competitive Bids

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

of the original low bid. The bid shall then be awarded to the lowest and best responsible bidder.

- (4) Tied Bid Preference: In case of a tie bid between a local business and a non-local business, the local business shall prevail. In case of a tie between two or more local businesses, the following order of preference shall control: first priority to Port Orange business, second priority to Volusia County business, and third priority to Florida business.

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

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

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

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

59. **MAINTENANCE**

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

60. **NAME BRANDS**

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

61. **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.

62. **NON-EXCLUSIVITY OF CONTRACT**

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

63. NON-PERFORMANCE

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

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

64. 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.

65. OPTIONAL CONTRACT USAGE

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

66. OTHER AGENCIES

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

67. PATENTS/COPYRIGHTS

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

68. PRE-BID CONFERENCE

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

69. PREPARATION OF RESPONSES

In preparing Responses, the Proposal Form, the Bid Form (when a Bid Bond is permitted as proposal security), Certificate as to Corporate Principal, Public Entity Crimes Statement, Anti-Collusion Statement, and Drug Free Preference Statement must be properly executed in ink. Upon the prescribed Schedule of Unit Prices, all bid prices shall be typewritten or written in ink, or electronically imputed in the blank spaces for each item, with the amounts extended if a unit

price bid, and all amounts totaled. The sum of the Total Bid as calculated from the individual items, Schedule of Unit Prices, shall equal the Total Price. Except as provided below, bids containing substitutions or combinations of alternates will not be considered unless such substitutions or combinations are specifically authorized by the Proposal. The Vendor shall sign his/her name and give his/her business address in the spaces provided therefore. If the Proposal is made as a partnership, it shall be signed by all partners; if made by a corporation, it shall be signed in the name of the corporation by one of the officers thereof and shall have affixed the seal of the corporation.

70. POSTPONEMENT / CANCELLATION / WAIVER OF IRREGULARITIES

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

71. PRICING

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

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

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

72. PRODUCTS/ESTIMATES

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

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

73. PROPRIETY INFORMATION

Upon receipt by the City, responses to Solicitations, become public records subject to the provisions Florida's state policy on public records, Section 119, Florida Statutes. If you believe that any portion of your response is exempt, you should clearly identify the specific documents for which confidentiality is claimed and provide specific legal authority of the asserted exemption.

Any financial statement that an agency requires a prospective Vendor to submit in order to prequalify for bidding or for responding to a proposal for a road or any other public works project is exempt from Section 119.07, Florida Statutes, and Article I, 24(a), Florida Constitution.

74. PROTECTION

Precaution shall be exercised at all times for the protection of persons, (including employees) and property. All existing structures, utilities, services, roads, trees, shrubbery, etc. shall be protected against damage or interrupted service at all times by the Vendor during the term of contract, and the Vendor shall be held responsible for any damage to the property occurring by reason of his operation on the property.

75. PUBLIC ENTITY CRIMES

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

76. 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 required by the City to perform the service.
- (b) Upon request from the City's custodian of public records, provide the City with a copy of the requested record or allow the records to be inspected or copied within a reasonable time 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 from public records disclosure requirements are not disclosed except as authorized by law for the duration of the Contract term and following completion of the Contract if the Contractor does not transfer the records to the City.
- (d) Upon completion of the Contract, Contractor shall transfer to the City, at no cost, all public records in possession of the Contractor and destroy any duplicate public records that are exempt from public records disclosure requirements. All records stored electronically must be provided to the City, upon request from the City's custodian of public records, 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 deem the non-compliance a breach of this Contract, and the Contractor may be subject to penalties under Section 119.0701, Florida Statutes.

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

77. PUBLIC RECORDS/PUBLIC MEETINGS EXEMPTION STATEMENT

Section 119.071(1)(c), Florida Statutes: **Any financial statement that an agency requires a prospective Vendor to submit in order to prequalify for bidding or for responding to a proposal for a road or any other public works project is exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. On June 2, 2011, Governor Scott signed HB 7223 into law.** This new legislation amends Florida's Public Records and Sunshine Laws, by expanding "exemptions" applicable to bids, proposals and replies to sealed competitive solicitations, and closes evaluation meetings from the public in certain instances. First, Section 119.071, Florida Statutes was amended to provide that sealed bids, proposals, or replies received by a Florida public agency shall remain exempt from disclosure until an intended decision is announced or until 30 days from the opening, whichever is earlier. This means that Vendors will not be able to procure a copy of their competitor's bids until an intended decision is reached or 30 days has elapsed since the time of the bid opening. The prior version of the law provided for a 10-day exemption. Next, Section 286.0113, Florida Statutes was amended to provide that meetings of persons appointed to evaluate bids or proposals and negotiate contracts shall be closed in certain circumstances. Specifically, portions of such meetings may now be closed to the public during oral presentations made by a vendor, or where a vendor answers questions. In other words, neither Vendors, nor the public will be permitted to sit in on meetings, unless this exemption is waived by the City Council, wherein their competitors are making presentations or discussing their bid or proposal with the committee members. The portions of these meetings must still be recorded and are subject to disclosure at the time of an intended award decision or within 30 days of the bid or proposal opening, whichever is earlier. Portions of the meetings that do not involve presentations, questions and answers, or negotiation strategy or negotiation sessions are still open to the public and competing Vendors, but the new law limits public attendance to portions of such meetings.

78. PURCHASE ORDER AND DELIVERY

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

79. 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.

80. QUESTIONS, INTERPRETATIONS

Questions regarding interpretation of Responses, Solicitation results or Solicitation awards shall be directed in writing to the Purchasing Division and referenced by the Solicitation number no later than the last day for questions as specified in the Solicitation documents. The City of Port Orange shall not be responsible for oral interpretations given by any City personnel or

representative or others. The issuance of a written addendum is the only official method whereby interpretation, clarification or additional information can be given.

81. RECORDS/AUDIT

(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.

82. RECYCLED MATERIALS

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

83. REJECTING OF RESPONSES, REBIDDING

The City reserves the right to accept or reject any or all Responses or parts of Responses, to waive irregularities and technicalities, and to request re-bids. The City also reserves the right to award the contract on such items the City deems will best serve the interests of the City. The City further reserves the right to award the contract on a "split order" basis, or such combination as shall best serve the interests of the City unless otherwise specified. The City Council shall have the authority to reject any and all Responses. If the lowest and best Response exceeds the budgeted amount and the City Council does not make additional funds available, the Buyer 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.)

84. REQUEST FOR ADDITIONAL INFORMATION

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

85. REVIEW OF RESPONSES/SUBMISSIONS

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

86. RIGHT OF NEGOTIATION RFP/RFSQ/ITN

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

87. RIGHT OF WITHDRAWAL

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

88. RIGHTS TO SOLICITATION SUBMITTED MATERIAL

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

89. RULES, REGULATIONS AND LICENSING REQUIREMENT

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

90. SAMPLES

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

91. SEPARATION AND DISTRIBUTION

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

92. 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.

93. SIGNATURE REQUIRED

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

94. SIGNED RESPONSE CONSIDERED AN OFFER

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

acceptance, the City may take such action as it deems appropriate including legal action for damages or specific performance.

95. 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.

96. SOLICITATION FORM COMPLETION, SUBMISSION AND RECEIPT OF RESPONSES

Unless otherwise specified, Vendors shall use the Solicitation forms supplied by the Purchasing Division. Responses shall be typewritten or handwritten in ink and shall bear the original signature of the Vendor's authorized representative. Responses containing erasures or corrections must be initialed by the Vendor in ink. Responses shall be submitted by mail or hand delivery only. No Response will be accepted by facsimile transmission, e-mail or other electronic delivery. Responses submitted by mail shall be addressed to: Michael Hall, Purchasing Buyer, Purchasing Office, a division of the Finance Department, Port Orange City Hall, 1000 City Center, Port Orange, Florida 32129. Responses submitted by hand delivery shall be delivered to: City Clerk, Port Orange City Hall, 1000 City Center Circle, Port Orange, Florida 32129. Responses will be accepted until 2:30 p.m. on the date indicated in the Solicitation documents or as addenda issued by the City. One (1) sealed envelope or package shall be submitted. The sealed envelope/package must contain the required forms and price proposals, where applicable, and will be evaluated and deemed responsive or non-responsive. All Responses deemed non-responsive will be returned to the Vendor and will not be opened. Bids (Envelope/Package) shall contain one (1) original and one (1) digital (CD or flash drive) version unless otherwise indicated in the legal advertisement and shall be mailed or delivered as set forth in the preceding paragraph in one (1) SEALED ENVELOPE/PACKAGE. The envelope/ package shall be clearly marked on the outside to include the bid project name, bid number and name of the Vendor.

97. STATE LICENSING REQUIREMENTS

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

98. SUBCONTRACTING

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

99. SUPPLEMENTAL MATERIALS

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

100. TAXES

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

101. TERM CONTRACTS

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

102. TERMINATION CONVENIENCE – NOTICE

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

103. 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.

104. TITLE TRANSFER

Title and Risk of Loss of goods shall not pass to City of Port Orange until City of Port Orange actually receives and takes possession of the goods at the point or points of delivery. Receiving times may vary with the using department. Generally, deliveries may be made between 8:30 a.m. and 3:00 p.m., Monday through Friday. The Vendor is advised to consult the using department for

instructions. The place of delivery shall be specified in the bid specification and/or on the Purchase Order as a "Deliver To:" address.

105. UNBALANCED BID

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

106. USE OF SOLICITATION FORMS

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

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

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

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

107. VARIANCES

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

108. VENDOR'S PRODUCT OR SERVICES

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

- a. If the Vendor is contracted to provide services, such services shall be fully satisfactory to the City as determined by the City.
- b. The Vendor shall provide the City with any data, reports or other information as required and requested by the City to enable it to utilize the product or service furnished by the Vendor.
- c. In furnishing the service or product to the City, the Vendor shall comply with all federal, state, county laws, and city rules, regulations and codes and their successors or amendments.

Violation of such laws, rules, regulations and codes may be grounds for delaying or reducing the amount due, or in rescinding the contract, Contract, proposal or quote.

109. WAIVER OF IRREGULARITIES

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

110. WARRANTIES

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

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SECTION 6 – SPECIAL CONDITIONS

PERIOD OF OFFER VALIDITY

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

CONTRACT TERM

The term of the contract shall be for an initial one (1) year with three (3) one (1) year renewal options agreed upon by both parties. Renewal will be approved by the City Manager and the budget will be approved by City Council.

EXTRAORDINARY OCCURRENCES

It is agreed that in no event shall the City or Contractor be liable or responsible to each other or any other person to perform work herein provided, where such stoppages or delays result from inclement weather, drought or excessive rain, acts of God, fire, or any other cause not within the control of the City and/or the Contractor.

CONTRACT PERFORMANCE

It is the intent of the City to ensure that the Contractor provides a quality level of landscape and ground maintenance services. All complaints will be reported to, and promptly resolved by the Contractor. The Contractor shall have twenty-four (24) hours to resolve any such complaints. The City may levy administrative charges for infractions by the Contractor at \$100.00 per day per incident. Such infractions shall include, but not be limited to:

- a) Failure to resolve complaints within twenty-four (24) hour period.
- b) Failure to provide safe equipment.
- c) Failure to provide required documentation in a timely and accurate manner.
- d) Failure to report damage to irrigation system(s).
- e) Failure to report property damage or personal injury.
- f) Failure to remove all trash from site(s).
- g) Failure to perform scheduled service.
- h) Landscape employees not adhering to uniform/protective clothing requirements.

For the purpose of this section, the City may deduct any charges from payments due the Contractor. The City shall notify the Contractor in writing of any action to be taken. In the event the Contractor wishes to contest such assessment, the contractor shall submit a written protest within five (5) days after receiving such notice for an opportunity to be heard by the City and present a defense to such assessment. The City will notify the Contractor in writing of any action taken with respect to Contractor's claims. The decision of the City shall be final.

Based on limited funds, the City may eliminate certain contracted areas or groups in order to stay within the budget. The City may, at its discretion, add or delete similar sized areas as a result of construction or unanticipated impacts. Therefore, the City reserves the right to reject any and all the bids, eliminate areas from the contract and/or reduce maintenance to any given area when it is in the City's best interest.

INVOICING

Payment shall be determined monthly based on sites inspected and verified. A template will be provided to the contractor, from the City, by Excel format. The template will detail and itemize the contractor's service areas for the month.

DEDUCTIONS will occur if areas are not completed upon inspection and invoice has been submitted.

ELIGIBILITY OF VENDOR

To be eligible to respond to this ITB, the Vendors must have prior experience working with the services described in this ITB. Please provide eligibility experience with your submittal.

NOTICE

The City reserves the right to consider cooperative contracts, federal, state municipal etc.; in the evaluation process. If in the City's best interest, the City may utilize a cooperative contract in lieu of making an award.

BID BOND

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 BOND

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.

LICENSES AND PERMITS

Contractor is responsible for all applicable local and state licenses, permits and fees.

[Remainder of this page left intentionally blank]

SECTION 7 – REQUIRED FORMS

FORM 7.1 – BID SUBMITTAL CHECKLIST

- _____ Form 7.2 – Vendor’s Acknowledgement
- _____ Form 7.3 – Addendum and Change Order Procedure Acknowledgement
- _____ Form 7.4 – Drug Free Preference Statement
- _____ Form 7.5 – Public Entity Crimes Statement
- _____ Form 7.6 – Affidavit of Anti-Collusion
- _____ Form 7.7– Statement of Vendor’s Qualifications
- _____ Form 7.8 – Professional References for Previous Experience
- _____ Form 7.9 – Local Business Affidavit of Eligibility
- _____ Attachment 1 – Bid Proposal
- _____ Bid Bond
- _____ Copy of Commercial Entity License
- _____ Submission of one (1) original marked “ORIGINAL” and one (1) digital (CD or flash drive) version in PDF format.

BY: _____
Name of Business

Authorized Signature

Date

This document must be completed and returned with your Submittal

FORM 7.2 – VENDOR’S ACKNOWLEDGEMENT FORM

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

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

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

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

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

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

NO EXCEPTIONS ALLOWED AFTER THE BID IS SUBMITTED:

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

NAME OF BUSINESS

MAILING ADDRESS

AUTHORIZED SIGNATURE

CITY, STATE & ZIP CODE

NAME, TITLE, TYPED

TELEPHONE NUMBER / FAX NUMBER

FEDERAL IDENTIFICATION #

E-MAIL ADDRESS

STATE OF _____ COUNTY OF _____

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

My Commission Expires: _____

Notary Public

This document must be completed and returned with your Submittal

FORM 7.3 – ADDENDUM and CHANGE ORDER PROCEDURE ACKNOWLEDGEMENT

ADDENDUM ACKNOWLEDGEMENT

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

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

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

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

CHANGE ORDER PROCEDURE ACKNOWLEDGEMENT

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

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

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

Name of Business

By: _____

Printed Name: _____

Title: _____

STATE OF _____

COUNTY OF _____

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

(NAME)

(TITLE)

(NAME OF ORGANIZATION) and who:

[Notary: Please select one]

☐ is personally known to me; or

☐ has produced _____ as identification.

Notary Public, State of _____

Printed, typed or stamped name, commission and expiration:

This document must be completed and returned with your Submittal

FORM 7.4 – DRUG-FREE PREFERENCE STATEMENT

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

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

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

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

Name of Business

By: _____

Printed Name: _____

Title: _____

STATE OF _____

COUNTY OF _____

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

(NAME)

(TITLE)

_____ and who:

(NAME OF ORGANIZATION)

[Notary: Please select one]

☐ is personally known to me; or

☐ has produced _____ as identification.

Notary Public, State of _____

This document must be completed and returned with your Submittal

Printed, typed or stamped name, commission and expiration:

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

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

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

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

Name of Business

By: _____

Printed Name: _____

Title: _____

STATE OF _____

COUNTY OF _____

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

[Notary: Please select one]

☐ is personally known to me; or

☐ has produced _____ as identification.

Notary Public, State of _____

Printed, typed or stamped name, commission and expiration:

This document must be completed and returned with your Submittal

FORM 7.6 – ANTI-COLLUSION FORM

ANTI-COLLUSION STATEMENT BID FORM:

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

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

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

NAME OF FIRM: _____

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

PRINTED SIGNATURE: _____

TITLE: _____

ADDRESS: _____

CITY: __ STATE: _____ ZIP CODE: _____

TELEPHONE: _____ FAX: _____

COMPLETION TIME: _____

F.E.I.N. NUMBER: _____

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

NO BID (REASON): _____

This document must be completed and returned with your Submittal

FORM 7.7 – STATEMENT OF VENDOR’S QUALIFICATIONS

The undersigned warrants that he or she is duly authorized to complete this document, and hereby affirms that the information contained in Form 7.7 is complete, true, and correct to the best of their knowledge and belief. If necessary, questions may be answered on separate paper and attached, with any additional information that may be pertinent.

- A. Name of Vendor.
- B. Permanent main office address.
- C. Date organized.
- D. If a corporation, where incorporated.
- E. How many years have you been engaged in the contracting business under your present firm or trade name?
- F. Contracts on hand: (Schedule these, showing amount of each contract and the appropriate anticipated dates of completion.)
- G. General character of work performed by your company.
- H. Have you ever failed to complete any work awarded to you? If so, where and why?
- 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 Vendor's Qualifications.

Name of Business
By: _____
Printed Name: _____
Title: _____

STATE OF _____
COUNTY OF _____

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

[Notary: Please select one]

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

***This document must be completed
and returned with your Submittal***

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

FORM 7.8 – PROFESSIONAL REFERENCES FOR PREVIOUS EXPERIENCE

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

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

(Do not include the City of Port Orange)

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

This document must be completed and returned with your Submittal.

LISTING OF PREVIOUS EXPERIENCE

Commercial 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 **Landscaping 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					

This document must be completed and returned with your Submittal.

FORM 7.9 – LOCAL BUSINESS AFFIDAVIT OF ELIGIBILITY

City of Port Orange

*This declaration is executed under penalty of perjury of the laws to the United States and State of Florida***THIS AFFIDAVIT IS SUBMITTED IN REFERENCE TO THE FOLLOWING SOLICITATION:**

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

BUSINESS NAME: _____

CONTACT PERSON/TITLE: _____

MAILING ADDRESS: _____

CITY-STATE-ZIP: _____

Length of Time at Address Provided: _____

Physical Presence of Business: ☐ Headquarters, ☐ Manufacturing Facility, or ☐ Locally Owned FranchiseAnd within Legal Boundaries: ☐ The City of Port Orange ☐ Volusia County ☐ The State of Florida

FEIN (Federal Employer Identification Number): _____

BUSINESS STRUCTURE: ☐ Corporation ☐ LLC ☐ Partnership ☐ Sole Proprietorship☐ Other (Specify): _____

PHONE NUMBER: _____ FAX: _____

EMAIL: _____

ATTESTATION – I understand that:

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

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

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

NOTARY SEAL

SIGNATURE OF NOTARY PUBLIC

THIS _____ DAY OF _____, 20____

My Commission Expires: _____

SIGNATURE OF AFFIANT

DATE

PRINTED NAME OF AFFIANT / TITLE_____
COMPANY***This document must be completed and returned with your Submittal***

BID COST/FEE POPOSAL**"ATTACHMENT 1" SCHEDULE OF UNIT PRICING****BID FORM****CITY OF PORT ORANGE****ITB #20-17****LANDSCAPING MAINTENANCE SERVICES FOR POLICE DEPARTMENT SHOOTING RANGE**

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

Instruction to save Attachment from DemandStar website:

Perform "File Save As" and save spreadsheet to your computer. Fill in pricing in highlighted cells electronically.

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

NAME OF BUSINESS:

CONTACT PERSON:

EMAIL ADDRESS:

AUTHORIZED NAME:

AUTHORIZED SIGNATURE:

	DESCRIPTION	SQUARE FOOTAGE	ACRES	COST PER VISIT	MAINTENANCE VISITS PER YEAR	TOTAL ANNUAL COST
	Shooting Range Maintenance Levels					
1	Tactical, Handgun, and Rifle Range	196,020	4.5	\$ -	24	\$ -
2	Remaining Property (Ponds)	609,840	14	\$ -	20	\$ -
3	Berms	25,000	0.57	\$ -	4	\$ -
4	Fenceline	N/A	N/A	\$ -	12	\$ -
5	Fertilization	196,020	4.5	\$ -	2	\$ -
6	Disease and Insect Control	196,020	4.5	\$ -	1	\$ -
					Total Price:	\$ -

This document must be completed and returned with your Submittal

BID BOND

BID BOND

Bond No.:

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

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

Project Name / Bid No.:

Project Address:

Legal Description:

Description of Work:

NOW, THEREFORE,

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

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

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

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

PRINCIPAL:

Signature

Corporate Officer & Title

ATTEST:

Signature

Corporate Secretary (Affix Corporate Seal)

WITNESSES:

SURETY:

Attorney-in-Fact (signature)

Name & Title

Name of Local Resident Agent

City, State, Zip

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

ATTEST:

Signature

Corporate Secretary (Affix Corporate Seal)

STATE OF _____
COUNTY OF _____

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

Signature of Affiant

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

NOTARY PUBLIC – STATE OF

Type or print name: _____

Commission No.: _____

Commission Expires: _____

(Seal)

.....
END OF BID BOND

This document must be completed and returned with your Submittal

PERFORMANCE & PAYMENT BOND

RETURN RECORDED DOCUMENT TO:

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

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

PAYMENT AND PERFORMANCE BOND

(Public Works)

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

BOND NO. _____

PRINCIPAL:

Developer or Contractor: _____

Principal Business Address: _____

Contact Person: _____

Phone Number: _____

SURETY:

Address: _____

Contact Person: _____

Phone Number: _____

OWNER:

City of Port Orange, Florida, a chartered municipal corporation

1000 City Center Circle

Port Orange, Florida 32129-4144

Contact Person: _____

Phone Number: _____

City Manager
(386) 506-5501

Amount: \$ _____

City Case/Project No. _____

Description of Work: _____

Project Location: _____

Port Orange, Volusia County, Florida

Legal Description: _____

Front Page

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

[MTR/sal 2015-02-10]

RETURN RECORDED DOCUMENT TO:

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

Name of Project

City Project No. _____

Bond No. _____

Space Reserved for Recording Data

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

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

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

THE CONDITION OF THIS BOND is that if Principal:

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

Notice of Nonpayment and Time Limitations

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

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

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

Page 1 of 2
Public Construction Bond

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

Attest:

(Name of Principal)

(As to Corporate Principal) Secretary

By: _____

Name/Title: _____

(Witness to Principal)

(Corporate Seal)

(Surety)

(Witness to Surety)

By: _____

Name: _____

(Attorney-in-Fact)

(Corporate Seal)

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

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

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

Page 2 of 2
Public Construction Bond

AFFIDAVIT REGARDING WORKERS' COMPENSATION

IMPORTANT

This certificate must be completed and returned by the Awarded Vendor, upon issuance of a Notice of Intent to Award by the Purchasing Department of the City of Port Orange. Please note, the City of Port Orange does not accept exemptions for Workers' Compensation coverage.

State of _____

County of _____

I, _____, being duly sworn according to law, deposes and says (it, he, she, they) have accepted the Workers' Compensation laws of the State of Florida, with its supplements and amendments and has insured (its, his, her, their) liability there under accordance with the terms of said Laws with the _____ Company, under the terms of Policy Number _____ for a period from _____, 20__ to _____, 20__.

WITNESS:

By: _____

Name: _____

CONTRACTOR:

Company: _____

By: _____

Name/Title: _____

Sworn to and subscribed before me this ____ day of _____, 20__.

My Commission Expires: _____

Notary Public

Notary Public Printed Name

LEASED EMPLOYEE AFFIDAVIT
EXHIBIT CONTRACT # _____

☐ I hereby certify that I do not utilize an employee leasing company or employee leased employees. I further agree to notify the City in the event these circumstances change.

OR

☐ I affirm that an employee leasing company provides my workers' compensation coverage. I further understand that my contract with the employee leasing company limits my workers' compensation coverage to enrolled worksite employees only. My leasing arrangement does not cover un-enrolled worksite employees, independent contractors, uninsured sub-contractors or casual labor exposure.

I hereby certify that 100% of my workers are covered as worksite employees with the employee leasing company. I certify that I do not hire any casual or uninsured labor outside the employee leasing arrangement. I agree to notify the City in the event that I have any workers not covered by the employee leasing workers' compensation policy. In the event that I have any workers not subject to the employee leasing arrangement, I agree to obtain a separate workers' compensation policy to cover these workers. I further agree to provide the City with a certificate of insurance providing proof of workers' compensation coverage prior to these workers entering any City jobsite.

I further agree to notify the City if my employee leasing arrangement terminates with the employee leasing company and I understand that I am required to furnish proof of replacement workers' compensation coverage prior to the termination of the employee leasing arrangement.

I certify that I have workers' compensation coverage for all of my workers through the employee leasing arrangement specified below:

Name of Employee Leasing Company: _____

Workers' Compensation Carrier: _____

A.M. Best Rating of Carrier: _____

Inception Date of Leasing Arrangement: _____

I further agree to notify the City in the event that I switch employee-leasing companies. I recognize that I have an obligation to supply an updated workers' compensation certificate to the City that documents the change of carrier.

I hereby attest that the information provided in this affidavit is accurate. In addition, I certify that I have read and understand the above statements regarding my responsibility under the Workers' Compensation coverage.

Name of Contractor: _____

Signature of Owner/Officer: _____

Title: _____ Date: _____



CITY OF PORT ORANGE STANDARD CONTRACT FOR SERVICES

This Standard Contract for Services ("Contract") is entered into this ____ day of _____, 2020, by and between the **CITY OF PORT ORANGE**, a Florida municipal corporation, whose principal address is 1000 City Center Circle, Port Orange, Florida 32129 (the "City"), and _____, a _____ corporation whose principal address is _____ ("Contractor"). The City and Contractor are collectively referred to herein as the "Parties."

1. Provision of Services

(a) The Contractor hereby agrees to provide to the City Landscape Maintenance Services for the Police Shooting Range, pursuant to Intent to Bid 20-17 ("ITB 20-17"). This Contract together with ITB 20-17, Addenda, and Contractor's proposal, all of which may be referred to as the "Contract" and all of which are made a part hereof by reference shall constitute the formal written contract between the City and Contractor. For convenience, Section 3, Scope of Services, of ITB 20-17 and the Bid Tabulation as submitted by Contractor in Contractor's Proposal, are attached hereto as **Exhibit "1"**. A complete copy of ITB 20-17, Addenda, and Contractor's Proposal are available in the Office of the City Clerk. Contractor represents that they are familiar with the documents that make up the Contract, as referenced hereinabove.

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

Term: The initial term of this Contract shall become effective on the last date the Contract is signed by the Parties and shall continue for a period of one-year ("Initial Term").

Renewals: Upon written agreement of the Parties, this Contract may be renewed for three (3) one-year periods, subject to review and approval of the City Manager and budget appropriation.

Manner and Place: The work shall be performed 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 this Contract.

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 upon issuance of a Notice to Proceed and a written Purchase Order issued by the City and executed by the City Manager. The City reserves the right to contract with other parties for the goods and services contemplated by this Contract, as determined in the City's sole and absolute discretion.

2. City Obligations. In return for the services identified above, the City agrees to compensate the Contractor at the pricing set forth in Exhibit "1," attached hereto, in an amount not to exceed _____ and ____/100 Dollars (\$_____). All payments shall be governed

by the Local Government Prompt Payment Act as set forth in Sections 218.70 through 218.79, Florida Statutes, as amended.

3. Contract Documents. The following forms, attached as Exhibit "2," are an integral part of this Contract and must be completed, signed, witnessed and notarized as indicated and returned with the signed Contract:
 - a. Front Page for Bond (F.S. § 255.05)
 - b. Combination Payment and Performance Bond (F.S. § 255.05)
4. Contract Administration. The Police Chief, Thomas Grimaldi, shall perform contract administration of this Contract. The City may change the contract administrator, from time to time and at any time, upon written notice to Contractor. For notice provisions, see the paragraph below entitled "Notice."
5. Liens. Contractor acknowledges that Contractor shall not be entitled to lien the City or other public property.
6. 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 23 of this contract concerning disputes.

7. 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.

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

9. 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.

10. 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 required by the City to perform the service.
- (b) Upon request from the City's custodian of public records, provide the City with a copy of the requested record or allow the records to be inspected or copied within a reasonable time 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 from public records disclosure requirements are not disclosed except as authorized by law for the duration of the Contract term and following completion of the Contract if the Contractor does not transfer the records to the City.
- (d) Upon completion of the Contract, Contractor shall transfer to the City, at no cost, all public records in possession of the Contractor and destroy any duplicate public records that are exempt from public records disclosure requirements. All records stored electronically must be provided to the City, upon request from the City's custodian of public records, 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 deem the non-compliance a breach of this Contract, and the Contractor may be subject to penalties under Section 119.0701, Florida Statutes.

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

11. 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.

12. Insurance. Contractor shall maintain insurance, as required herein, during the life of this Contract. Contractor shall provide to the City, a certificate of insurance endorsing the City of Port Orange as an additional named insured. All insurance coverages of the Contractor shall be primary and non-contributory. All insurance coverages of the Contractor shall not seek contribution from any other insurance or self-insurance available to the City. For workers' compensation coverage, the Contractor's insurance certificate shall include the insurer's waiver of subrogation in lieu of endorsing the City as an additional insured for workers' compensation. The City shall not accept Workers' Compensation Exemptions Contractor may use leased employees if the Contractor ensures that all workers who access the jobsite are employees covered by the employee leasing company, and no non-employees are permitted to access the jobsite. Any Contractor using a leased employee shall complete the City's Leased Employee Affidavit Form Exhibit. Policies for Workers' Compensation may be issued by companies authorized as a group self-insurer by F.S. 440.572.

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. Contractor shall not commence work under this Contract until the City has received a certificate or certificates of insurance with endorsement evidencing

the required insurance. Insurer shall provide the City written notice of cancellation, nonrenewal or any other changes in coverage no later than thirty (30) days prior to the effective date of the change and shall provide notice to the City no later than 10 days after non-payment. The Certificates of Insurance and required insurance policies shall contain provisions that thirty (30) days prior written notice shall be given to the City of any cancellation, intent not to renew, or reduction in the policies or coverages.

Contractor shall require and ensure each of its subcontractors to maintain, until the completion of the subcontractor's work, insurance of the types and to the limits set forth herein. All insurance coverages shall be primary and non-contributory. All insurance coverages of the subcontractors shall not seek contribution from any other insurance or self-insurance available to the City. The Contractor is responsible for ensuring that its subcontractors maintain the required coverage. Failure of the Contractor to ensure the subcontractors maintain the required coverage, shall not relieve the Contractor of any contractual responsibility, obligation or liability.

The City reserves the right to increase insurance coverage as determined for higher risk contracts.

The acceptance by the City of any Certificate of Insurance does not constitute approval or agreement by the City that the insurance requirements have been satisfied or that the insurance policy shown on the Certificate of Insurance is in compliance with this Contract and does not waive the insurance required by this Contract.

Should at any time the Contractor or subcontractors not maintain the insurance coverages required herein, the City may terminate the Contract or at its sole discretion shall be authorized to purchase such coverages and charge the Contractor for such coverages purchased. The City shall be under no obligation to purchase such insurance, nor shall it be responsible for the coverages purchased or the insurance company or companies used. The decision of the City to purchase such insurance coverages shall in no way be construed to be a waiver of any of its rights under the Contract.

Standard Insurance Requirements				
	Insurance	Standards		Additional Requirements
☒	<u>Workers' Compensation</u> The Contractor shall maintain coverage for its employees with statutory workers' compensation limits, and no less than the limits indicated in the Schedule of Limits for Employers' Liability. Said coverage shall include a waiver of subrogation in favor of the City. The City will not accept elective exemptions. Any contractor using an employee leasing company shall complete the Leased Employee Affidavit Form Exhibit.	<u>Contract Amount</u> Up to \$10 million \$10 - \$20 million Contracts over \$20 million To Be Determined by the City.	<u>Limits</u> Statutory/\$500,000 Statutory/\$1,000,000	☐ If Contract requires work on or about navigable waters, Longshoreman's and Harbor Workers' Coverage required. ☐ If vessels involved, Jones Act coverage with limits of \$500,000 required.

☒	Comprehensive General Liability (including Completed Operations and Contractual Liability)	<u>Limits:</u> Combined Single Limit Bodily Injury and Property damage \$1,000,000 occurrence \$1,000,000 aggregate	☐ When work is 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 owned, hired and non-owned automobiles.	<u>Limits:</u> Auto Liability Body Injury and Property Damage: \$1,000,000 each occurrence \$1,000,000 aggregate	
Additional Insurance Requirements			
☐	Property Insurance Builders Risk. <u>Additional Coverage:</u>	<u>Limits:</u> Buildings - Completed value of Contract. "All Risk" coverage on latest ISO for or its equivalent. Permission granted to occupy. Owner named as insured AIMA	If Agreement 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	<u>Limits:</u> Coverage - \$1,000,000	
☐	Installation Floater (IT)	<u>Limits:</u> Coverage - \$ <u>To be determined.</u>	
☐	Contractor Pollution Liability	<u>Limits:</u> Coverage - \$1,000,000	
☐	Errors and Omissions	<u>Limits:</u> Coverage - \$1,000,000	
☐	Umbrella Policy	<u>Limits:</u> Coverage - \$ <u>To be determined.</u>	
☒	Payment and Performance Bond Required	<u>Limits:</u> Coverage - Equal to amount of Contract.	
☐	City Manager waives Payment and Performance Bond for work under \$25,000.00.		
☐	Unless otherwise required by law, City Manager waives Insurance for FOB goods under \$25,000.00.		

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

14. 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.

15. 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.

16. **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.

17. **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.

18. **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.

19. **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.

20. **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.

21. Liability for Loss or Damage.

(a) 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.

(b) To the fullest extent permitted by law, in addition to the express duty to indemnify City when there is any causal connection between Contractor's work and any injury, loss, damage, death or property damage, Contractor expressly undertakes a duty to defend City as a separate duty, independent of and broader than the duty to indemnify. The duty to defend agreed to by Contractor hereby expressly include all costs of litigation, attorney's fees, settlement costs and reasonable expenses in connection with the litigation, whether or not the claims made for loss, injury, damage or property damage are valid or groundless and regardless of whether the defense of City is maintained by the City or assumed by Contractor as long as the claims made could be causally connected to Contractor as reasonable determined by City.

22. 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.

23. Disputes. The City Manager, who shall reduce his decision to writing and mail or otherwise furnish a copy thereof to Contractor, shall decide disputes with respect to this Agreement. The decision by the City Manager shall be final and binding unless, within five (5) business days from the date of delivery of the decision of the City Manager,

appeal is made to the City Council in writing and delivered to the City Clerk, Robin L. Fenwick, MMC. 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.

24. 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.

25. 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.**

26. Additional Provisions. This Contract includes all additional provisions as may have been outlined in written quotes and purchase orders and any attachments or exhibits to this Contract whether delivered herewith or subsequently approved as a part hereof, such as drawings or technical specifications prepared in the performance of this work. In the event of a conflict between any attachments or exhibits to this Contract, and this Contract, the language of this Contract shall control.

27. 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.

28. 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: Thomas Grimaldi, Police Chief 1000 City Center Circle Port Orange, Florida 32129 (386) 506-5870
Contractor:	_____ Attention: _____ _____ _____ () - - Telephone @ .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.

29. 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.

30. 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:

By: _____

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 _____
COUNTY OF _____

The foregoing instrument was acknowledged before me by means of ___ physical presence or ___ online notarization, this ___ day of _____, 2020, by _____, as _____ of _____, a _____ corporation. He/She is ___ personally known or ___ produced _____ as identification.

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

Witnesses:

CITY OF PORT ORANGE

Printed Name:_____

By: _____
Donald O. Burnette, Mayor

Printed Name:_____

Date: _____

STATE OF FLORIDA
COUNTY OF VOLUSIA

The foregoing instrument was acknowledged before me by means of ____ physical presence or ____ online notarization, this ____ day of _____, 2020, by Donald O. Burnette, as Mayor of the City of Port Orange, a Florida municipal corporation, on behalf of the city. He is ____ personally known or ____ produced _____ as identification.

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

Witnesses:

ATTEST:

Printed Name:_____

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

Printed Name:_____

Date: _____

STATE OF FLORIDA
COUNTY OF VOLUSIA

The foregoing instrument was acknowledged before me, by means of ____ physical presence or ____ online notarization, this ____ day of _____, 2020, by Robin L. Fenwick, as City Clerk of the City of Port Orange, a Florida municipal corporation, on behalf of the city. She is ____ personally known or ____ produced _____ as identification.

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



End of Solicitation Documents



NOTICE OF INTENT TO AWARD

ITB #20-17 Landscape Maintenance Services for Police Department Shooting Range September 17th, 2020

On September 17th, 2020 Purchasing received Four (4) bids for ITB #20-17 Landscape Maintenance Services for Police Department Shooting Range.

After review of the bids submitted, City Staff has made its recommendation to award to the lowest bidder, G&G Outdoors, LLC of New Smyrna Beach, FL, for the Total Bid Amount of \$22,400.00.

Recommendation to award will be presented for City Council approval on October 20th, 2020.

**Michael Hall
Buyer**



CIT

NGE

"ATTACHMENT 1" SCHEDULE OF UNIT BID FORM

ITB #20-17

LANDSCAPING MAINTENANCE SERVICES FOR POLICE DEPA

Completed Attachment 1 Bid Proposal form MUST be inc

Instruction to save Attachment from Demand
Perform "File Save As" and save spreadsheet to your computer. Fill in r

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

NAME OF BUSINESS:

CONTACT PERSON:

EMAIL ADDRESS:

AUTHORIZED NAME:

AUTHORIZED SIGNATURE:

	DESCRIPTION	SQUARE FOOTAGE	ACRES
	Shooting Range Maintenance Levels		
1	Tactical, Handgun, and Rifle Range	196,020	4.5
2	Remaining Property (Ponds)	609,840	14
3	Berms	25,000	0.57
4	Fenceline	N/A	N/A
5	Fertilization	196,020	4.5
6	Disease and Insect Control	196,020	4.5

PRICING

ARTMENT SHOOTING RANGE

cluded with Bid Submission

Star website:
ricing in highlighted cells electronically.

tomatically calculated, if submitted electronically.

COST PER VISIT	MAINTENANCE VISITS PER YEAR	TOTAL ANNUAL COST
\$ -	24	\$ -
\$ -	20	\$ -
\$ -	4	\$ -
\$ -	12	\$ -
\$ -	2	\$ -
\$ -	1	\$ -
	Total Price:	\$ -

 OPENING DATE/TIME: September 17, 2020 @ 2:30PM Bid Tabulation ITB #20-17 LANDSCAPING MAINTENANCE SERVICES FOR POLICE DEPARTMENT SHOOTING RANGE												
					VerdeGo LLC		Scotty Boy Landscaping & Maintenance LLC		G&G Outdoors, LLC		Yellowstone Landscape	
					Bunnell, FL		Port Orange , FL		New Smyrna Beach, FL		Daytona Beach, FL	
ITEM #	DESCRIPTION	Square Footage	Acres	Maintenance Visits/Year	Cost Per Visit	Total Annual Cost	Cost Per Visit	Total Annual Cost	Cost Per Visit	Total Annual Cost	Cost Per Visit	Total Annual Cost
Shooting Range Maintenance Levels												
1	Tactical, Handgun, and Rifle Range	196,020	4.5	24	\$ 804.35	\$ 19,304.40	\$ 360.00	\$ 8,640.00	\$ 155.00	\$ 3,720.00	\$ 200.00	\$ 4,800.00
2	Remaining Property (Ponds)	609,840	14	20	\$ 397.50	\$ 7,950.00	\$ 1,120.00	\$ 22,400.00	\$ 380.00	\$ 7,600.00	\$ 500.00	\$ 10,000.00
3	Berms	25,000	0.57	4	\$ 195.10	\$ 780.40	\$ 250.00	\$ 1,000.00	\$ 425.00	\$ 1,700.00	\$ 450.00	\$ 1,800.00
4	Fenceline	N/A	N/A	12	\$ 84.50	\$ 1,014.00	\$ 500.00	\$ 6,000.00	\$ 515.00	\$ 6,180.00	\$ 400.00	\$ 4,800.00
5	Fertilization	196,020	4.5	2	\$ 1,360.00	\$ 2,720.00	\$ 1,500.00	\$ 3,000.00	\$ 1,000.00	\$ 2,000.00	\$ 1,200.00	\$ 2,400.00
6	Disease and Insect Control	196,020	4.5	1	\$ 2,615.00	\$ 2,615.00	\$ 1,300.00	\$ 1,300.00	\$ 1,200.00	\$ 1,200.00	\$ 5,500.00	\$ 5,500.00
					TOTAL BID:	\$ 34,383.80	TOTAL BID:	\$ 42,340.00	TOTAL BID:	\$ 22,400.00	TOTAL BID:	\$ 29,300.00
	Required Forms Submitted:				YES		YES		YES		YES	
	Bid Bond Submitted:				YES		YES		YES		YES	
	Responsive & Responsible Bidder:				YES		YES		YES		YES	

DISCLAIMER: THIS BID TABULATION INDICATES ONLY THE BIDS AS RECEIVED. ALL BIDS ARE SUBJECT TO VERIFICATION FOR ACCURACY, AND FOR SPECIFICATION AND CONTRACT COMPLIANCE. NO CONCLUSIONS ABOUT CONTRACT AWARDS SHOULD BE DRAWN FROM THESE PRELIMINARY TABULATIONS

SECTION 7 – REQUIRED FORMS

FORM 7.1 – BID SUBMITTAL CHECKLIST

- ☒ Form 7.2 – Vendor’s Acknowledgement
- ☒ Form 7.3 – Addendum and Change Order Procedure Acknowledgement
- ☒ Form 7.4 – Drug Free Preference Statement
- ☒ Form 7.5 – Public Entity Crimes Statement
- ☒ Form 7.6 – Affidavit of Anti-Collusion
- ☒ Form 7.7– Statement of Vendor’s Qualifications
- ☒ Form 7.8 – Professional References for Previous Experience
- ☒ Form 7.9 – Local Business Affidavit of Eligibility
- ☒ Attachment 1 – Bid Proposal
- ☒ Bid Bond
- ☒ Copy of Commercial Entity License
- ☒ Submission of one (1) original marked “ORIGINAL” and one (1) digital (CD or flash drive) version in PDF format.

BY: G&G Outdoors, LLC
Name of Business


Authorized Signature

September 16, 2020
Date

This document must be completed and returned with your Submittal

FORM 7.2 – VENDOR'S ACKNOWLEDGEMENT FORM

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

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

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

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

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

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

NO EXCEPTIONS ALLOWED AFTER THE BID IS SUBMITTED:

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

G&G Outdoors, LLC

NAME OF BUSINESS

Alex Green

AUTHORIZED SIGNATURE

Ander Goiriena, Manager

NAME, TITLE, TYPED

47-1160895

FEDERAL IDENTIFICATION #

4059 Quail Nest Lane

MAILING ADDRESS

New Smyrna Beach, FL 32168

CITY, STATE & ZIP CODE

386-631-4008

TELEPHONE NUMBER / FAX NUMBER

ggoutdoorsllc@gmail.com

E-MAIL ADDRESS

STATE OF Florida COUNTY OF Volusia

The foregoing instrument was acknowledged before me this day of September 17, 2020 by Ander Goiriena, who is personally known to me or who has produced ad identification and who did take an oath.

My Commission Expires:

Ronald S. Steger
Notary Public

This document must be completed and returned with your Submittal



RONALD S. STEGER
Commission # GG 346032
Expires July 2, 2023
Bonded Thru Budget Notary Services

FORM 7.3 – ADDENDUM and CHANGE ORDER PROCEDURE ACKNOWLEDGEMENT

ADDENDUM ACKNOWLEDGEMENT

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

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

Addendum # 1 Date: 9/4/2020 Addendum # _____ Date: _____
Addendum # _____ Date: _____ Addendum # _____ Date: _____

CHANGE ORDER PROCEDURE ACKNOWLEDGEMENT

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

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

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

G&G Outdoors, LLC

Name of Business

By: Ander Goiriena

Printed Name: Ander Goiriena

Title: Manager

STATE OF Florida

COUNTY OF Volusia

Sworn to (or affirmed) and subscribed before me this 17th day of September, 2020 by
Ander Goiriena, as Manager of
(NAME) (TITLE)

G & G Outdoors, LLC and who:
(NAME OF ORGANIZATION)

[Notary: Please select one]

☒ is personally known to me; or

☐ has produced _____ as identification.



RONALD S. STEGER
Commission # GG 346032
Expires July 2, 2023
Bonded Thru Budget Notary Services

[Signature]
Notary Public, State of FL

Printed, typed or stamped name, commission and expiration:

This document must be completed and returned with your Submittal

FORM 7.4 – DRUG-FREE PREFERENCE STATEMENT

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

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

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

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

G&G Outdoors, LLC

Name of Business

By: Ander Goiriena

Printed Name: Ander Goiriena

Title: Manager

STATE OF Florida

COUNTY OF Volusia

Sworn to (or affirmed) and subscribed before me this 17th day of September, 2020, by Ander Goiriena, as Manager of

G & G Outdoors LLC and who:
(NAME)
(NAME OF ORGANIZATION)



RONALD S. STEGER
Commission # GG 348032
Expires July 2, 2023
Bonded Thru Budget Notary Services

[Notary: Please select one]

☒ is personally known to me; or

☐ has produced _____ as identification.

This document must be completed and returned with your Submittal

Notary Public, State of FL

Printed, typed or stamped name, commission and expiration:

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

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

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

1. The business address of G&G Outdoors, LLC (name of Offeror or business) is 4059 Quail Nest Lane, New Smyrna Beach, FL 32168.
2. My relationship to G&G Outdoors, LLC (name of Offeror or business) is Manager (relationship such as sole proprietor, partner, president, vice president).
3. I understand that a public entity crime as defined in Section 287.133 of the Florida Statutes includes a violation of any state or federal law by a person with respect to and directly related to the transaction of business with any public entity in Florida or with an agency or political subdivision of any other state or with the United States, including, but not limited to, any proposal or contract for goods or services to be provided to any public entity or such an agency or political subdivision and involving antitrust, fraud, theft, bribery, collusion, racketeering, conspiracy or material misrepresentation.
4. I understand that "convicted" or "conviction" is defined by the Florida Statutes to mean a finding of guilt or a conviction of a public entity crime, with or without an adjudication of guilt, in any federal or state trial court of record relating to charges brought by indictment or information after July 1, 1989, as a result of a jury verdict, non-jury trial, or entry of a plea of guilt or nolo contendere.
5. I understand that "affiliate" is defined by the Florida Statutes to mean (1) a predecessor or successor of a person or a corporation convicted of a public entity crime, or (2) an entity under the control of any natural person who is active in the management of the entity and who has been convicted of a public entity crime, or (3) those officers, directors, executives, partners, shareholders, employees, members, and agents who are active in the management of an affiliate, or (4) a person or corporation who knowingly entered into a joint venture with a person who has been convicted of a public entity crime in Florida during the preceding 36 months.
6. Neither the Offeror or contractor, nor any officer, director, executive, partner, shareholder, employee, member or agent who is active in the management of the Offeror or contractor, nor any affiliate of the Offeror or contractor has been convicted of a public entity crime subsequent to July 1, 1989. (Draw a line through paragraph 6 if paragraph 7 below applies.)
7. There has been a conviction of a public entity crime by the Offeror or contractor, or an officer, director, executive, partner, shareholder, employee, member or agent of the Offeror or contractor who is active in the management of the Offeror or contractor or an affiliate of the Offeror or contractor. ~~A determination has been made pursuant to Section 287.133(3) by order of the Division of Administrative Hearings that it is not in the public interest for the name of the convicted person or affiliate to appear on the convicted vendor list.~~ ~~The name of the convicted person or affiliate is~~ ~~_____.~~ A copy of the order of the Division of Administrative Hearings is attached to this statement. **(Draw a line through paragraph 7 if paragraph 6 above applies.)**

G&G Outdoors, LLC

Name of Business

By: Ander Goiriena

Printed Name: Ander Goiriena

Title: Manager

STATE OF Florida

COUNTY OF Volusia

Sworn to (or affirmed) and subscribed before me this 17th day of September, 2020 by Ander Goiriena, as Manager of G&G Outdoors LLC

[Notary: Please select one]

☒ is personally known to me; or

☐ has produced _____ as identification.



RONALD S. STEGER
Commission # GG 346032
Expires July 2, 2023
Bonded Thru Budget Notary Services

Notary Public, State of FL

Printed, typed or stamped name, commission and expiration:

This document must be completed and returned with your Submittal

FORM 7.6 – ANTI-COLLUSION FORM

ANTI-COLLUSION STATEMENT BID FORM:

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

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

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

NAME OF FIRM: G&G Outdoors, LLC

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

PRINTED SIGNATURE: Ander Goiriena

TITLE: Manager

ADDRESS: 4059 Quail Nest Lane, New Smyrna Beach, FL 32168

CITY: STATE: Florida ZIP CODE: 32168

TELEPHONE: FAX: 386-631-4008

COMPLETION TIME: September 17, 2020

F.E.I.N. NUMBER: 47-1160895

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

NO BID (REASON):

This document must be completed and returned with your Submittal

FORM 7.7 – STATEMENT OF VENDOR'S QUALIFICATIONS

The undersigned warrants that he or she is duly authorized to complete this document, and hereby affirms that the information contained in Form 7.7 is complete, true, and correct to the best of their knowledge and belief. If necessary, questions may be answered on separate paper and attached, with any additional information that may be pertinent.

- A. Name of Vendor.
- B. Permanent main office address.
- C. Date organized.
- D. If a corporation, where incorporated.
- E. How many years have you been engaged in the contracting business under your present firm or trade name?
- F. Contracts on hand: (Schedule these, showing amount of each contract and the appropriate anticipated dates of completion.)
- G. General character of work performed by your company.
- H. Have you ever failed to complete any work awarded to you? If so, where and why?
- 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 Vendor's Qualifications.

G&G Outdoors, LLC

Name of Business

By: Ander Goiriena

Printed Name: Ander Goiriena

Title: Manager

STATE OF Florida

COUNTY OF Volusia

Sworn to (or affirmed) and subscribed before me this 17th day of September, 2020, by Ander Goiriena, as Manager of G&G Outdoors LLC and who:

[Notary: Please select one]

☒ is personally known to me; or

☐ has produced _____ as identification.



RONALD S. STEGER
Commission # GG 346032
Expires July 2, 2023
Bonded Thru Budget Notary Services

Notary Public, State of FL

Printed, typed or stamped name, commission and expiration:

**This document must be completed
and returned with your Submittal**

FORM 7.7

- A. G&G Outdoors, LLC
- B. 4059 Quail Nest Lane, New Smyrna Beach, FL 32168
- C. January 11, 2016
- D. New Smyrna Beach, Volusia County, FL
- E. 3+ Years
- F. Storquest, New Smyrna \$6,000/year
Storquest, Edgewater \$4,800/year
Storquest Deltona \$7,200/year
MTN Resources, New Smyrna \$1,440/year
*All contracts are revolving with no completion date. Scheduled for regular maintenance
- G. Lawn Maintenance, Landscaping
- H. No
- I. No
- J. All contracts are based on monthly maintenance with no completion dates
- K. 3038E John Deere Tractor
Commercial Grade John Deere Zero Turn
Commercial grade Scag V-Ride II
(Misc. weed eaters, edgers, backpack blowers)
Hedge trimmers, pole saws, etc.
- L. Ander Goiriena, 15+ years experience in grounds keeping/maintenance work.
- M. Ander has maintained his own lawn maintenance business for almost 5 years, however has been in this industry working next to his father since high school. Ander has maintained nearly 100 accounts, with 90% of those accounts being customers he has had for nearly 10 years.
- N. \$200,000.00 +/-
- O. Wells Fargo, New Smyrna Beach, FL
- P. Yes

FORM 7.8 – PROFESSIONAL REFERENCES FOR PREVIOUS EXPERIENCE

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

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

(Do not include the City of Port Orange)

1. Company Name: Storquest, New Smyrna Beach
Contact Person: Sherri Flemming
City, State: New Smyrna Beach, FL
Telephone Number: 386-210-7359
Email Address: newsmyrnabeach01@storquest.com
Description of goods or
Services provided: Lawn maintenance
Contract Amount: \$6,000.00 per year
Start/End Date of Contract: 2016 - Current
2. Company Name: Storquest, Edgewater
Contact Person: Bob Lott
City, State: Edgewater, FL
Telephone Number: 386-518-2304
Email Address: edgewater01@storquest.com
Description of goods or
Services provided: Lawn Maintenance
Contract Amount: \$4,800.00 per year
Start/End Date of Contract: 2018 - Current
3. Company Name: Storquest, Deltona
Contact Person: Mariyah Chandler
City, State: Deltona, FL
Telephone Number: 386-259-6662
Email Address: deltona01@storquest.com
Description of goods or
Services provided: Lawn Maintenance
Contract Amount: \$7,200.00 per year
Start/End Date of Contract: 2018 - Current

This document must be completed and returned with your Submittal.

LISTING OF PREVIOUS EXPERIENCE

Commercial 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 **Landscaping 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	Sherri Flemming Storquest New Smyrna	386-210-7359	Y	3+	Lawn maintenance, landscaping, tree work, clean-up jobs.
2	Bob Lott Storquest Edgewater	386-518-2304	Y	2+	Lawn maintenance, landscaping, tree work, clean-up jobs.
3	Mariyah Chandler Storquest Deltona	386-259-6662	Y	2+	Lawn maintenance, landscaping, tree work, clean-up jobs.

This document must be completed and returned with your Submittal.

FORM 7.9 – LOCAL BUSINESS AFFIDAVIT OF ELIGIBILITY

City of Port Orange

*This declaration is executed under penalty of perjury of the laws to the United States and State of Florida***THIS AFFIDAVIT IS SUBMITTED IN REFERENCE TO THE FOLLOWING SOLICITATION:**RFSQ/RFP/ITN/BID/CONTRACT/PROJECT #(as applicable): ITB 20-17BUSINESS NAME: G&G Outdoors, LLCCONTACT PERSON/TITLE: Ander Goiriena, ManagerMAILING ADDRESS: 4059 Quail Nest LaneCITY-STATE-ZIP: New Smyrna Beach, FL 32168Length of Time at Address Provided: 13 yearsPhysical Presence of Business: ☒ Headquarters, ☐ Manufacturing Facility, or ☐ Locally Owned FranchiseAnd within Legal Boundaries: ☐ The City of Port Orange ☒ Volusia County ☒ The State of FloridaFEIN (Federal Employer Identification Number): 47-1160895BUSINESS STRUCTURE: ☐ Corporation ☒ LLC ☐ Partnership ☐ Sole Proprietorship☐ Other (Specify): _____PHONE NUMBER: 386-631-4008

FAX: _____

EMAIL: ggoutdoorsllc@gmail.com**ATTESTATION – I understand that:**

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

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

BEFORE ME; the undersigned authority, in and for the State of Florida and the City of Port Orange personally appeared Ander Goiriena who, after being sworn according to law, stated that he or she was authorized to represent G&G Outdoors LLC 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

THIS 17th DAY OF September, 2020

My Commission Expires: _____

SIGNATURE OF AFFIANT

DATE

Ander Goiriena, Manager

PRINTED NAME OF AFFIANT / TITLE

G&G Outdoors, LLC

COMPANY



RONALD S. STEGER
 Commission # GG 348032
 Expires July 2, 2023
 Bonded Thru Budget Notary Services

This document must be completed and returned with your Submittal



"ATTACHMENT 1" SCHEDULE OF UNIT PRICING

BID FORM

CITY OF PORT ORANGE

ITB #20-17

LANDSCAPING MAINTENANCE SERVICES FOR POLICE DEPARTMENT SHOOTING RANGE

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

Instruction to save Attachment from DemandStar website:

Perform "File Save As" and save spreadsheet to your computer. Fill in pricing in highlighted cells electronically.

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

NAME OF BUSINESS:

G&G Outdoors, LLC

CONTACT PERSON:

Ander Goiriena

EMAIL ADDRESS:

ggoutdoorsllc@gmail.com

AUTHORIZED NAME:

Ander Goiriena

AUTHORIZED SIGNATURE:

	DESCRIPTION	SQUARE FOOTAGE	ACRES	COST PER VISIT	MAINTENANCE VISITS PER YEAR	TOTAL ANNUAL COST
	Shooting Range Maintenance Levels					
1	Tactical, Handgun, and Rifle Range	196,020	4.5	\$ 155.00	24	\$ 3,720.00
2	Remaining Property (Ponds)	609,840	14	\$ 380.00	20	\$ 7,600.00
3	Berms	25,000	0.57	\$ 425.00	4	\$ 1,700.00
4	Fenceline	N/A	N/A	\$ 515.00	12	\$ 6,180.00
5	Fertilization	196,020	4.5	\$ 1,000.00	2	\$ 2,000.00
6	Disease and Insect Control	196,020	4.5	\$ 1,200.00	1	\$ 1,200.00
Total Price:						\$ 22,400.00

SITE VISIT SCHEDULE

DESCRIPTION	MAINTENANCE VISITS PER YEAR	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC
Tactical, Handgun, and Rifle Range	24	1	1	1	2	3	3	3	3	3	2	1	1
Remaining Property (Ponds)	20	1	1	1	1	2	3	3	3	2	1	1	1
Berms	4	1			1			1			1		
Fenceline	12	1	1	1	1	1	1	1	1	1	1	1	1
Fertilization	2				1				1				
Disease and Insect Control	1				1								

BID BOND

Bond No.: 72304072

KNOW ALL MEN BY THESE PRESENTS that G&G Outdoors, LLC, as Contractor, duly authorized to conduct business in the State of Florida, whose principal place of business is located at 4059 Quail Nest Lane, New Smyrna Beach, FL 32168, Tel.: 386-631-4008, (hereinafter called "PRINCIPAL"), and Western Surety Company, as SURETY, duly authorized to conduct business in the State of Florida, whose principal place of business is located at 151 North Franklin, 17th Floor, Chicago, IL 60606, Tel.: 800-331-6053 (hereinafter called "SURETY"), are held and firmly bound unto the City of Port Orange, Florida, as CITY, a Florida municipal corporation, whose address is City of Port Orange, 1000 City Center Circle, Port Orange, Florida 32129, Tel.: (386) 506-5501, (hereinafter called "OBLIGEE" or "CITY"), in the penal sum of 5% of Bid Amount dollars and ()/100 (\$), lawful money of the United States, for the payment of which sum shall and truly be made, whereof PRINCIPAL and SURETY bind themselves, their heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

THE CONDITION OF THIS OBLIGATION IS SUCH that, whereas the Principal has submitted the accompanying bid, dated September 17, 2020, for:

Project Name / Bid No.: ITB#20-17: Landscape Maintenance Services for Police Department Shoot Range

Project Address:

Legal Description: Landscape Maintenance Services for Police Department Shoot Range

Description of Work: Landscape Maintenance Services: Stormwater Retention Ponds, Parking Areas & Fencing

NOTE: We only consider multi-year service contracts of this nature on our annual renewable bond forms, which give us the option to renew. This bid bond is approved conditioned that if awarded the contract, the performance and payment bonds will be issued on our annual renewable bond forms. We will not support the performance and payment bonds on any other bond forms.

NOW, THEREFORE,

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

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

IN WITNESS WHEREOF, the above parties have executed this instrument under their several seals, this 17th day of September, A.D. 2020, the name and corporate seal of each corporate party being hereto affixed and these presents duly signed by its undersigned representative, pursuant to authority of its governing body.

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

PRINCIPAL: G&G Outdoors, LLC
Cesar Salen
Signature
Ander Cordena
Corporate Officer & Title

ATTEST:

Signature

Corporate Secretary (Affix Corporate Seal)

WITNESSES:

SURETY: Western Surety Company
[Signature]
Attorney-in-Fact (signature)
John D. Weisbrot, Attorney-In-Fact
Name & Title
JW Bond Consultants, Inc.
Name of Local Resident Agent
6023A Kellers Church Road
City, State, Zip
Pipersville, PA 18947
Telephone:
A.M. Best No.: 000974 NAIC No.: 13188

ATTEST: *[Signature]*
Signature
Underwriting Assistant
Corporate Secretary (Affix Corporate Seal)

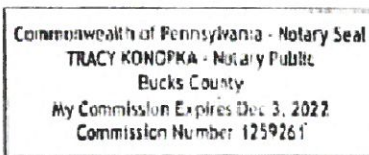


STATE OF Pennsylvania
COUNTY OF Bucks

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

[Signature]
Signature of Affiant

Sworn to / Affirmed and subscribed before me this 17th day of September, 2020, by John D. Weisbrot who is personally known to me or who produced _____ as identification.



[Signature]

Type or print name: Tracy Konopka
Commission No.: 1259261
Commission Expires: December 3, 2022
(Seal)

.....
END OF BID BOND

This document must be completed and returned with your Submittal

Western Surety Company

POWER OF ATTORNEY APPOINTING INDIVIDUAL ATTORNEY-IN-FACT

Know All Men By These Presents, That WESTERN SURETY COMPANY, a South Dakota corporation, is a duly organized and existing corporation having its principal office in the City of Sioux Falls, and State of South Dakota, and that it does by virtue of the signature and seal herein affixed hereby make, constitute and appoint

**John D Weisbrot, Patricia A Tinsman, Steven Michael Varga, Melissa Lynn Mc Dade,
Individually**

of Pipersville, PA, its true and lawful Attorney(s)-in-Fact with full power and authority hereby conferred to sign, seal and execute for and on its behalf bonds, undertakings and other obligatory instruments of similar nature

- In Unlimited Amounts -

and to bind it thereby as fully and to the same extent as if such instruments were signed by a duly authorized officer of the corporation and all the acts of said Attorney, pursuant to the authority hereby given, are hereby ratified and confirmed.

This Power of Attorney is made and executed pursuant to and by authority of the By-Law printed on the reverse hereof, duly adopted, as indicated, by the shareholders of the corporation.

In Witness Whereof, WESTERN SURETY COMPANY has caused these presents to be signed by its Vice President and its corporate seal to be hereto affixed on this 22nd day of October, 2018.



WESTERN SURETY COMPANY

Paul T. Bruflat

Paul T. Bruflat, Vice President

State of South Dakota }
County of Minnehaha } SS

On this 22nd day of October, 2018, before me personally came Paul T. Bruflat, to me known, who, being by me duly sworn, did depose and say: that he resides in the City of Sioux Falls, State of South Dakota; that he is the Vice President of WESTERN SURETY COMPANY described in and which executed the above instrument; that he knows the seal of said corporation; that the seal affixed to the said instrument is such corporate seal; that it was so affixed pursuant to authority given by the Board of Directors of said corporation and that he signed his name thereto pursuant to like authority, and acknowledges same to be the act and deed of said corporation.

My commission expires

June 23, 2021



J. Mohr

J. Mohr, Notary Public

CERTIFICATE

I, L. Nelson, Assistant Secretary of WESTERN SURETY COMPANY do hereby certify that the Power of Attorney hereinabove set forth is still in force, and further certify that the By-Law of the corporation printed on the reverse hereof is still in force. In testimony whereof I have hereunto subscribed my name and affixed the seal of the said corporation this 17th day of September, 2020.



WESTERN SURETY COMPANY

L. Nelson

L. Nelson, Assistant Secretary

WESTERN SURETY COMPANY
Sioux Falls, South Dakota
Statement of Net Admitted Assets and Liabilities
December 31, 2019

ASSETS

Bonds	\$ 1,943,152,245
Stocks	27,166,227
Cash, cash equivalents, and short-term investments	27,903,793
Receivables for securities	-
Investment income due and accrued	17,854,019
Premiums and considerations	56,706,652
Amounts recoverable from reinsurers	1,307,522
Current federal and foreign income tax recoverable and interest hereon	2,678,469
Net deferred tax asset	11,798,536
Receivable from parent, subsidiaries, and affiliates	12,821,583
Other assets	601
Total Assets	<u>\$ 2,101,389,646</u>

LIABILITIES AND SURPLUS

Losses	\$ 206,051,147
Loss adjustment expense	52,124,445
Commissions payable, contingent commissions and other similar charges	9,862,381
Other expenses (excluding taxes, license and fees)	3,624
Taxes, License and fees (excluding federal and foreign income taxes)	3,875,999
Federal and foreign income taxes payable	-
Unearned premiums	248,521,840
Advance premiums	6,112,006
Ceded reinsurance premiums payable (net of ceding commissions)	1,673,524
Amounts withheld or retained by company for account of others	5,332,206
Provision for reinsurance	290,516
Payable to parent, subsidiaries and affiliates	2905
Payable on security transactions	-
Other liabilities	97,836
Total Liabilities	<u>\$ 533,948,430</u>

Surplus Account:

Common stock	\$ 4,000,000
Gross paid in and contributed surplus	280,071,837
Unassigned funds	<u>1,283,369,380</u>
Surplus as regards policyholders	<u>\$ 1,567,441,217</u>
Total Liabilities and Capital	<u>\$ 2,101,389,646</u>

I, Amy Smith, Senior Vice President of Western Surety Company hereby certify that the above is an accurate representation of the financial statement of the Company dated December 31, 2019, as filed with the various Insurance Departments and is a true and correct statement of the condition of Western Surety Company as of that date.

Western Surety Company

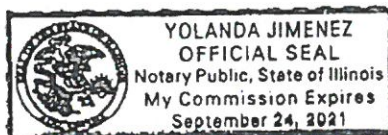
By

Amy Smith

Senior Vice President

Subscribed and sworn to me this 11th day of March, 2020.

My commission expires:



By

Yolanda Jimenez

Notary Public

2020/ 2021

Volusia County Business Tax Receipt

Issued pursuant to F.S. 205 and Volusia County Code of Ordinances Chapter 114-1 by:
Volusia County Revenue Division - 123 W Indiana Ave, Room 103, DeLand, FL 32720 – (386) 736-5938



Account # 201406190002 Expires: September 30, 2021
Business Location: 4059 QUAIL NEST LN

Business Name: G&G OUTDOORS LLC
Owner Name: ANDER GOIRIENA
Mailing Address: 4059 QUAIL NEST LN
NEW SMYRNA BEACH, FL 32168

BUSINESS TYPE	REQ DOC #	CODE	COUNT	TAX
Business Service		471	1	\$22.00

- This receipt indicates payment of a tax, which is levied for the privilege of doing the type(s) of business listed above within Volusia County. This receipt is non-regulatory in nature and is not meant to be a certification of the holder's ability to perform the service for which he is registered. This receipt also does not indicate that the business is legal or that it is in compliance with State or local laws and regulations.
- The business must meet all County and/or Municipality planning and zoning requirements or this Business Tax Receipt may be revoked and all taxes paid would be forfeited.
- The information contained on this Business Tax Receipt must be kept up to date. Contact the Volusia County Revenue Division for instructions on making changes to your account.

**THIS PORTION OF THE BUSINESS TAX RECEIPT MUST BE
POSTED CONSPICUOUSLY IN YOUR PLACE OF BUSINESS**

Volusia County Business Tax Receipt

Revenue Division - 123 W Indiana Ave, Room 103, DeLand, FL 32720 – (386) 736-5938

DATE PAID: 07/08/2020
RECEIPT #: BT 1-19-0002141
TOTAL TAX: 22.00
PENALTY: 0.00
TOTAL PAID: 22.00



Business Name: G&G OUTDOORS LLC
Owner Name: ANDER GOIRIENA
Mailing Address: 4059 QUAIL NEST LN
NEW SMYRNA BEACH, FL 32168



Account # 201406190002 Expires: September 30, 2021
Business Location: 4059 QUAIL NEST LN

PLEASE DETACH THIS PORTION OF THE BUSINESS TAX RECEIPT FOR YOUR RECORDS



[Department of State](#) / [Division of Corporations](#) / [Search Records](#) / [Search by Entity Name](#) /

Detail by Entity Name

Florida Limited Liability Company

G&G OUTDOORS LLC

Filing Information

Document Number L16000007857
FEI/EIN Number 47-1160895
Date Filed 01/11/2016
Effective Date 01/11/2016
State FL
Status ACTIVE
Last Event REINSTATEMENT
Event Date Filed 10/07/2019

Principal Address

4059 QUAIL NEST LANE
 NEW SMYRNA BEACH, FL 32168

Mailing Address

4059 QUAIL NEST LANE
 NEW SMYRNA BEACH, FL 32168

Registered Agent Name & Address

GOIRIENA, ANDER M.
 4059 QUAIL NEST LANE
 NEW SMYRNA BEACH, FL 32168

Name Changed: 05/11/2020

Authorized Person(s) Detail

Name & Address

Title MGR

GOIRIENA, ANDER M.
 4059 QUAIL NEST LANE
 NEW SMYRNA BEACH, FL 32168

Annual Reports

Report Year	Filed Date
2018	03/29/2018
2019	10/07/2019
2020	05/11/2020

Document Images

05/11/2020 -- ANNUAL REPORT	View image in PDF format
10/07/2019 -- REINSTATEMENT	View image in PDF format
03/29/2018 -- ANNUAL REPORT	View image in PDF format
10/05/2017 -- REINSTATEMENT	View image in PDF format
01/11/2016 -- Florida Limited Liability	View image in PDF format



CITY COUNCIL AGENDA ITEM

REQUESTED COUNCIL MEETING DATE 10/20/2020

Consent item: Yes

SUBJECT: (C9) Resolution No. 20-58 - Rate Adjustment for PD Special Details

DEPARTMENT: Police Services

GOAL:

RECOMMENDED MOTION: Move to approve Resolution No. 20-58.

SUMMARY: Request to increase the current rate for police services on outside special details from \$40/hour to \$48/hour. Previous Resolution 09-107 provides the last time this rate was adjusted. Attached is a comparison of local agencies. The City of Port Orange will continue to deduct 15% for administrative costs and the remainder will be provided to the police officer assigned to the detail.

Project No.: Funding Account No.:

Presenter: Thomas Grimaldi

ATTACHMENTS:

1.	Reso. No. 20-58 - PD Special Detail Rate Increase	Reso. No. 20-58 - PD Special Detail Rate Increase.pdf
2.	Resolution 09-107	Resolution 09-107.pdf
3.	Fee Comparison	Fee Comparison.pdf

Beth Unruh
William Proctor
Thomas Grimaldi
Lupe Reyna-Coffin
Scott Neils
Matthew Jones
Jamie Miller
Robin Fenwick

Created/Initiated - 9/29/2020
Approved - 9/29/2020
Approved - 9/29/2020
Approved - 10/5/2020
Approved - 10/5/2020
Approved - 10/9/2020
Approved - 10/9/2020
Final Approval - 10/9/2020

RESOLUTION NO. 20-58

A RESOLUTION OF THE CITY OF PORT ORANGE,
VOLUSIA COUNTY, FLORIDA ESTABLISHING THE
SPECIAL DETAIL RATE OF \$48.00 PER HOUR TO
BE CHARGED BY THE POLICE DEPARTMENT FOR
OFF-DUTY DETAILS FOR TRAFFIC AND
PEDESTRIAN CONTROL, CROWD CONTROL AND
ROUTINE LAW ENFORCEMENT FOR PUBLIC
AGENCIES; PROVIDING FOR REPEAL OF
CONFLICTING RESOLUTIONS; AND PROVIDING
AN EFFECTIVE DATE.

WHEREAS, the City of Port Orange Police Department contracts with various private organizations and businesses to provide law enforcement officers for extra duty activities such as traffic and pedestrian control, crowd control and to provide routine law enforcement for public agencies; and

WHEREAS, the extra duty details are billed to the contracting agency or business at the current rate of \$40.00 per hour with a three (3) hour minimum; and

WHEREAS, the City staff has reviewed the current special detail rate being charged by surrounding law enforcement agencies; and

WHEREAS, City staff recommends approval of an increase in the special detail rate to \$48.00 per hour with a three (3) hour minimum.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Port Orange, Florida:

SECTION 1. The City Council of the City of Port Orange hereby adopts the special detail rate of \$48.00 per hour with a three (3) hour minimum for law enforcement officers provided by the Port Orange Police Department for extra duty activities such as traffic

and pedestrian control, crowd control and routine law enforcement agencies not otherwise governed by an interlocal agreement or mutual aid agreement.

SECTION 2. All resolutions or parts of resolutions in conflict with the provisions of this Resolution are hereby repealed to the extent of such conflict. Resolution No. 09-107 is hereby expressly superseded by this Resolution.

SECTION 3. This Resolution shall become effective immediately upon adoption.

MAYOR DONALD O. BURNETTE

ATTEST:

Robin L. Fenwick, MMC, City Clerk

Adopted on the day of

Reviewed and Approved: _____
Matthew J. Jones, City Attorney

RESOLUTION NO. 09-107

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PORT ORANGE, VOLUSIA COUNTY, FLORIDA ESTABLISHING THE SPECIAL DETAIL RATE OF \$40.00 PER HOUR TO BE CHARGED BY THE POLICE DEPARTMENT FOR OFF DUTY DETAILS FOR TRAFFIC AND PEDESTRIAN CONTROL, CROWD CONTROL AND ROUTINE LAW ENFORCEMENT FOR PUBLIC AGENCIES; PROVIDING FOR CONFLICTING RESOLUTIONS; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Port Orange Police Department contracts with various private organizations and businesses to provide law enforcement officers for extra duty activities such as traffic and pedestrian control, crowd control and to provide routine law enforcement for public agencies; and

WHEREAS, extra duty details are billed to the contracting agency or business at the current rate of \$27.00 per hour with a three hour minimum, and

WHEREAS, City staff has reviewed the current special detail rate being charged by surrounding law enforcement agencies, and

WHEREAS, City staff recommends approval of an increase in the special detail rate to \$40.00 per hour with a three hour minimum.

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

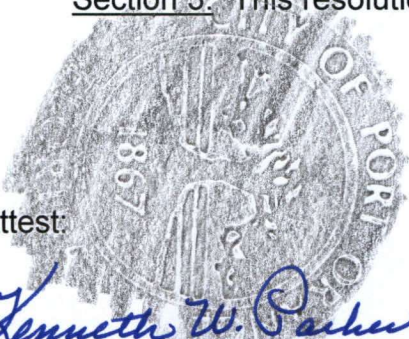
Section 1. The City Council hereby adopts the special detail rate of \$40.00 per hour with a three hour minimum for law enforcement officers provided by the Port Orange Police Department for extra duty activities such as traffic and pedestrian control, crowd

control and routine law enforcement for public agencies not otherwise governed by an Interlocal agreement or mutual aid agreement.

Section 2. All resolutions or parts of resolutions in conflict with the provisions of this resolution are hereby repealed to the extent that they conflict.

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

Attest:


Kenneth W. Parker
Kenneth W. Parker, City Manager

Allen Green
Mayor Allen Green

Adopted this 8th day of December, 2009.

Reviewed and Approved:

Myra J. Hest
City Attorney

Agency	Fees per Hour	Misc.
Volusia County Sheriff's Office	\$65.00	Deputies get 1.5X their pay rate, rest goes to County. They are currently reviewing the rate now to raise it.
Flagler County Sheriff's Office	\$57.00	Supervisors rate
	\$45.00	Deputies Rate
Edgewater PD	\$56.00	Officers receive overtime rate and remainder goes to the City. If the overtime rate of the employee exceeds this, the City pays the rest.
S. Daytona PD	\$50.00	
New Smyrna Beach PD	\$48.00	Has a request before their City Council to move to \$55.00 per hour.
Daytona Beach PD	\$45.00	Officer gets \$40 and City keeps \$5.00. Looking to raise it.
Ormond Beach PD	\$45.00	Officers receive overtime rate and remainder goes to the City. If the overtime rate of the employee exceeds this, the City pays the rest.
Orange City PD	\$45.00	Officers receive overtime rate and remainder goes to the City. If the overtime rate of the employee exceeds this, the City pays the rest.
DeLand PD	\$40.00	Officers receive overtime rate and remainder goes to the City. If the overtime rate of the employee exceeds this, the City pays the rest. 4 Hour minimum
Port Orange PD	\$40.00	15% goes to the City (Officer gets \$34.00).
Daytona Beach Shores	\$37.28	Average OT rate of all officers. All goes to the officer.
Flagler Beach PD	\$36.00	To officer.



CITY COUNCIL AGENDA ITEM

REQUESTED COUNCIL MEETING DATE 10/20/2020

Consent item: No

SUBJECT: (C10) Resolution No. 20-59 - Approving the Conveyance of a Parcel of Land Adjacent to McDonald Road and Releasing the Associated Easement through a Quit Claim Deed

DEPARTMENT: Community Development

GOAL:

RECOMMENDED MOTION: Move to approve Resolution No. 20-59.

SUMMARY: In 2007, the City of Port Orange acquired a 35,560 square-foot parcel of land located between Sugar Mill Elementary and vacant residential property along McDonald Road (see location map) as part of an approval for a subdivision variance. The City obtained the land; however, the applicant did not follow through with the subdivision of his land and the application has expired. The City's acquisition of the property was in anticipation of using the land for retention associated with Volusia County's planned two-lane roadway extension of Madeline Avenue from its current terminus to Ridgewood Avenue (US1). Since 2007, private development in South Daytona along with permitting the railroad crossing resulted in the extension project not being pursued.

The request is to deed back the 35,560 square-foot parcel to the former property owner so he can combine it with the land he currently owns that will be included as part of 34.6-acre proposed residential Planned Unit Development (PUD). As part of the proposed PUD, Madeline Avenue will be extended to the east side of PUD property as a local City roadway and according to the proposed concept plan for the PUD, the 35,560 square-foot parcel will be part of a retention area for the segment of Madeline Avenue the developer will be required to build. As with any drainage facility, a City easement will be required to allow the City to inspect the drainage facility to ensure maintenance is completed and to make necessary corrections if warranted.

Staff is in support of transferring the 35,560 square-foot parcel back to the original property owner since the intent of the property is to be developed for stormwater for the extension of Madeline Avenue within the project boundary, and the City will obtain all the required easements at the time it is developed. The proposed PUD application is currently under staff review and will come before the City Council in early 2021.

Project No.: Funding Account No.:

Presenter: Tim Burman

ATTACHMENTS:

1.	Resolution No. 20-59 with exhibit	Reso for McDonald Rd property - Madeline Commons project.pdf
2.	Quit-claim Deed	Quitclaim Deed for Resolution 20-59.pdf
3.	Location Map	Exhibit A - Location Map.docx

Melanie Schmotzer
Tim Burman
Shannon Balmer
Jamie Miller
Robin Fenwick

Created/Initiated - 10/7/2020
Approved - 10/7/2020
Approved - 10/13/2020
Approved - 10/13/2020
Final Approval - 10/13/2020

RESOLUTION NO. 20-59

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PORT ORANGE, VOLUSIA COUNTY, FLORIDA, APPROVING THE CONVEYANCE OF A PARCEL OF LAND ADJACENT TO MCDONALD ROAD, ORIGINALLY CONVEYED FOR DRAINAGE PURPOSES FOR MADELINE ROAD COUNTY PROJECT NO LONGER BEING PURSUED; AND RELEASE OF THE ASSOCIATED EASEMENT; AUTHORIZING THE MAYOR AND CITY CLERK TO EXECUTE A QUIT CLAIM DEED; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF CONFLICTING RESOLUTIONS; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, in 2009 Bobby Vaught (Prior Owner”) conveyed real property to the City of Port Orange by Quitclaim Deed, of record in Official Records Book 6441 Page 4694, Public Records, Volusia County, Florida (“Subject Parcel”), more particularly described hereinbelow, as part of a minor subdivision process; and

WHEREAS, along with the conveyance of the Subject Parcel was the grant of an access ingress, egress, and drainage easement across the adjacent property, which continues to be under the ownership of the Prior Owner; and

WHEREAS, the City accepted Subject Parcel with the associated easement for the purpose of drainage for a county project related to the planned extension of Madeline Avenue; and

WHEREAS, the minor subdivision was never approved and the county is no longer seeking to extend Madeline Avenue; and

WHEREAS, the Prior Owner has rescinded the request for a minor subdivision and is requesting the conveyance of the Subject Parcel and the release of the associated easement back to the Prior Owner; and

WHEREAS, the City no longer needs the property for the purpose for which it was originally deeded; and

WHEREAS, the City Council of the City of Port Orange has determined that the Subject Parcel and the associated easement is not presently in use and that adjoining and neighboring owners of property will not be adversely affected by the conveyance and release back to the Prior Owner and it is in the best interest and welfare of the City of Port Orange and the citizens thereof to convey this parcel of land as more particularly described herein below.

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

Section 1. The conveyance and release to the Prior Owner of the interest held by the City of Port Orange, Volusia County, Florida, in the following described Subject Parcel is hereby approved. The interest in the Subject Parcel to be conveyed and released to Prior Owner is more particularly described as follows:

A portion of the North 170 feet of the South 370 feet of the North 660 feet of the East 660 feet, East of McDonald Road of Dunlawton Sugar House Reservation, as recorded in Map Book M, Page 187, of the Public Records of Volusia County, Florida; and being more specifically described as "Parcel 3" and graphically depicted on Exhibit "A" attached hereto and incorporated herein by reference.

TOGETHER WITH a permanent 20-ft. wide access, ingress, egress, and drainage easement (the "Easement Premises") from McDonald Road to the westerly boundary of the above-referenced Parcel 3, centered over the common boundary line of property described as Parcels 1 and 2, graphically depicted on the attached Exhibit "A," incorporated herein by reference.

Section 2. The Mayor and City Clerk are hereby authorized and directed to execute the Quit Claim Deed upon approval by the City Attorney.

Section 3. If any section, subsection, sentence, clause, phrase or portion of this Resolution is for any reason held invalid or unconstitutional by any court, such portion or

application shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions or application thereof.

Section 4. That all resolutions made in conflict with this resolution are hereby repealed.

Section 5. This resolution shall become effective immediately upon adoption.

MAYOR DONALD O. BURNETTE

ATTEST:

Robin L. Fenwick, MMC, City Clerk

Adopted on this _____ day of _____ 2020

Reviewed and Approved: _____
Shannon K. Balmer, Assistant City Attorney

SPRUCE CREEK LAND SURVEYORS INC.

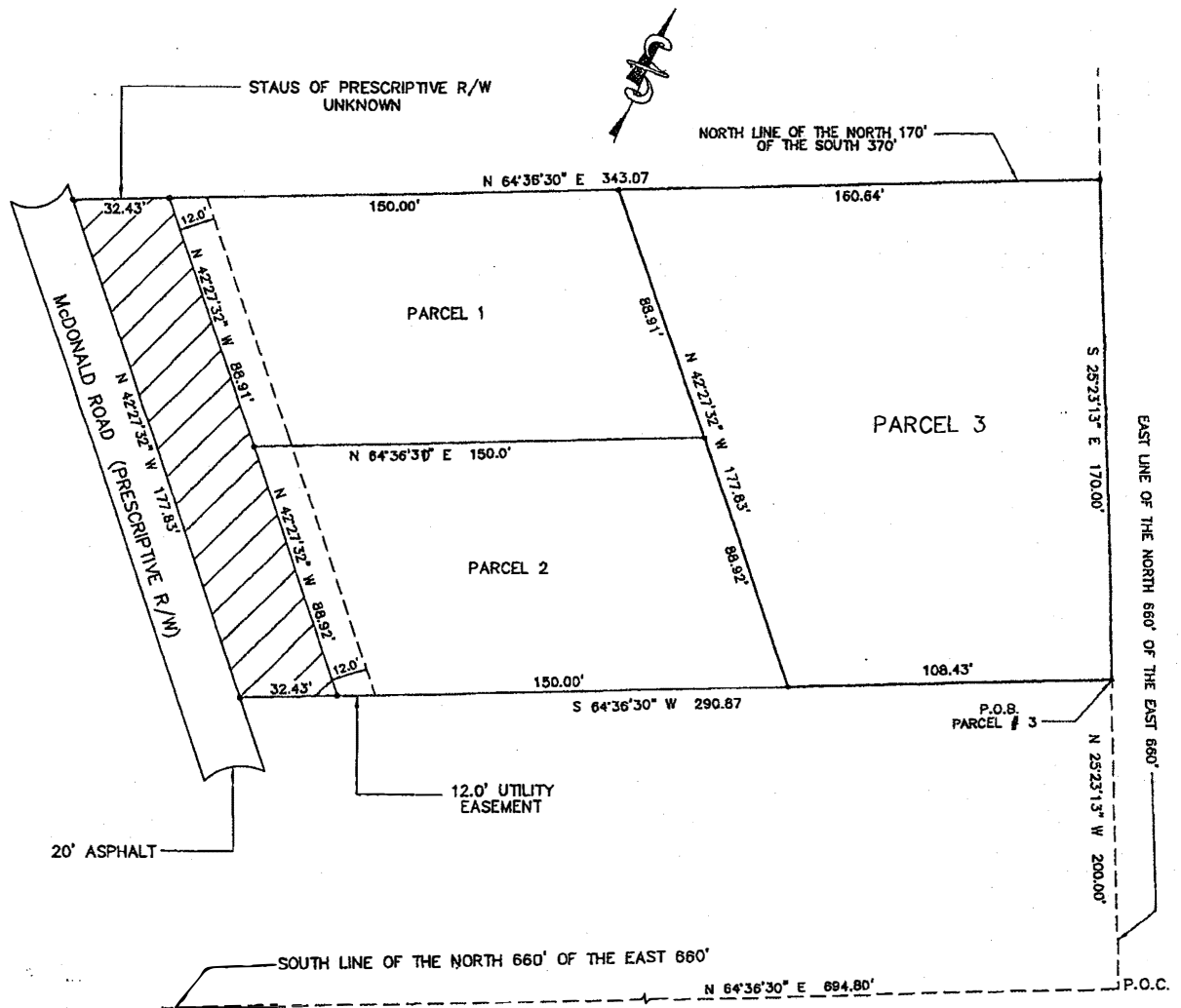
3869 SOUTH NOVA ROAD, PORT ORANGE, FL. 32127

PHONE - (386) 767-0740

DATE 10-26-2007	JOB NO. N/A	SCALE 1" = 40'	FIELD BOOK N/A	RECORDED BY KEN	SHEET 1 OF 2
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REFERENCE: PARCEL # 3

EXHIBIT A



*ADDITIONS OR DELETIONS TO SURVEY MAPS OR REPORTS BY OTHER THAN SIGNING PARTY OR PARTIES IS PROHIBITED WITHOUT WRITTEN CONSENT OF THE SIGNING PARTY OR PARTIES. PER CHAPTER 61G17-6.003, FLORIDA ADMINISTRATIVE CODE.

VALID ONLY WITH SHEET 2 OF 2

STANDARD LEGEND

L.S.	LICENSED SURVEYOR	C.M.	CONCRETE MONUMENT	ESMT.	EASEMENT	F.F.E.	FINISHED FLOOR ELEVATION
L.B.	LICENSED BUSINESS	CL.	CONCRETE	CL.	CENTER LINE	P.O.C.	POINT OF COMMENCEMENT
R/W	RIGHT-OF-WAY	RES.	RESIDENCE	RES.	RESIDENCE	P.O.B.	POINT OF BEGINNING
S/W	SIDEWALK	A	ASPHALT	A	CENTRAL ANGLE	P.C.P.	PERMANENT CONTROL POINT
D/W	DRIVEWAY	R	RADIUS / RADIAL	R	RADIUS / RADIAL	P.R.M.	PERMANENT REFERENCE MONUMENT
A/C	AIR CONDITIONER	L	ARC DISTANCE	L	ARC DISTANCE	CLF	CHAIN LINK FENCE
FND.	FOUND	C	CHORD DISTANCE	C	CHORD DISTANCE	TYP	TYPICAL
REC.	RECOVERED	C.B.	CHORD BEARING	C.B.	CHORD BEARING	P.C.	POINT OF CURVATURE
WESG.	WATER SERVICE	EL.	ELEVATION	EL.	ELEVATION	P.T.	POINT OF TANGENCY
CALC.	CALCULATED	EX.	EXISTING	EX.	EXISTING	P.R.C.	POINT OF REVERSE CURVATURE
F.M.	FIELD MEASUREMENT	PR.	PROPOSED	PR.	PROPOSED	P/P	UTILITY POLE
I.R.	IRON ROD	E.P.	EDGE OF PAVEMENT	E.P.	EDGE OF PAVEMENT	M.B.	MAP BOOK
LP.	IRON PIPE	B.O.C.	BACK OF CURB	B.O.C.	BACK OF CURB	PG.	PAGE
I.R.C.	IRON ROD & CAP.	M.H.	MANHOLE	M.H.	MANHOLE	O.R.	OFFICIAL RECORDS

SPRUCE CREEK LAND SURVEYORS INC.
3869 SOUTH NOVA ROAD, PORT ORANGE FLORIDA. 32127
PHONE - (386) 767-0740

GENERAL NOTES

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CITY OF PORT ORANGE

REFERENCE: PARCEL # 3

Legal description: A portion of the North 170 feet of the South 370 feet of the North 660 feet of the East 660 feet, East of McDonald Road of Dunlawton Sugar House Reservation, as recorded in Map Book M, Page 187 of the Public Records of Volusia County, Florida and being described as follows:

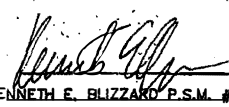
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VALID ONLY WITH SHEET 1 OF 2

JOB NO. N/A

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SHEET 2 OF 2

	DATE	SURVEYORS CERTIFICATE
SKETCH OF DESCRIPTION	10-26-2007	 KENNETH E. BLIZZARD P.S.M. # 3865 CORPORATE # L.B. 4567
BOUNDARY SURVEY		
PROPOSED HOUSE LOCATION		
TOPOGRAPHIC SURVEY		
FOUNDATION SURVEY		
FINAL SURVEY		
RECERTIFICATION SURVEY		

DEDU. CALC. FIELD MEASUREMENT
F.M. IRON ROD
I.R. IRON PIPE
I.P. IRON ROD & CAP.

W.S. S.S. SEWER SERVICE
SECT. SECTION
TWP. TOWNSHIP
RNG. RANGE

ELEVATION
EX. EXISTING
PR. PROPOSED
E.P. EDGE OF PAVEMENT
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H.H. MANHOLE

P.L. POINT OF INTERSECTION
P.R.C. POINT OF REVERSE CURVATURE
P/P. UTILITY POLE
M.B. MAP BOOK
P.G. PAGE
O.R. OFFICIAL RECORDS

Prepared by:
Shannon K. Balmer,
Assistant City Attorney
City of Port Orange
1000 City Center Circle
Port Orange, Florida 32129

A portion of Parcel No. 6337-01-13-0017

Quit-Claim Deed

This Indenture, made this _____ day of _____, 2020, between **CITY OF PORT ORANGE, FLORIDA**, a chartered municipal corporation, located in Volusia County, Florida, mailing address: 1000 City Center Circle, Port Orange FL 32129, Grantor, and **BOBBY CLAY VAUGHT as Trustee of the BOBBY C. VAUGHT REVOCABLE TRUST** (hereinafter referred to as "Grantee"), such Grantee having an address of 1788 Earhart Ct., Port Orange, Volusia County, Florida.

Witnesseth: That the said Grantor, for and in consideration of the sum of TEN AND NO/100 DOLLARS (\$10.00) and other good and valuable considerations to said Grantor, in hand paid by the said Grantee, the receipt whereof is hereby acknowledged, does hereby remise, release, and quit claim unto the said Grantee, its successor and assigns forever, all the right, title, interest, claim and demand which Grantor has in and to the following described piece or parcel of land, situate, lying and being in the County of Volusia, State of Florida:

A portion of the North 170 feet of the South 370 feet of the North 660 feet of the East 660 feet, East of McDonald Road of Dunlawton Sugar House Reservation, as recorded in Map Book M, Page 187, of the Public Records of Volusia County, Florida; and being more specifically described as "Parcel 3" and graphically depicted on Exhibit "A" attached hereto and incorporated herein by reference.

TOGETHER WITH a permanent 20-ft. wide access, ingress, egress, and drainage easement (the "Easement Premises") from McDonald Road to the westerly boundary of the above-referenced Parcel 3, centered over the common boundary line of property described as Parcels 1 and 2, graphically depicted on the attached Exhibit "A," incorporated herein by reference.

Said property interest described herein having been previously conveyed to the City of Port Orange, FL by Warranty Deed as recorded in Official Records Book 6441, Page 4694 of the Public Records of Volusia County, Florida, and said property interest being conveyed herein having been approved by Resolution No. 20-59.

To Have and to Hold the same together with all and singular the appurtenances thereunto belonging or in anywise appertaining, and all the estate, right, title, interest, lien, equity and claim whatsoever of Grantor, either in law or in equity to the only proper use, benefit and behoof of Grantee forever.

In Witness Whereof, Grantor has hereunto has caused this Quit-Claim Deed to be executed under seal and on its behalf the day and year first above written.

WITNESSES:

CITY OF PORT ORANGE, FLORIDA
A Chartered Municipal Corporation

Name: _____

By: _____
Donald O. Burnette, Mayor

Name: _____

STATE OF FLORIDA
COUNTY OF VOLUSIA

The foregoing instrument was acknowledged before me by means of **[XX]** physical presence or [] online notarization this _____ day of _____, 2020, by Donald O. Burnette as Mayor, of the City of Port Orange, Florida, a chartered municipal corporation, who acknowledge that he is duly authorized to execute the foregoing agreement on behalf of the city. He is personally known to me.

Notary Public, State of Florida at Large
Printed name of Notary, Commission, Seal & Expiration Date:

WITNESSES:

Name: _____

Attest: _____
Robin L, Fenwick
City Clerk, MMC

Name: _____

STATE OF FLORIDA
COUNTY OF VOLUSIA

The foregoing instrument was acknowledged before me by means of **[XX]** physical presence or [] online notarization this _____ day of _____, 2020, by Robin L. Fenwick, as City Clerk, of the City of Port Orange, Florida, a chartered municipal corporation, who acknowledge that she is duly authorized to execute the foregoing agreement on behalf of the city. She is personally known to me.

Notary Public, State of Florida at Large
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SPRUCE CREEK LAND SURVEYORS INC.

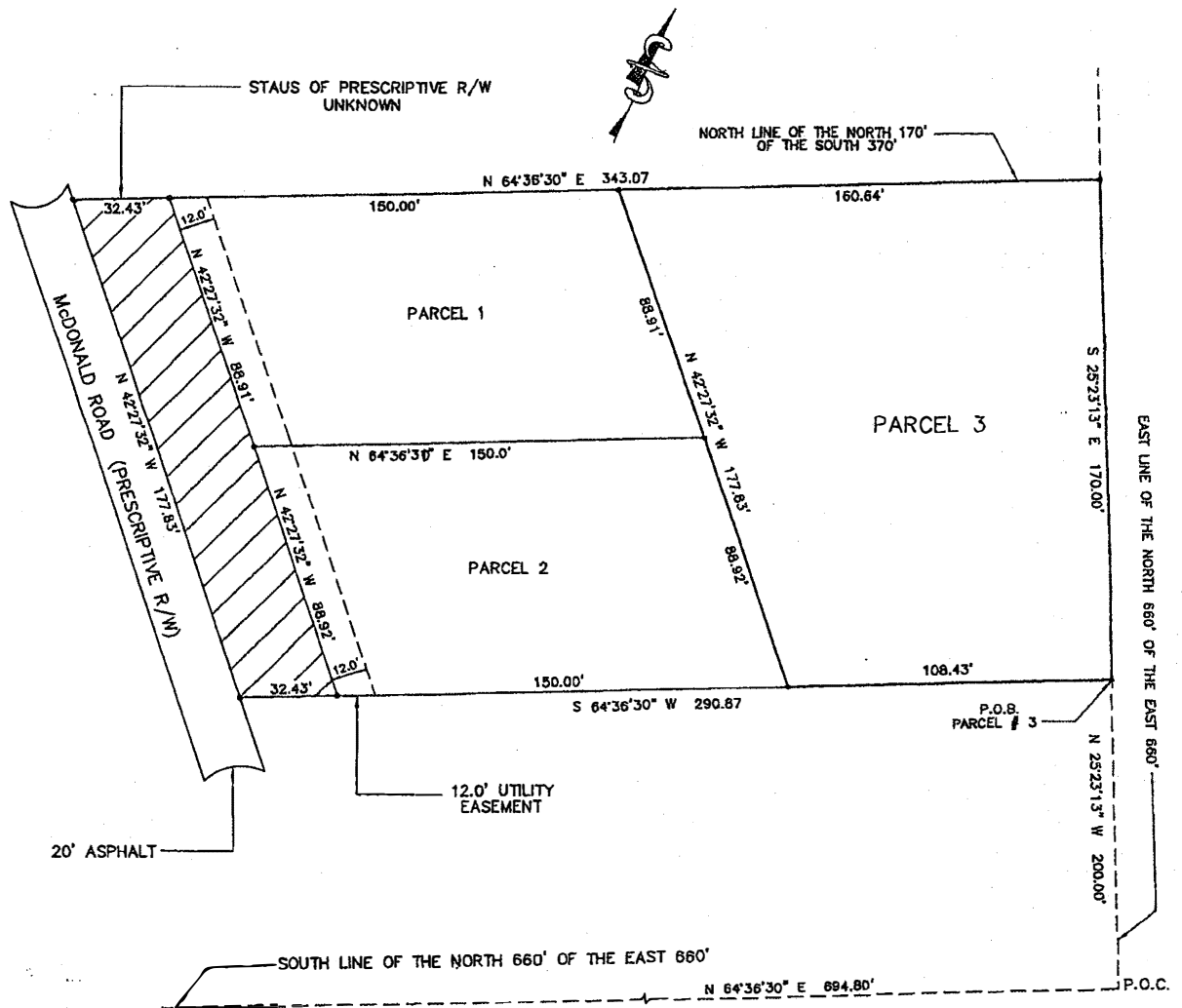
3869 SOUTH NOVA ROAD, PORT ORANGE, FL. 32127

PHONE - (386) 767-0740

DATE 10-26-2007	JOB NO. N/A	SCALE 1" = 40'	FIELD BOOK N/A	RECORDED BY KEN	SHEET 1 OF 2
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REFERENCE: PARCEL # 3

EXHIBIT A



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VALID ONLY WITH SHEET 2 OF 2

STANDARD LEGEND

L.S.	LICENSED SURVEYOR	C.M.	CONCRETE MONUMENT	ESMT.	EASEMENT	F.F.E.	FINISHED FLOOR ELEVATION
L.B.	LICENSED BUSINESS	CL.	CONCRETE	CL.	CENTER LINE	P.O.C.	POINT OF COMMENCEMENT
R/W	RIGHT-OF-WAY	RES.	RESIDENCE	RES.	RESIDENCE	P.O.B.	POINT OF BEGINNING
S/W	SIDEWALK	A	ASPHALT	A	CENTRAL ANGLE	P.C.P.	PERMANENT CONTROL POINT
D/W	DRIVEWAY	R	RADIUS / RADIAL	R	RADIUS / RADIAL	P.R.M.	PERMANENT REFERENCE MONUMENT
A/C	AIR CONDITIONER	L	ARC DISTANCE	L	ARC DISTANCE	CLF	CHAIN LINK FENCE
FND.	FOUND	C	CHORD DISTANCE	C	CHORD DISTANCE	TYP	TYPICAL
REC.	RECOVERED	C.B.	CHORD BEARING	C.B.	CHORD BEARING	P.C.	POINT OF CURVATURE
WESG.	WATER SERVICE	EL.	ELEVATION	EL.	ELEVATION	P.T.	POINT OF TANGENCY
CALC.	CALCULATED	EX.	EXISTING	EX.	EXISTING	P.R.C.	POINT OF REVERSE CURVATURE
F.M.	FIELD MEASUREMENT	PR.	PROPOSED	PR.	PROPOSED	P/P	UTILITY POLE
I.R.	IRON ROD	E.P.	EDGE OF PAVEMENT	E.P.	EDGE OF PAVEMENT	M.B.	MAP BOOK
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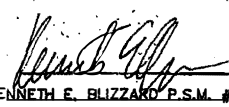
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SHEET 2 OF 2

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F.M. IRON ROD
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P.R.C. POINT OF REVERSE CURVATURE
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M.B. MAP BOOK
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EXHIBIT A - LOCATION MAP





CITY COUNCIL AGENDA ITEM

REQUESTED COUNCIL MEETING DATE 10/20/2020

Consent item: Yes

SUBJECT: (C11) Approval of Minor Special Event – Christmas Tree Sales at Dunlawton Square Shopping Center located at 3813 Nova Road

DEPARTMENT: Community Development

GOAL:

RECOMMENDED MOTION: Move to approve the event duration beyond seven consecutive calendar days for a Minor Special Event for Severt Brothers Tree Farm to be held at Dunlawton Square on the vacant lot south of Burger King, subject to the attached conditions.

SUMMARY: Paul Holub, property owner, on behalf of Severt Brothers Tree Farm, is requesting to hold a minor special event, for the annual sale of Christmas Trees and Wreaths, at the Dunlawton Square Shopping Center located at 3813 Nova Road. Minor special events can be approved by staff administratively, but due to the proposed length of the event, the Code of Ordinances Chapter 58, Article III, Special Events, Section 58-53, requires City Council to approve any Special Event that exceeds (7) consecutive calendar days. The sale is proposed for the parking lot area between Burger King and Dunkin Donuts, similar to past years. The Christmas Tree lot is proposed to be set-up for the event on Saturday, November 21, 2020 and will begin conducting Christmas Tree and Wreath sales on Sunday November 22, 2020 through December 25, 2020. The proposed operational hours of sales 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 \$500 to Spruce Creek High School. There will be a port-o-let and multiple trash receptacles on site for the event. The proposed annual Christmas Tree and Wreath event is the same event that Council has previously approved for Severt Brothers Tree Farm.

The proposed event has been reviewed by the Police, Fire, Public Works, Parks and Recreation and Community Development departments. The owner is not requesting additional City resources at this time. As part of the Minor Special Event application, the Severt Brothers Tree Farm provided the guidelines to be used during this event to adhere to the CDC Social Distancing requirements to keep event employees and visitors safe. These measures are consistent with the current CDC guideline for an outdoor event. Attached is the social distancing plan provided by the Severt Brothers Tree Farm.

Project No.: Funding Account No.:

Presenter: Penelope Cruz

ATTACHMENTS:

1.	Staff Recommendations 2020	Staff Recommendations 2020.pdf
2.	Severt Brothers Tree Farm Social Distancing Plan	Severt Brothers Tree Farm Social Distancing Plan.pdf

Penelope Cruz	Created/Initiated - 10/1/2020
Tim Burman	Approved - 10/1/2020
Shannon Balmer	Approved - 10/9/2020
Jamie Miller	Approved - 10/9/2020
Robin Fenwick	Final Approval - 10/9/2020

RECOMMENDATION

Staff recommends approval of the annual Severt Brothers Tree Farm, Christmas Tree and Wreath sale, subject to the following 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 association with this event shall comply with the requirements set forth in *NFPA 101 Chapter 11.11 (Tents) 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 (if the following are used) are as follows:
 - Portable heaters must be visibly approved for indoor usage and away from ALL combustibles. Patio heaters are strictly prohibited.
 - Portable Generator shall be positioned to the exterior of the sales tent with a sufficient separation distance accepted by the Fire Marshal and Chief Building Official.
 - All flammable/combustible fuel containers shall be of an approved type container and stored a safe distance away from the sales tent area.
4. A temporary structure-building permit is required for the proposed tent.
5. 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).
6. A permit shall be required and obtained by a properly licensed contractor for any electrical work performed in connection with this event. Any such electrical work shall comply with the requirements set forth in Article 590 of the current adopted *NFPA #70 National Electrical Code*. All temporary lamps shall be protected from accidental contact or breakage by a suitable fixture or lamp holder with a guard.
7. All areas being used for this function shall be handicap accessible. Handicap parking is to remain open and accessible for this event.
8. The motor home used during this event 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 Road.
9. The applicant shall provide port-o-let facilities that shall comply with section 4.22 or 4.23 of the Florida Accessibility Code, i.e. must be handicapped-accessible.
10. All exits and means of egress shall remain accessible and unobstructed.
11. It shall be the responsibility of the owner to maintain access for emergency vehicles.

12. Event organizers are required to delineate the event area from the vehicular driving and parking area with cones, ropes and/or barricades where necessary.
13. Tripping hazards shall be removed or isolated from pedestrian traffic. Vehicle areas, including parking, shall be physically separated from pedestrian areas.
14. A temporary sign permit shall be required for the one (1) sign allowed for this event.
15. No smoking signage shall be posted within the confines of the tent.
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 Applicant shall contact the Community Development Department 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.
18. It is the Applicant's responsibility to contact the Community Development Department for an inspection of debris removal within 48 hours after the event.
19. The event shall adhere to the CDC Social Distancing requirements to keep event employees and visitors safe.

Educate managers and workers about when they should stay home and when its safe to be around others.

Provide masks for managers and any customers who would like one. Masks are an important means of reducing viral spread and are essential during times when social distancing is difficult.

Provide hand washing station or hand sanitizer with at least 60% alcohol.

Will mark six feet apart at check out booth for customers.

Staying at least six feet apart from others, even when you are outside, reduces the chance that you will be exposed to the virus from respiratory droplets emitted by others.

Where possible, redesigning layouts of trees to increase the distance between customers walking throughout the tent.

Sec. 10-41. Prohibition of tethering dogs or cats to stationary objects while outdoors; exception.

(a) No person shall tether a dog or a cat to a stationary object while outdoors or in a public park located in the Town of Ponce Inlet.

(b) An exception to the tethering prohibition is permitted if all of the following conditions are met:

- (1) The dog or cat must be in visible range of the owner or responsible party, which person must also be outside with the dog or cat at all times. There is an authorized narrow exception to this sub-condition: The dog or cat owner, or responsible person, may leave a dog or a cat tethered outdoors on the property for a reasonable period not to exceed 30 minutes while such owner or responsible person performs a temporary task indoors or on another section of the property. In no event may the owner or responsible person leave the property while a dog or a cat is left tethered, unattended, outdoors. A dog or a cat may never be left tethered and unattended on unoccupied, vacant or abandoned property.
- (2) The tether is connected with a swivel hook to the dog's or cat's buckle-type collar or a body harness made of nylon or leather that is of sufficient size to adequately and safely restrain the dog or cat.
- (3) The tether is of a size and weight that is reasonably necessary to safely restrain the dog or cat without placing excessive strain or weight on the dog or cat. It should not exceed one-tenth of the dog's or cat's weight, it should be a length that is at least the greater of either five times the length of the animal measured from the nose to the tip of its tail, or ten feet. The trolley cable must not be elevated more than seven feet above the surface.
- (4) The dog or cat is not tethered outside in periods of extreme weather, including but not limited to extreme heat (in excess

of 85 degrees) or cold (lower than 50 degrees), thunderstorms, lightning, tornadoes, tropical storms, or hurricanes.

- (5) The dog or cat has access to water, shelter, shade, and dry ground. The tether must be secured in such a way that it cannot become entangled with other objects and deprive the dog or cat of water, shelter, shade, and dry ground.
- (6) The dog or cat is at least six months of age.
- (7) The dog or cat is not sick or injured.
- (8) If there are multiple dogs and/or cats, each animal must be tethered separately.
- (9) There shall be no tethering of any dog or cat during the hours which occur from dusk until dawn.

(c) Violators of this section shall be subject to criminal prosecution subject to the penalties provided in section 1-11(a)(2), respectively, of the Code of the Town of Ponce Inlet.
(Ord. No. 2018-09, § 2, 7-19-2018)

Secs. 10-42—10-60. Reserved.

DIVISION 2. LICENSE

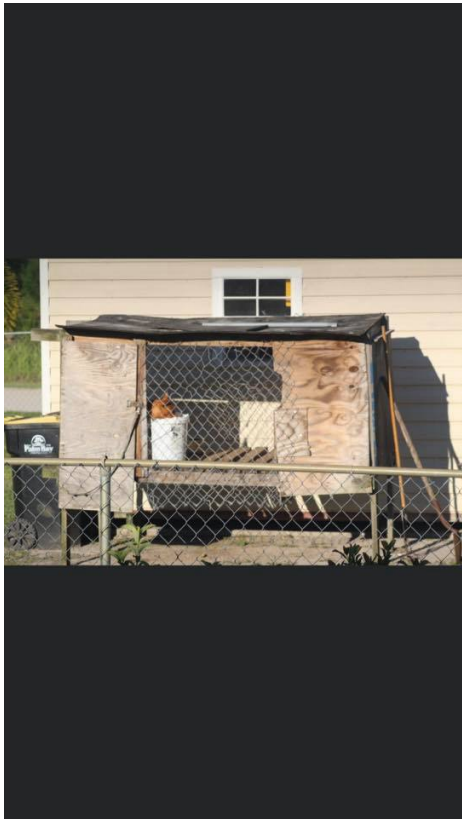
Sec. 10-61. Required.

No person shall own, keep or harbor any dog or cat in the town unless such dog or cat is licensed as provided in this division and wearing a collar with a tag attached bearing the number and yearly date of the license.
(Code 1984, § 4-41; Ord. No. 2009-11, § 1, 8-20-2009)

Sec. 10-62. Issuance; term.

The town shall issue a numbered dog and cat license for one year beginning January 1 each year. A numbered tag shall be issued to the owner to correspond with the numbered license, which tag shall have stamped thereon the year for which the license fee is paid and shall indicate that it is the town license.
(Code 1984, § 4-42; Ord. No. 2009-11, § 1, 8-20-2009)

"Adequate shelter" means provision of and access to a secure weather resistant shelter that is suitable for the species, age, condition, height, size, breed and type of each animal; provides adequate air ventilation, adequate space for each animal to stand up and turn around; is safe and protects each animal from injury, rain, hail, direct sunlight, the adverse effects of heat or cold, physical suffering, and impairment of health; is properly lighted; is properly cleaned; enables each animal to be clean and dry, except when detrimental to the species; during hot weather, is properly shaded with a covering and does not readily conduct heat; during cold weather, has a windbreak at its entrance and provides a quantity of bedding material consisting of straw, cedar shavings, or the equivalent that is sufficient to protect the animal from cold and promote the retention of body heat; and, for dogs and cats, provides a solid surface, resting platform, pad, floormat, or similar device that is large enough for the animal to lie on in a normal manner and can be maintained in a sanitary manner. Under this chapter, shelters whose wire, grid, or slat floors: (i) permit the animals' feet to pass through the openings; (ii) sag under the animals' weight; or (iii) otherwise do not protect the animals' feet or toes from injury are not adequate shelter.



Palm Bay, FL



Deland, FL-This dog has NO shelter at all



Palm Bay, FL



Daytona Beach FL



Lauderhill, FL



Avondale (Jacksonville area) FL



This dog DIED of HEAT STROKE!! That is not shelter..it's a hot box





How hot is too hot?

°C  °F					 KEY	OTHER FACTORS
15°	60°	1	1	1	1. No evidence of risk: Have fun outside!	+1 If obese
18°	65°	1	1	2		+1 If brachycephalic breed
21°	70°	2	2	3	2. Risk is unlikely: Have fun outside, but be careful!	+1 If less than 6 months old or elderly
23°	75°	3	3	3		-1 If area is shaded from sun
26°	80°	3	3	4	3. Unsafe potential, depending on breed. Keep an eye on your pet outdoors.	-1 If water is available
29°	85°	4	4	5		
32°	90°	5	5	5	4. Dangerous weather developing. Use caution.	
35°	95°	5	5	5		
37°	100°	5	5	5	5. Potentially life-threatening heat. Avoid prolonged outdoor activity.	
40°	105°	5	5	5		
43°	110°	5	5	5		



Source: adapted from The Tufts Animal Care and Condition (TACC) scales

Sec. 10-14. - Cruelty to animals.

- (a) The provisions of F.S. §§ 828.02 and 828.08—828.161 are adopted by reference in this chapter. It is a violation of this chapter for any person to commit an act or omission, or cause an act to be committed, in violation of F.S. §§ 828.02 or 828.08—828.161.
- (b) Any person who finds a sick or injured animal or whose vehicle strikes any domestic animal shall immediately notify the animal control authority, an animal control officer, a humane society or the owner of the animal. It is a violation of this chapter for any person to refuse or fail to provide notification of a sick or injured animal as required by this section.
- (c) Adequate food, water, shelter, and medical care shall be provided for every animal. It is a violation of this chapter for the owner of an animal to refuse or fail to provide food, water, shelter or medical care for the animal as required by this section.

(Ord. No. 1992-31, § 15, 12-15-92)

State Law reference— Cruelty to animals, F.S. § 828.12.

Lee County Sheriff's Office Press Release:
Man Who Tethered Dog Arrested for Animal Cruelty

Friday, October 9, 2020

On October 7, the Lee County Sheriff's Office received a complaint regarding a dog with a rope embedded in its neck.

A local rescue learned about the situation and reached out to Lee County Domestic Animal Services. Due to the nature of the incident, LCDAS notified the Lee County Sheriff's Office, and the Animal Cruelty Task Force assumed the investigation.

Detectives responded to the 800 Block of Andalusia Boulevard in Cape Coral and located the suspect, Robert Callahan (DOB 7/10/80).

Detectives learned that Callahan did not have a proper collar for his dog, Charlie, so he used a rope to tether him in the backyard. The rope caused a severe, gaping wound to the entire width of Charlie's neck.

"This disgusting act against an animal has me outraged," stated Sheriff Carmine Marceno. "This is exactly why my Animal Cruelty Task Force is in place."

Charlie was taken to a local animal hospital, where he received surgery to close the large wound on his neck. A physical examination of Charlie revealed the animal was flea-ridden and extremely emaciated.

The veterinarian stated the injuries were consistent with being kept on a rope outside for an extended period of time with no care. Charlie is currently in recovery.

Animal Cruelty Detectives established probable cause to arrest Callahan and charge him with aggravated animal cruelty.

"Callahan is right where he belongs – in the Lee County Jail," stated Sheriff Carmine Marceno.



CITY COUNCIL AGENDA ITEM

REQUESTED COUNCIL MEETING DATE 10/20/2020

Consent item: No

SUBJECT: (H16) Second Reading - Ordinance No. 2020-30 - Rezoning/4116 Nova Road

DEPARTMENT: Community Development

GOAL:

RECOMMENDED MOTION: Move to approve Ordinance No. 2020-30, rezoning approximately ± 9.68 acres from Flood-Plain Conservation (F-C) to Commercial Industrial (CI).

SUMMARY:

Planning Commission Action (09/27/20): Recommended Approval

The property owner for the subject property (4116 Nova Road) is requesting to rezone ± 9.68 acres from *Flood-Plain Conservation* (F-C) to *Commercial Industrial* (CI) in order to establish permitted uses and development requirements for the subject property as required in the City's Land Development Code (LDC). The subject property is located on the south side of Nova Road, along the east side of the Florida East Coast Railroad and is currently developed as a commercial golf driving range. The overall size of the property is approximately ± 13.04 acres (overall property) of which only ± 9.68 acres (subject property) is part of the property owner's rezoning request.

In 2012, the City Council approved a FLU amendment that changed the FLU designation for the subject property from *Conservation* to *Warehouse/Industrial* and the remaining acreage of the overall property remained designated *Conservation* due to the presence of wetlands. The applicant's rezoning request only pertains to ± 9.68 acres with a FLU designation of *Warehouse/Industrial* FLU and does NOT include the land with a *Conservation* FLU designation. Therefore, the wetlands adjacent to the ± 9.68 acres proposed to be rezoned will remain zoned F-C and continue to function as natural wetlands. According to the 2012 FLU amendment file, the subject property was not rezoned in 2012 because it was not initiated by the property owner at that time.

The requested Commercial Industrial (CI) zoning is consistent with the current FLU designation of *Warehouse/Industrial* and with the pertinent Goals, Objectives, and Policies of the City's Comprehensive Plan. According to the Comprehensive Plan, the *Warehouse/Industrial* FLU designation supports the development of light manufacturing, warehouse and distribution related uses, office and service uses in order to provide for a convenient business environment; and the CI zoning district is intended to provide development opportunity for warehouse and industrial uses such as less intense warehouse, repair, industrial service, professional office and limited manufacturing uses that are anticipated to have fewer potential impacts on surrounding properties.

The adjacent property to the south is part of the Rose Bay drainage area. The proposed rezoning will NOT rezone any land with existing wetlands along the south and west property lines. These wetlands will remain and serve as a buffer to the Rose Bay drainage area. In addition, the LDC requires a 25-foot wetland buffer adjacent to all wetland areas for further protection of the wetlands and this is typically covered with a conservation easement received at the time of development. All required stormwater improvements including retention ponds and compensating stormwater drainage areas will be required to be constructed within the area proposed to be rezoned to C1.

As part of any future site development, site plans and/or building permits will be required to be submitted for staff review to verify all LDC and Florida Building Code requirements are met, such as landscape buffers, parking, building setbacks, tree preservation, and infrastructure, to ensure compatibility with adjoining properties, and that adequate public facilities and services are available.

The staff report is attached for more information.

Project No.: Funding Account No.:

Presenter: Penelope Cruz

ATTACHMENTS:

1.	Ordinance No. 2020-30 with exhibits	Ord 2020-30.pdf
2.	Staff Report - Rezoning 4116 S Nova Rd	Staff Report - Rezoning 4116 S Nova Rd.pdf

Penelope Cruz
Robin Fenwick

Created/Initiated - 9/30/2020
Final Approval - 9/30/2020

ORDINANCE NO. 2020-30

AN ORDINANCE OF THE CITY OF PORT ORANGE,
VOLUSIA COUNTY, FLORIDA, REZONING PROPERTY
CONSISTING OF APPROXIMATELY ± 9.68 ACRES FROM
FLOOD-PLAIN CONSERVATION (F-C) TO COMMERCIAL
INDUSTRIAL (CI); AUTHORIZING REVISION OF THE
OFFICIAL ZONING ATLAS; AND PROVIDING AN
EFFECTIVE DATE.

WHEREAS, ± 9.68 acres of the property located at 4116 Nova Road to be rezoned
from Flood-Plain Conservation (F-C) to Commercial Industrial (CI); and

WHEREAS, a public hearing was held following public notice as prescribed by
ordinance; and

WHEREAS, the Planning Commission has by a majority vote recommended
approval of the proposed rezoning; and

WHEREAS, the City Council has approved by a majority vote of the members
present the rezoning of the described property; and

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

Section 1. The City Council of the City of Port Orange does hereby rezone
 ± 9.68 acres of the property located at 4116 Nova Road from Flood-Plain Conservation (F-
C) to Commercial Industrial (CI), more particularly described in **Exhibit "1"**, attached
hereto.

Section 2. The City Council of the City of Port Orange does hereby approve,
authorize and direct the revision of the City's Official Zoning Atlas to show the
classification for the areas as hereby rezoned as shown on **Exhibit "2"**, attached hereto.

Section 4. This ordinance shall become effective immediately upon adoption.

MAYOR DONALD O. BURNETTE

ATTEST:

Robin L. Fenwick, MMC, City Clerk

Passed on first reading on the day of

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

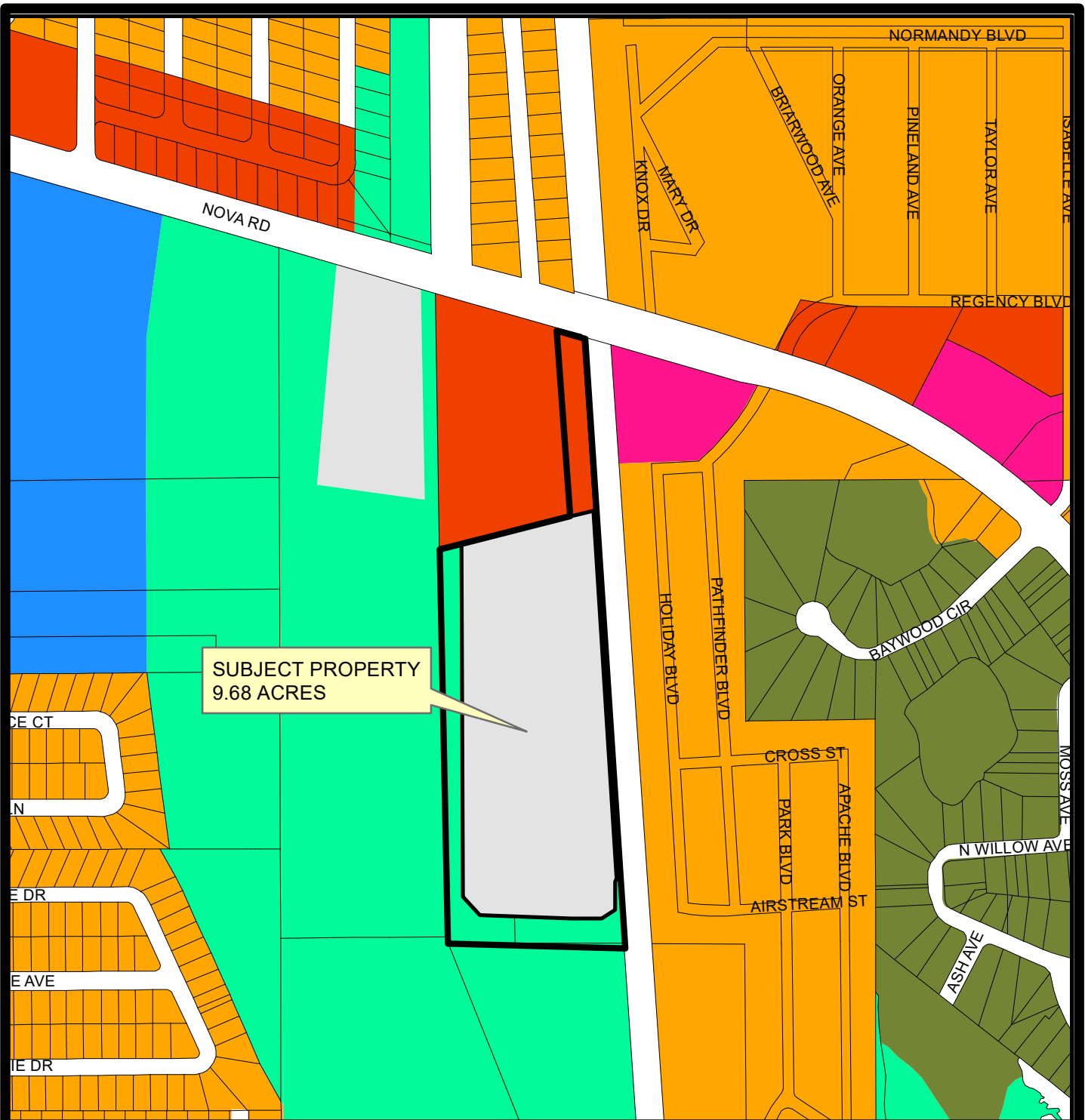
Reviewed and Approved: _____
Shannon K. Balmer, Assistant City Attorney

Exhibit 1

A PORTION OF THE NORTHEAST 1/4, OF THE SOUTHWEST 1/4, OF SECTION 15, TOWNSHIP 16 SOUTH, RANGE 33 EAST, LYING WESTERLY OF THE FLORIDA EAST COAST RAILROAD RIGHT OF WAY AND SOUTHERLY OF NOVA ROAD (STATE ROAD S-415), VOLUSIA COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGIN AT THE INTERSECTION OF SOUTHERLY RIGHT OF WAY LINE OF SAID NOVA ROAD (A 100 FOOT RIGHT OF WAY) WITH THE WESTERLY RIGHT OF WAY LINE OF SAID FLORIDA EAST COAST RAILROAD; THENCE S04°10'38"E, 1006.42 FEET; THENCE S65°00'41"W, 13.84 FEET; THENCE S04°34'54"E, 100.80 FEET; THENCE S59°44'37"W, 36.90 FEET; THENCE S89°13'24"W, 195.22 FEET; THENCE N86°55'06"W, 79.49 FEET; THENCE N87°00'38"W, 92.51 FEET; THENCE N14°52'58"W, 75.53 FEET; THENCE N00°00'00"W, 955.13 FEET TO THE SOUTHERLY LINE OF THAT PROPERTY DESCRIBED IN OFFICIAL RECORDS BOOK 4174, PAGE 145, OF THE PUBLIC RECORDS OF VOLUSIA COUNTY, FLORIDA; THENCE N74°55'43"E ALONG SAID SOUTHERLY LINE AND THE WESTERLY EXTENSION THEREOF, 361.88 FEET TO THE POINT OF BEGINNING.

CONTAINING 9.681 ACRES, MORE OR LESS

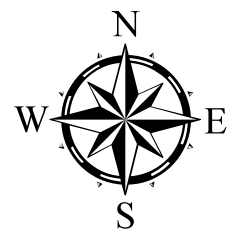


ZONING

- | | |
|--------------------------|---------------------------------|
| Commercial/Industrial | Government/Public Use |
| Community Commercial | Planned Commercial Development |
| Flood Plain-Conservation | R-7SF Single Family Residential |
| | Residential Mobile Home |

CITY OF PORT ORANGE

DEPARTMENT OF COMMUNITY DEVELOPMENT





STAFF REPORT - *REVISED*

CONVENTIONAL REZONING

Flood-Plain Conservation (F-C) to Commercial Industrial (CI)

CASE NO. 20-60000005

REQUEST:	Rezone ± 9.68 acres from Flood-Plain Conservation (F-C) to Commercial Industrial (CI)
LOCATION:	4116 Nova Rd. (Figure 1 – Location Map)
OWNER/APPLICANT:	ABC Nova Properties, LLC
STAFF CONTACT:	Gwen Perney, Senior Planner (386) 506-5673
STAFF RECOMMENDATION:	Approval
PLANNING COMMISSION:	August 27, 2020 (recommended approval)
CITY COUNCIL:	October 6, 2020

Property Overview

The applicant is proposing to rezone ± 9.68 acres from Flood-Plain Conservation (F-C) to Commercial Industrial (CI) in order to establish permitted uses and development requirements for the subject property as required in the City's Land Development Code. The subject property is located on the south side of Nova Road, along the west side of the Florida East Coast Railroad and is currently developed as a commercial golf driving range (Figure 1). If the rezoning is approved, the applicant intends to market the subject property as a site suitable for light manufacturing, warehouse and distribution related uses, office, and indoor and outdoor storage uses.

Figure 1. Location Map

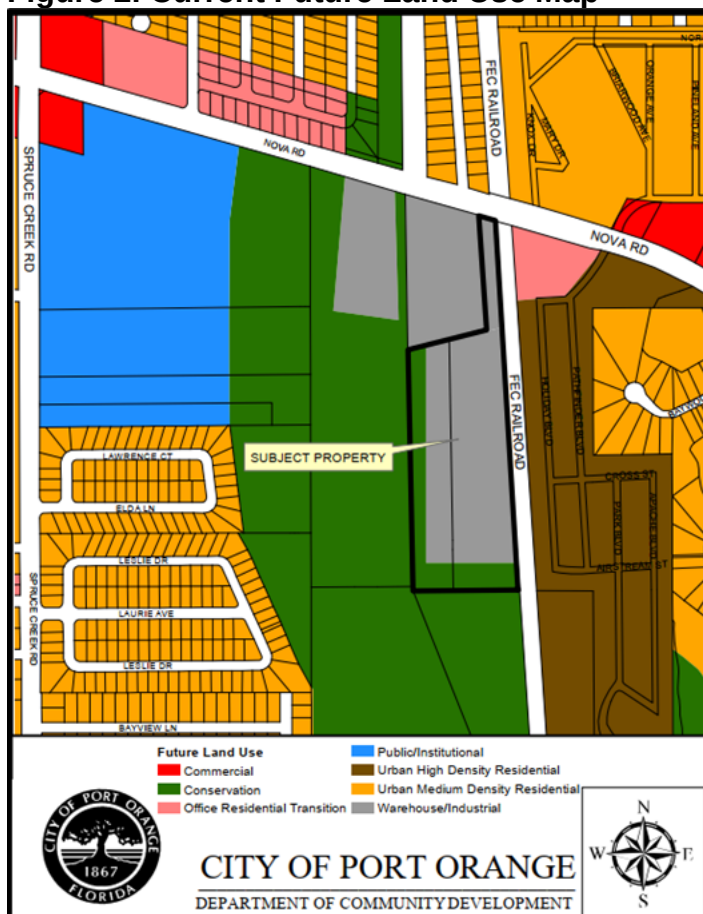


Discussion

The overall size of the property owner's property is approximately ± 13.04 acres of which ± 9.68 acres is developed as a golf driving range. In 1994, the City approved a special exception to allow the development of a driving range which included an office/range building, a maintenance shed, parking lot, and a retention area at the south end of the property to be developed.

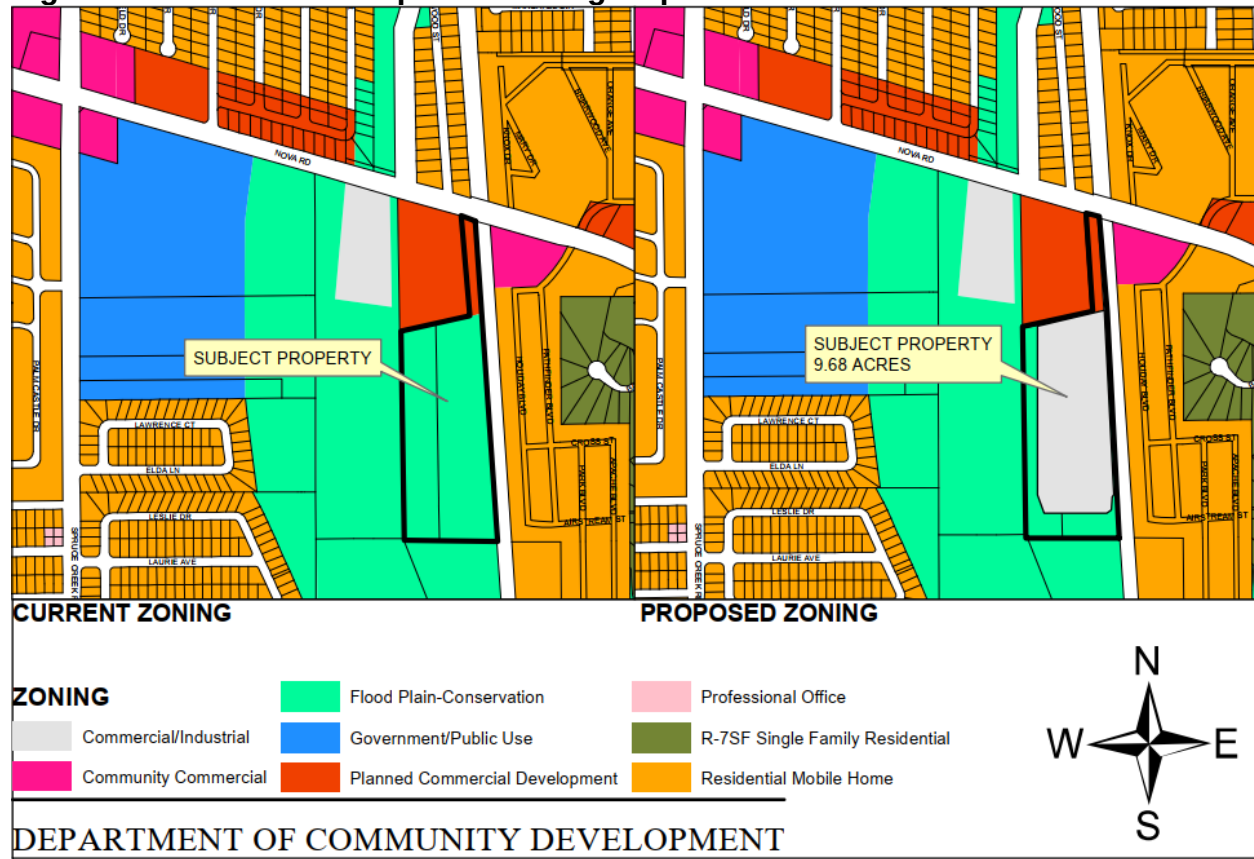
In 2012, the City Council approved a Future Land Use (FLU) amendment that changed the FLU designation of the subject property from *Conservation* to *Warehouse/Industrial*. The FLU designation for the remaining acreage was not changed in 2012 and remains designated *Conservation* due to the presence of wetlands (Figure 2 – Current Future Land Use Map). The applicant's rezoning request only pertains to the ± 9.68 acres designated with the *Warehouse/Industrial* FLU designation and does **NOT** include the portion of the property with the *Conservation* FLU designation (Figure 3 – Current and Proposed Zoning Map). The wetlands areas adjacent to the ± 9.68 acres proposed to be rezoned will remain zoned F-C and continue to function as wetlands. The remaining acreage is the existing driveway access to the property which will remain zoned Planned Commercial Development (PCD) as it also serves the adjacent Go Kart City property. According to the 2012 FLU amendment file, the subject property was not rezoned in 2012 because it was not initiated by the property owner at that time

Figure 2. Current Future Land Use Map



The proposed CI zoning district is consistent with the *Warehouse/Industrial* FLU designation and is intended to provide for less intense storage, repair, industrial services and limited manufacturing uses that are anticipated to have fewer potential impacts on surrounding properties (Exhibit 1). The current and proposed zoning map is shown in Figure 3.

Figure 3. Current and Proposed Zoning Map



Access to the property will be from Nova Road (FDOT maintained arterial roadway) and Port Orange water and sewer is available to serve the property. All future development plans submitted will require detailed technical review by the Staff Development Review Committee (SDRC) to determine all requirements in the Land Development Code (LDC) are met and ensure compatibility with adjoining properties and that adequate public facilities and services are available. As with all development, the subject property shall comply with federal, state, county, and local stormwater and environmental regulations along with concurrency regulations requiring transportation facilities to be provided or for the developer to enter into a mitigation agreement for their impacts. Any subsequent development on the subject property will also be required to comply with all federal, state, regional and local regulations pertaining to the protection, relocation, mitigation, and preservation of trees, gopher tortoises, wetlands and other environmental resources.

The applicant's rezoning request was reviewed according to the criteria established in Chapter 3, Section 7 of the Land Development Code (LDC) for consistency with the Comprehensive Plan and the surrounding land uses and zoning.

Consistency with Surrounding Uses and Zoning

The proposed rezoning is generally compatible with adjacent properties (Table 1). Compatibility is defined in the Comprehensive Plan as a condition in which dissimilar land uses can co-exist in relative proximity to one another in a stable fashion over time, such that neither use is negatively impacted by the other.

Table 1. Surrounding Land Uses and Zoning

Direction	Existing Land Use	FLU Designation	Zoning District
North	Commercial (Go-Kart City)	<i>Warehouse/Industrial</i>	Planned Commercial Development (PCD)
South	Vacant	<i>Conservation</i>	Flood-Plain Conservation
East	Residential Mobile Home (Rose Bay RV Campground) and FEC Railroad Tracks	<i>Office/Residential Transition and Urban High Density Residential (8-16 units/acre)</i>	Community Commercial (CC) and Residential Mobile Home (RMH)
West	Commercial (Sparks Concrete)	<i>Warehouse/Industrial and Conservation</i>	Commercial Industrial (CI) and Flood-Plain Conservation

The zoning and future land use of adjacent properties is compatible with the proposed CI zoning. The CI district is intended to provide for less intense storage, repair services, industrial services and limited manufacturing uses that are anticipated to have fewer potential impacts on surrounding properties than the more intense Light Industrial (LI) zoning district. The proposed zoning is compatible with the surrounding uses and zoning.

The adjacent property to the south is part of the Rose Bay drainage area. The proposed rezoning will **NOT** rezone any land with existing wetlands along the south and west property lines. These wetlands will remain and serve as a buffer to the Rose Bay drainage area. In addition, the LDC requires a 25-foot wetland buffer adjacent to all wetland areas for further protection of the wetlands and this is typically covered with a conservation easement received at the time of development. All required stormwater improvements including retention ponds and compensating stormwater drainage areas will be required to be constructed within the area proposed to be rezoned to CI.

Based on compatibility with adjacent zoning districts, access to an arterial roadway, availability of infrastructure, preservation of existing wetlands, and ability to sufficiently buffer to adjacent uses, it has been determined that the requested zoning is appropriate at this location and consistent with the current *Warehouse/Industrial* FLU designation.

Consistency with the Comprehensive Plan

The proposed Commercial Industrial (CI) zoning is consistent with the current FLU designation of *Warehouse/Industrial* and with the pertinent Goals, Objectives, and Policies of the City's Comprehensive Plan. According to the Comprehensive Plan, the

Warehouse/Industrial FLU designation supports the development of light manufacturing, warehouse and distribution related uses, office and service uses in order to provide for a convenient business environment; and the CI zoning district is intended to provide development opportunity for warehouse and industrial uses such as less intense warehouse, repair, industrial service, professional office and limited manufacturing uses that are anticipated to have fewer potential impacts on surrounding properties.

The proposed rezoning of the subject property to CI is consistent with *Warehouse/Industrial* FLU designation and supports Goal 3 in the Future Land Use Element to provide for commercial and industrial development to maintain the economic health of the City and to increase the job opportunities, per capita income, and convenience for its residents.

Public Notice

On August 3, 2020, staff posted the property notifying the public of the proposed rezoning. As of the time this agenda item was prepared, there has been 1 phone call from the manager of Go-Kart City inquiring about the proposed rezoning.

Staff Recommendation

Staff recommends approval of the administrative rezoning of ±9.68 acres from Flood-Plain Conservation (F-C) to Commercial Industrial (CI).

Attachments

Exhibit 1 – List of Permitted Uses for the CI zoning district

Exhibit 1

Commercial Industrial

Permitted uses.

- (1) Adult/vocational education.
- (2) Antennas.
- (3) Appliance/electronic repair shops.
- (4) Boat repair, engine.
- (5) Business services.
- (6) Commercial/industrial equipment and supplies.
- (7) Commercial/industrial services.
- (8) Commercial/industrial warehouses.
- (9) Construction and home improvement contractor.
- (10) Fleet-based services.
- (11) Greenhouses and nurseries (wholesale and retail).
- (12) Infrastructure construction contractor's yard.
- (13) Laboratory, research and development.
- (14) Laundry and dry cleaning plants.
- (15) Maintenance contractors.
- (16) Manufacturing: craftsman shops.
- (17) Manufacturing: fabrication.
- (18) Manufacturing: limited.
- (19) Mini-warehouses.
- (20) Motor vehicle and boat storage facilities.
- (21) Motor vehicle repair facilities.
- (22) Motor vehicle service stations.
- (23) Motor vehicle towing and impoundment.
- (24) Offices.
- (25) Taxidermy.
- (26) Transportation services.
- (27) Truck/trailer/automobile rental.
- (28) Wholesalers and distributors.

Permitted uses with special development requirements (chapter 18, section 4).

- (1) Brewery (subsection 3.7).
- (2) Kennels (subsection 8).
- (3) Health/exercise club (subsection 6).
- (4) Motor vehicle sales (subsection 9.75).

Special exception uses (chapter 18, section 3).

- (1) Adult entertainment (subsection 1).
- (2) Used motor vehicle parts yards (subsection 23).



CITY COUNCIL AGENDA ITEM

REQUESTED COUNCIL MEETING DATE 10/20/2020

Consent item: No

SUBJECT: (H17) First Reading - Ordinance No. 2020-34 - 20-2 Large Scale Future Land Use Amendment/3835 Clyde Morris Boulevard (Osprey Point Apartments)

DEPARTMENT: Community Development

GOAL:

RECOMMENDED MOTION: Move to approve Ordinance No. 2020-34, to change the Future Land Use designation of approximately 35 acres from *Office/Residential Transition* and *Commercial* to *Urban High Density Residential* (8-16 units/acre), and transmittal to the required review agencies for review.

SUMMARY: Planning Commission Action (09/24/20): Recommended Approval

Jeffrey Brock, applicant on behalf of the property owner, Palmetto Point, LLP, requests to amend the Future Land Use (FLU) designations for ±35 acres from *Office/Residential Transition* and *Commercial* to *Urban High Density Residential* (8-16 units/acre). The subject property is located along Clyde Morris Boulevard, south of Madeline Avenue, and east of Bruner Road. If approved, the applicant intends to rezone the subject property to the Moderate Density Multi-Family Residential District (R-3M) and submit a site plan for the development of a 384-unit multi-family complex.

The subject property was part of the ±52.73 acre The Palms PUD approved in 2007 which allowed for the development of 451 multi-family units and 187,000 square feet of commercial uses. The MDA for the previously approved The Palms PUD, expired in 2009 and the property remained vacant. In 2015, ±17.72 acres of the original The Palms PUD were rezoned to the Palmetto Pointe Planned Commercial Development (PCD) and was developed with a commercial development (Walmart Neighborhood Market).

The applicant's development application request to change the Future Land Use designation on the subject property does not affect the Comprehensive Plan regarding the extension of Bruner Road from its current southern terminus to Clyde Morris Boulevard. If the FLU application is approved, Staff has discussed with Volusia County and the potential developer about maintaining the right-of-way for the possible extension of Bruner Road in the future, but not constructing Bruner Road from its terminus to Clyde Morris Boulevard as part of developing the subject property.

According to the Infrastructure Impact Analysis in the staff report, the amendment results in a net decrease in impacts to public infrastructure, except for recreation and open space. All public facilities have adequate capacity to accommodate the proposed

amendment.

The proposed FLU amendment is generally consistent with the pertinent Goals, Objectives, and Policies of the City's Comprehensive Plan. The proposed FLU category is compatible with adjacent parcels and the proposed multi-family use provides a transitional use between the more intense commercial development and the existing single-family homes across Bruner Road. The proposed land use category meets the locational criteria for the *Urban High Density Residential* designation of being located adjacent to a commercial node, along an arterial roadway.

However, the proposed amendment is not consistent with a policy in the Comprehensive Plan regarding the retention of the existing commercial acreage already designated on the FLU map. The 35-acre amendment would result in a net decrease of a ±8.82 acres of land within the City designated for commercial. If approved, the ±8.82 acres would change from a commercial use to a residential use. However, there would still be approximately 40 acres of commercial land at the Clyde Morris Blvd./Madeline Ave. commercial node and of the 40 remaining acres of commercial land, ±18-acres remains vacant and can be developed with commercial uses. There are multiple options for commercial development within the Clyde Morris Blvd./Madeline Ave. commercial node as there is still vacant commercial land and tenant spaces at built shopping centers. The additional residential units to this area could encourage further development of the existing commercial land, outparcels and leasing of existing commercial space at the Clyde Morris Blvd./Madeline Ave. commercial node.

As part of any future site development, site plans and/or building permits will be required to be submitted for staff review to verify all LDC and Florida Building Code requirements are met, such as landscape buffers, parking, building setbacks, tree preservation, and infrastructure, to ensure compatibility with adjoining properties, and that adequate public facilities and services are available.

The staff report is attached for more information.

Project No.: Funding Account No.:

Presenter: Penelope Cruz

ATTACHMENTS:

1.	Ordinance No. 2020-34 with exhibit	Ord 2020-34.pdf
2.	Staff Report - 20-2 CPA Osprey Pointe Apts	Staff Report - 20-2 CPA Osprey Pointe Apts.pdf

Penelope Cruz
Tim Burman
Shannon Balmer
Jamie Miller

Created/Initiated - 9/29/2020
Approved - 10/1/2020
Approved - 10/7/2020
Approved - 10/8/2020

Robin Fenwick

Final Approval - 10/8/2020

ORDINANCE NO. 2020-34

AN ORDINANCE OF THE CITY OF PORT ORANGE,
VOLUSIA COUNTY, FLORIDA, RELATING TO
COMPREHENSIVE PLANNING; AMENDING THE FUTURE
LAND USE MAP OF THE COMPREHENSIVE PLAN;
AMENDING THE FUTURE LAND USE DESIGNATION FOR
±35 ACRES FROM OFFICE/RESIDENTIAL TRANSITION
AND COMMERCIAL TO URBAN HIGH DENSITY
RESIDENTIAL (8-16 UNITS/ACRE) FOR PROPERTY
GENERALLY LOCATED ALONG CLYDE MORRIS
BOULEVARD, SOUTH OF MADELINE AVENUE, BETWEEN
CLYDE MORRIS BOULEVARD AND BRUNER ROAD;
PROVIDING FOR CONFLICTING ORDINANCES,
SEVERABILITY AND AN EFFECTIVE DATE.

WHEREAS, after careful review and a public hearing, the Planning Commission, sitting as the Local Planning Agency, has forwarded a recommendation to the City Council regarding this proposed amendment to the Comprehensive Plan for the City of Port Orange; and

WHEREAS, the City Council of the City of Port Orange has provided an opportunity to receive comments and proposals from the general public and held at two public hearings with regard to the proposed amendment to the Comprehensive Plan; and

WHEREAS, the amendment to the Comprehensive Plan shall be submitted to the Volusia Growth Management Commission for a determination of consistency in accordance with Section 202.3 of the Charter of Volusia County, Florida; and

WHEREAS, the City Council hereby declares that the purpose and intent of the proposed amendment to the Comprehensive Plan is to guide future growth and development; encourage the most appropriate use of land, water, and other resources,

consistent with the public interest; promote and protect the public health, safety, comfort, good order, appearance, convenience, aesthetics, and general welfare; prevent the overcrowding of land and avoid undue concentration of population; provide adequate and efficient transportation, water, sewage, drainage, fire protection, parks, recreational facilities, housing, and other services, facilities and resources; and conserve and protect natural resources within the City, while protecting private property rights; and

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

Section 1. For purposes herein, the term “Comprehensive Plan”, shall mean the Comprehensive Plan for the City of Port Orange, consisting of the two (2) volumes entitled “Comprehensive Plan City of Port Orange 2010-2025”, including Binder No. 1, consisting of ten (10) elements, including Future Land Use and Future Land Use Map; Transportation; Housing; Public Facilities; Public Schools Facilities; Coastal Zone Management; Conservation; Recreation and Open Space; Intergovernmental Coordination; and Capital Improvements, all as adopted by Ordinance No. 1999-43, as subsequently amended by Ordinances No. 1999-46, 1999-56, 1999-57, 2000-1, 2000-8, 2000-13, 2000-25, 2000-29, 2000-41, 2001-2, 2001-21, 2001-26, 2001-28, 2001-75, 2001-76, 2001-89, 2002-7, 2002-20, 2003-3, 2003-1, 2003-22, 2003-39, 2004-34, 2004-39, 2005-1, 2005-3, 2005-13, 2005-15, 2005-25, 2005-27, 2005-30, 2005-31, 2005-49, 2006-9, 2006-16, 2006-24, 2006-41, 2006-51, 2006-53, 2007-4, 2007-14, 2007-30, 2007-48, 2007-55, 2007-57, 2007-60, 2007-61, 2008-2, 2008-8, 2008-9, 2008-12, 2008-16, 2008-19, 2008-36, 2009-3, 2009-19, 2009-20, 2010-14, 2010-20, 2010-30, 2011-24, 2011-34, 2012-8, 2012-24, 2012-30, 2013-20, 2013-25, 2014-31, 2014-32, 2015-42, 2015-44, 2016-6, 2016-20, 2016-24, 2016-26, 2017-4, 2017-33, 2018-10, 2018-15, 2018-

18, 2018-20, 2018-30, 2018-36, 2019-11, 2019-21, 2019-23, 2019-33, 2019-41, 2020-2, 2020-5, 2020-11, 2020-14, 2020-22, and this ordinance.

Section 2. The City Council hereby adopts and amends the Comprehensive Plan City of Port Orange 2010-2025, Future Land Use Map, attached hereto as **Exhibit “A”**, and incorporated herein by this reference.

Section 3. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed to the extent of such conflict.

Section 4. If any provision of this ordinance or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of this ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are declared severable.

Section 5. The effective date of this plan amendment, if the amendment is not timely challenged, shall be 31 days after the state land planning agency notifies the local government that the plan amendment package is complete. If timely challenged, this amendment shall become effective on the date the state land planning agency or the Administration Commission enters a final order determining this adopted amendment to be in compliance. No development orders, development permits, or land uses dependent on this amend may be issued or commence before it has become effective. If a final order of noncompliance is issued by the Administration Commission, this amendment may nevertheless be made effective by adoption of a resolution affirming its effective status, a copy of which resolution shall be sent to the state land planning agency. The City Clerk shall note the effective hereon in the place provided below.

MAYOR DONALD O. BURNETTE

ATTEST:

Robin L. Fenwick, MMC, City Clerk

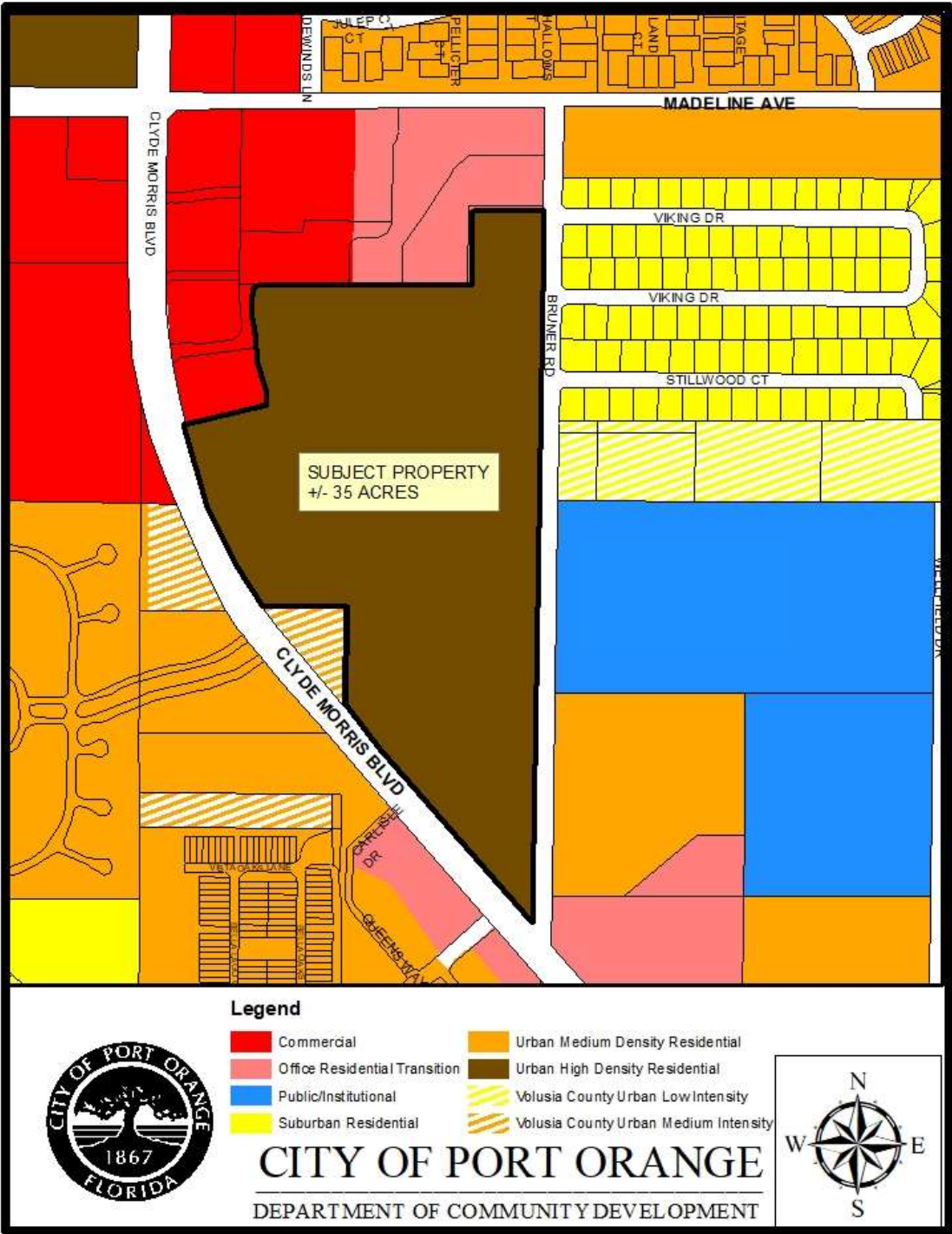
Passed on first reading on the day of

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

Reviewed and Approved: _____
Shannon K. Balmer, Assistant City Attorney

EXHIBIT "A"

EXHIBIT





STAFF REPORT

20-2 Large-Scale Comprehensive Plan Amendment/
Osprey Pointe Apartments
CASE NO. 20-20000002

REQUEST:	Amend the Comprehensive Plan Future Land Use (FLU) Map to change the FLU for ±35 acres from <i>Office/Residential Transition</i> and <i>Commercial</i> to <i>Urban High Density Residential</i> (8-16 units/acre).
LOCATION:	3835 Clyde Morris Blvd. (Figure 1 – Location Map)
APPLICANT:	Jeffrey Brock, Smith Bigman Brock, P.A.
OWNER:	Palmetto Pointe, LLP
STAFF CONTACT:	Penelope Cruz, Planning Manager, (386)506-5671
STAFF RECOMMENDATION:	Approval
PLANNING COMMISSION:	Recommended Approval (September 24, 2020)
CITY COUNCIL:	October 20, 2020

INTRODUCTION

Jeffrey Brock, applicant on behalf of the property owner, Palmetto Point, LLP, requests to amend the Future Land Use (FLU) designations for ±35 acres from *Office/Residential Transition* and *Commercial* to *Urban High Density Residential* (8-16 units/acre). The subject property is located along Clyde Morris Boulevard, south of Madeline Avenue, and east of Bruner Road. If approved, the applicant intends to rezone the subject property to the Moderate Density Multi-Family Residential District (R-3M) and submit a site plan for the development of a 384-unit multi-family complex.

Figure 1. Location Map



Map created by the City of Port Orange Community Development Department

The applicant's development application requests to change the FLU designation on the subject property does not include a change to the City's Comprehensive Plan regarding extension of Brunner Road from its terminus to Clyde Morris Boulevard. If the development application is approved, staff has discussed with Volusia County and the potential developer about maintaining the right-of-way for the possible extension of Bruner Road in the future as shown in the current City's Comprehensive Plan and NOT constructing Brunner Road from its terminus to Clyde Morris Boulevard. If the development applications are approved, maintaining the ability to construct Bruner Road in the future would maintain consistency with the City's Comprehensive Plan.

The subject property currently has Future Land Use (FLU) designations of *Office/Residential Transition* and *Commercial* and is zoned Planned Unit Development (PUD) without a Master Development Agreement (MDA). The subject property was part of the ±52.73 acre The Palms PUD approved in 2007 and allowed for the development of 451 multi-family units and 187,000 square feet of commercial uses. The MDA for The Palms, the previously approved PUD, expired in 2009 and the property remained vacant. In 2015, ±17.72 acres of the original The Palms PUD were rezoned to the Palmetto Pointe Planned Commercial Development (PCD) and was developed with a commercial development (Walmart Neighborhood Market).

DISCUSSION

The following discussion examines the proposed amendment, impacts of the proposed amendment, and existing environmental conditions.

PROPERTY OVERVIEW

The subject parcel is currently vacant. The surrounding existing land uses, Future Land Use designations, and Zoning classifications are identified below in Table 1.

Table 1. Surrounding Land Uses and Zoning

Direction	Existing Land Use	FLU Designation	Zoning District
North	Commercial	Commercial; Office/Residential Transition	Palmetto Pointe Planned Commercial Development (PCD)
South	Clyde Morris Blvd.; mobile home park	Urban Medium Density Residential; Office/Residential Transition	Residential Mobile Home (RMH)
East	Brunner Road; Single-family; City owned land; Police Department	Urban Medium Density Residential; Suburban Residential; Office/Residential Transition	R-8SF Single Family Residential; Volusia County MH- 1; R-3L Multi-Family Residential; Government/Public Use (GPU)
West	Clyde Morris Blvd.; vacant commercial; mobile home park	Commercial; Urban Medium Density Residential	Palmetto Point PCD; Groves PCD; Colony in the Wood Planned Unit Development (PUD); Residential Mobile Home (RMH)

The current FLU designations for the subject property and adjacent properties and the proposed FLU designation for the subject property is identified in Figure 2. The current zoning classification of the subject property and adjacent properties and the proposed zoning classification of the subject property are identified in Figure 3.

Figure 2. Current and Proposed FLU Map

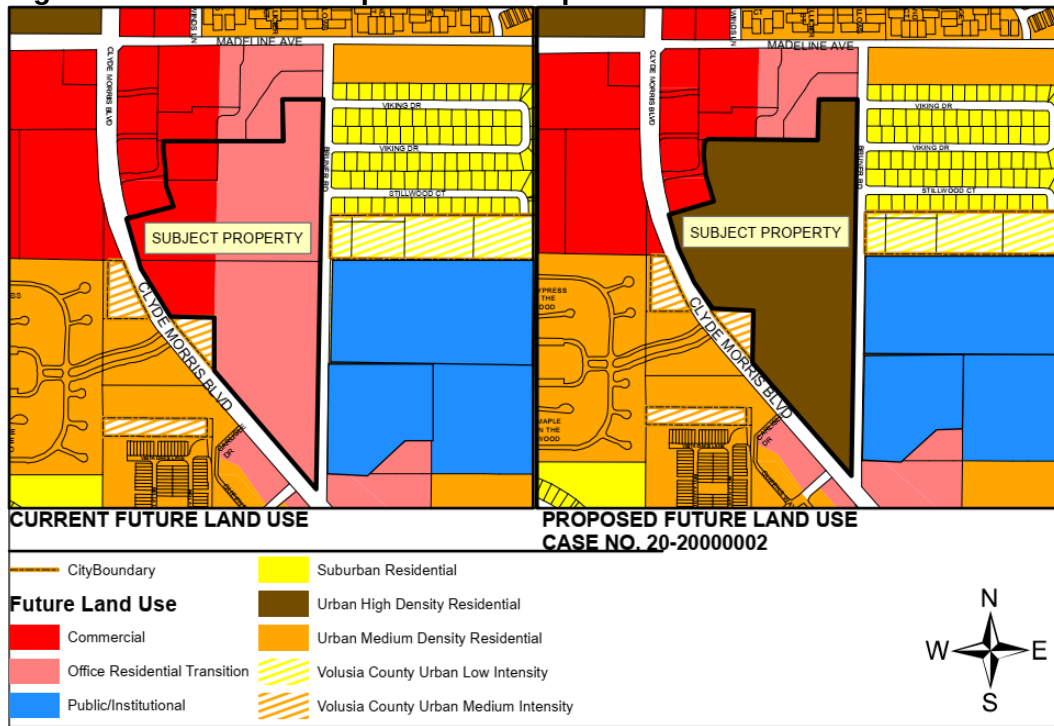
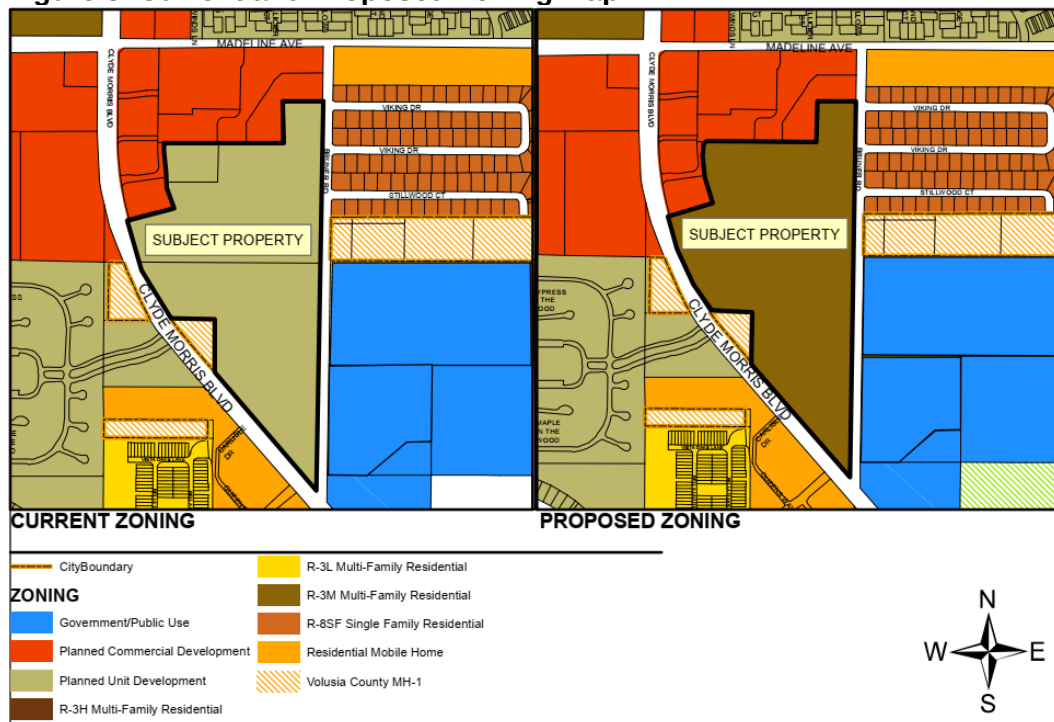


Figure 3. Current and Proposed Zoning Map



PROPOSED AMENDMENT

The proposed amendment is to change the FLU designations for ±35 acres from *Office/Residential Transition* and *Commercial* to *Urban High Density Residential* (8-16 units/acre). The current FLU designations are *Commercial* and *Office/Residential Transition*, which is a mixed-use category that allows for a distribution of uses within the 35-acres, with the cumulative mixture of uses totaling 100%:

1. 75% office and 25% residential (up to 10 units per acre);
2. 75% office and 25% commercial; or
3. 100% office.

The proposed *Urban High Density Residential* (8-16 units/acre) FLU designation is a multi-family residential designation, compared to the current FLU *Commercial* and *Office/Residential Transition* designations that allow the development of office, commercial and residential uses. The following tables identify the current adopted and proposed FLU designations by acreage (Table 2), maximum allowable density/intensity and net change in density/intensity (Table 3).

Table 2. Current & Proposed Future Land Uses – Acreage by Category

	Current FLU (acres)	Proposed FLU (acres)	Net Change in FLU (acres)
Office/Residential Transition	26.2	0	-26.2
Commercial	8.8	0	-8.8
Urban High Density Residential (8-16 units/acre)	0	35	+35
Total Acreage	35	35	35

Table 3. Current & Proposed Future Land Uses – Density/Intensity by Category

	Current FLU (theoretical max dwelling units/sq.ft.)	Proposed FLU (theoretical max dwelling units/sq.ft.)	Net Change in FLU (theoretical max dwelling units/sq.ft.)
Office/Residential Transition			
Scenario 1 (25% Residential*/75% Office**)	66 d/u 1,284,666 sq.ft.	0	-66 d/u -1,284,666 sq.ft.
Scenario 2 (25% commercial*/75% office**)	428,222 sq.ft. 1,284,666 sq.ft.	0	-1,712,888 sq.ft.
Commercial***	191,446 sq.ft.	0	-191,446 sq.ft.
Urban High Density Residential (8-16 units/acre)	0	560 d/u****	+560

*up to 10 units/acre

**1.5 Floor-area ratio for non-residential; The floor area ratio (FAR) is the relationship between the total amount of building floor area and the total area of the lot on which the building stands.

***0.5 Floor-area ratio (FAR)

****560 units is the theoretical maximum allowed by the FLU designation; the actual proposed development is for 384 units

INFRASTRUCTURE IMPACT ASSESSMENT

In accordance with standard practice from the Florida Department of Economic Opportunity (DEO) and other review agencies, an impact comparison analysis of the proposed amendment has been completed based upon the theoretical maximum development potential under the current Future Land Use designations versus the requested FLU designation. The following seven public facilities and services were examined:

1. Transportation
2. Sanitary Sewer
3. Potable Water
4. Solid Waste
5. Stormwater Drainage
6. Recreation
7. Schools

Table 4. Impact Analysis (Theoretical Max.)

DEVELOPMENT VARIABLE	CURRENT LAND USE		PROPOSED LAND USE (Urban High Density Residential)	NET CHANGE	
	Scenario 1 (Commercial + ORT at 25% Residential/ 75% Office)	Scenario 2 (Commercial + ORT at 25% commercial/ 75% office)		Scenario 1	Scenario 2
Residential Units	66	0	560	+494	+560
Non-residential Buildable Sq. Ft.	Commercial: 191,446 sq.ft. Office: 1,284,666 sq.ft.	Commercial: 619,668 sq.ft. Office: 1,284,666 sq.ft.	0	Commercial: -191,446 sq.ft. Office: -1,284,666 sq.ft.	Commercial: -619,668 sq.ft. Office: -1,284,666 sq.ft.
Population ¹	149	0	1,260	+1,111	+1,260
Peak Hour Trips/Daily Trips ²	6,236/ 55,026	7,784/ 72,875	347/ 3,724	-5,889/ -51,302	-7,437/ -69,151
Sanitary Sewer (gallons/day) ³	158,097	190,433	89,600	-68,497	-100,833
Potable Water (gallons/day) ⁴	159,408	190,433	100,800	-58,608	-89,633
Solid Waste (lbs./person) ⁵	15,239	19,043	4,045	-11,195	-14,999
Stormwater Drainage ⁶	n/a	n/a	n/a	n/a	n/a
Recreation/Open Space ⁷ (acres)	1.04	0	8.82	+7.78	+8.82

Notes:

1. Population: 2.25 persons per household (per 2010 Census)
2. Transportation: Multifamily Apartments (220) 0.62 PM peak hour trips per unit and 6.65 daily trips per unit; Shopping Center (820) 3.71 PM Peak Hour; 42.70 Average Daily; Medical Office (720) trips per 1000 sq.ft. – 4.27 PM Peak Hour, 36.13 Average Daily; ITE Trip Generation Manual, 9th Edition
3. Sanitary Sewer: 160 gallons per day per Equivalent Residential Unit; 1/10 gallon per square foot per day of non-residential development
4. Potable Water: 180 gallons per day per Equivalent Residential Unit; 1/10 gallon per square foot per day of non-residential development
5. Solid Waste: 3.21 pounds per person per day; 10 lbs. per 1,000 square feet of non- residential development per day
6. Stormwater Drainage: LOS standard = 25-year, 24-hour event; Drainage system will be designed to meet the requirements of the Land Development Code.
7. Rec. & Open Space: 7 acres/1,000 persons (0.007 acres/person)

The current FLU designations on the property are *Commercial* and *Office/Residential Transition* and the *Office/Residential Transition* designation is a mixed-use category that allows the following theoretical maximum development scenarios:

1. 25% residential and 75% office (scenario 1); or
2. 25% commercial and 75% office (scenario 2).

According to the Infrastructure Impact Analysis, the proposed FLU designation would *decrease* the theoretical maximum square-footage of non-residential development allowed and increase the theoretical maximum number of residential units allowed on the 35-acre property. Overall, the amendment results in a net decrease in impacts to public infrastructure, except for recreation and open space. All future development plans submitted for the subject property will require a detailed technical review by the Staff Development Review Committee (SDRC) to determine all requirements in the Land Development Code (LDC) are met. As with all development, specific site development proposals for the subject property is subject to concurrency regulations at the time of development requiring public facilities and services to be provided or for the developer to enter into a mitigation agreement for their impacts.

TRANSPORTATION

A transportation report has been prepared by LTG, Inc., and reviewed by staff. As indicated in the report, there is a decrease in the number of daily trips and P.M. peak hour trips from the current to the proposed FLU designation. The reduction in anticipated daily trips and P.M. peak hour trips is due to the change from a FLU designation that supports non-residential uses to a FLU designation that support residential uses. According to the Institute of Transportation Engineers (ITE), residential dwelling units have a lower trip generation than office and commercial uses because office and commercial uses attract trips from a larger area. Based on the ITE Trip Generation Manual, 10th Edition, the proposed FLU designation could generate 347 P.M. peak hour trips, and 3,742 daily trips based on theoretical maximum of 560 units. The proposed multi-family development of 384 units could generate 238 P.M. peak hour trips, and 2,554 daily trips. This is a decrease from the current FLU designation.

The extent of the anticipated impacts on the road network will not be known until the traffic concurrency review is conducted with the final site plan for this site. The City requires the submittal of a traffic study at the time a final site plan is submitted for the development of the apartment complex, to fully assess the impacts of the development on the surrounding roadway network at the time of development and to identify any roadway improvements that might be needed. Similar to other developments within this area of the City, the developer may be required to enter into a Transportation Fair-Share and Concurrency Agreement with the City, and possibly Volusia County, to pay for part of the scheduled improvements for the impacted areas. In addition to a possible fair-share payment, the developer of the property may be required to construct mobility improvements to improve capacity and provide alternative modes of transportation along this corridor such as, turn lanes and sidewalks.

SANITARY SEWER

The City has available sewer capacity to accommodate the proposed FLU amendment. The City's adopted LOS standard is 160 gallons per day per Equivalent Residential Unit (ERU) and 1/10 gallon per square foot per day of commercial, industrial, or institutional development. Using these standards, the proposed land use would theoretically generate 89,600 gallons per day (gpd) of wastewater. This is a net decrease between the current and proposed FLU designations.

POTABLE WATER

The City has available potable water capacity (well and Consumptive Use Permit) to serve the proposed FLU amendment. The City's adopted LOS standard is 180 gallons per day per ERU and 1/10 gallon per square foot per day of commercial, industrial, or institutional development. Using these standards, the proposed land use would theoretically demand 100,800 gpd of potable water. This is a net decrease in demand between the current and proposed FLU designations.

Even though the City may have the technical capability to pump 15 MGD from its wells, prohibitions within the City's 20-year Consumptive Use Permit (CUP) issued by the St. Johns River Water Management District (SJRWMD) significantly limit the amount of water that is permitted to be withdrawn. The City's CUP allows for an average daily withdrawal of 8.97 MGD and a maximum daily withdrawal of 13.46 MGD in 2020. Actual average daily flow during the 2019 calendar year was 6.05 MGD. When reviewing future land use amendments, the following is considered to determine the amount of permitted water capacity available for all other future uses: the current year CUP allocation, consumption in the previous calendar year, reserved capacity, and projected consumption. Based upon these measures, the City still has available CUP capacity.

SOLID WASTE COLLECTION

There is available capacity at the landfill to address the City's solid waste disposal needs. The City's collection standard is 1,350 residential units per curbside collection crew, per day, and a weight standard of 3.21 pounds per person per day. The proposed land use would generate 4,045 pounds of garbage per day. This is a net decrease between the current and proposed FLU. Solid waste generated within the City of Port Orange is delivered to the Volusia County landfill, a 3,000-acre Class I landfill with a projected life span to the year 2050.

STORMWATER DRAINAGE

There is no anticipated impact to the City's drainage system from the proposed land use. Stormwater management in the City of Port Orange deals with both quality and quantity. The City's adopted LOS standard for stormwater is the 25-year, 24-hour storm event. More specifically, the stormwater facilities must be capable of treating and conveying the runoff from such a storm without causing flooding of adjacent properties or polluting any receiving water bodies. In addition, the Comprehensive Plan and Land Development Code require that there be no net loss of stormwater retention function as a result of development. In other words, a given parcel must have the same ability to store and discharge water after development as it does before development occurs. Any future development of the property will be required to address stormwater retention on the property in accordance with these City standards.

RECREATION AND OPEN SPACE

There is available capacity at existing park facilities to accommodate the proposed FLU amendment. The proposed FLU designation would require 8.82 acres of parkland. According to the City's 2019 Concurrency Management Report, the City has an excess of 55 acres of parkland, so no additional parkland is needed.

SCHOOLS

The Volusia County School District reviewed the proposed FLU amendment for impacts to school capacity. The School District determined that there is adequate school capacity for the estimated 49 students anticipated to be generated by the proposed FLU amendment (Exhibit 1).

ENVIRONMENTAL CONDITIONS

The subject property is primarily categorized as palmetto prairies and pine flatwoods. According to the environmental analysis prepared by Biological Consulting Services, Inc. (BCS) in April 2020 for the subject property, there is about 6.41 acres of wetlands and the possibility of gopher tortoises, but no protected species were observed on site. One osprey nest (delisted species) was observed on the edge of the wetlands in the northwest portion of the site. The osprey was removed from Florida's Endangered and Threatened Species list in 2018; however, the osprey, active nests, eggs, and young are still protected under the Federal Migratory Bird Treaty Act. The osprey nest tree is located within a proposed tree preservation area for the proposed Osprey Pointe Apartments and according to BCS should not be affected by the proposed development. Any subsequent development on the subject property will be required to comply with all federal, state, regional and local regulations pertaining to the protection, relocation, mitigation, and preservation of trees, gopher tortoises, wetlands and other environmental resources.

As with all new development projects this size, an updated Environmental Assessment (EA) will need to be prepared and submitted at the time a site plan is submitted. As part of the EA, the biological consultant is required to identify and document the presence/location of gopher tortoise burrows observed throughout the subject property. If gopher tortoise burrows are identified on the subject property and the developer's project impacts the burrows, the developer will need obtain a permit from the Florida Fish and Wildlife Conservation Commission (FFWCC) to relocate any gopher tortoises from the impacted burrows. In addition to obtaining a permit from FFWCC, the developer will also be required to make a payment to a gopher tortoises mitigation bank. Site clearing will not be allowed to begin until FWC has approved the relocation after action report for the gopher tortoise's relocation and mitigation payment has been received. In addition, an updated study is required within 90 days prior to the start of site clearing activities to ensure an accurate count and location of the active gopher tortoise burrows. At this time the developer has not provided the City with site development plans.

REVIEW CRITERIA AND STAFF FINDINGS

1. *The land use proposal is consistent with the goals, objectives, and policies of the adopted Port Orange Comprehensive Plan.*

Staff finding: The proposed FLU amendment is generally consistent with the pertinent Goals, Objectives, and Policies of the City's Comprehensive Plan. The proposed FLU category is compatible with adjacent parcels and the proposed multi-family use provides a transitional use between the more intense commercial development and the existing single-family homes across Bruner Road. All public facilities have adequate capacity to accommodate the proposed amendment.

The proposed land use category meets the locational criteria for the *Urban High Density Residential* designation of being located adjacent to a community- or sub-regional-level commercial node or mixed-used center, along an arterial roadway. All public facilities have adequate capacity to accommodate the proposed amendment, and it is compatible with adjacent land uses as described below.

However, the proposed amendment is not consistent with the policies in the Comprehensive Plan regarding the retention of the existing commercial acreage already designated on the FLU map. The following objective and policies are provided in the City's adopted Comprehensive Plan, Future Land Use Element:

- *Objective 3.1: Maintaining Land for Non-residential Uses.* Ensure that the amount of land already designated for non-residential uses does not decrease.
- *Policy 3.1.1: Retain designated commercial and industrial development areas* for their appropriate uses, unless such uses have been planned to be accommodated elsewhere.

The 35-acre amendment would result in a net decrease of a ± 8.82 acres of land within the City designated for commercial. If approved, the ± 8.82 acres would change from a commercial use to a residential use. However, if the FLU amendment is approved, there would still be approximately 40 acres of commercial land at the Clyde Morris Blvd./Madeline Ave. commercial node and of the 40 remaining acres of commercial land, ± 18 -acres remains vacant and can be developed with commercial uses. There are multiple options for additional commercial development within the Clyde Morris Blvd./Madeline Ave. commercial node as there is still vacant commercial land and tenant spaces at built shopping centers. The additional residential units to this area could encourage the further development of the existing commercial land, outparcels and leasing of existing commercial space at the Clyde Morris Blvd./Madeline Ave. commercial node.

Figure 4. Clyde Morris Blvd./Madeline Ave. commercial node



The acreage of the subject property designated for commercial development has expanded over the last 15 years beyond the original acreage designated for the commercial node through changes to the FLU map that extend the commercial land use further south along Clyde Morris Boulevard. Future Land Use Element *Policy 3.2.1* states that, “Commercial uses will be located at roadway intersections, commercial nodes, and mixed-use centers, as defined in the Future Land Use Element.” The land with a Commercial FLU designation proposed to be changed as part of this amendment is located further south along Clyde Morris Boulevard and not at the immediate intersection where the traditional commercial node was established. While the proposed FLU Amendment reduces the amount of land with a *Commercial* FLU designation it does apply a more appropriate FLU designation to the land that is consistent with Future Land Use Element *Policy 3.2.1*.

2. *Amendments shall not result in incompatible land use designations for adjacent parcels or a neighborhood. Compatibility shall be determined by scale of development, intensity, density, and type of use, and the juxtaposition of uses.*

Staff finding: The proposed FLU amendment is compatible with the adjacent properties. Compatibility is defined in the Comprehensive Plan as a condition in which dissimilar land uses can co-exist in relative proximity to one another in a stable fashion over time, such that neither use is unduly negatively impacted by the other. The subject property abuts the Neighborhood Walmart and a multi-tenant commercial building to the north, Clyde Morris Boulevard and Pickwick Village mobile home park to the south, to the east is Bruner Road, The Vikings and

Sandalwood residential subdivisions, vacant city-owned land, and the Police Department, and to the west is Clyde Morris Boulevard, vacant commercial land, and Colony in the Wood mobile home park. (see Table 1 – page 2).

The proposed multi-family development provides a transitional use between the more intense commercial development at the Clyde Morris Boulevard /Madeline Avenue commercial node and the existing single-family homes across Bruner Road. The subject property will also comply with design requirements in the Land Development Code to ensure compatibility between land uses, such as scale of development, height, setbacks, landscape buffers, and architectural design.

3. *An amendment shall not result in negative economic, social, or other impacts to the City of Port Orange.*

Staff finding: The amendment results in a net decrease in impacts to public infrastructure, except for recreation and open space. All public facilities have adequate capacity to accommodate the proposed amendment and therefore there are no negative impacts.

4. *Whether the amendment increases the clearance time for evacuation of the population in the Hurricane Vulnerability Zone above twelve hours.*

Staff finding: The subject property is not located within the Hurricane Vulnerability Zone.

5. *Whether the amendment discourages the proliferation of urban sprawl.*

Staff finding: The proposed amendment will not encourage sprawl. The amendment is for an infill property surrounded by existing development, with access to existing infrastructure. The proposed amendment will provide for a multi-family development located in close proximity to existing shopping, services, and existing public infrastructure.

SMART GROWTH SUMMARY

The proposed Future Land Use amendment expands housing choices by developing areas of infill or underutilized vacant land within the City that has accesses to existing infrastructure and services (water, sewer, roads, schools, etc.) [Future Land Use Element, Policy 1.2.4 and 2.3.8] and continues a development pattern in this area of offering different residential unit types that can allow for senior citizens to stay within the City as they age, single adults to afford a place to live, and families to find a safe, attractive residential option they can afford near desired amenities and services. Creating residential housing options near established commercial nodes also provides residents with close access to necessary services, creates new business opportunities to serve new and existing residents, and strengthens the local tax base through maintaining and expanding commercial uses.

The proposed development of subject property will connect to the sidewalk network on Clyde Morris Boulevard and construct a sidewalk along Bruner Road connecting to Clyde

Morris Boulevard. This will promote walking and biking to established commercial development, offices, services, multi-modal facilities (Votran bus service, sidewalks and bike lanes) along the Clyde Morris Boulevard and Madeline Avenue corridors and provides residents the option of walking, bicycling, taking public transportation to nearby retail, offices, schools, houses of worship, parks, and other amenities. In addition, creating residential housing options near retail, offices, schools, houses of worship, parks, and other amenities can require less vehicle trips and vehicle miles on the City's roadway network as these uses are nearby residential areas.

The infill development of this property with residential uses would utilize existing infrastructure (roads, sewer, water, etc.), discourages sprawl, and is anticipated to maintain or improve local commercial businesses in this area.

PUBLIC NOTICE

On May 22, 2020, staff posted the property notifying the public of the proposed amendment. The proposed amendment has also been advertised in the News-Journal pursuant to Florida Statutes. As of the time this agenda item was prepared, staff has received 20 inquiries regarding the proposed amendment with general inquiries regarding what was proposed as well as environmental and traffic concerns.

STAFF RECOMMENDATION

Staff recommends approval of the request to change the Future Land Use designation of approximately 35 acres from *Office/Residential Transition* and *Commercial* to *Urban High Density Residential* (8-16 units/acre), and transmittal to the required review agencies for review.

ATTACHMENTS

Exhibit 1 – Volusia County School District School Capacity Analysis

EXHIBIT 1

Dr. Scott Fritz
Superintendent of Schools

School Board of Volusia County

Mrs. Ida D. Wright, Chairman
Mrs. Linda Cuthbert Vice-Chairman
Mr. Carl Persis
Mr. Ruben Colón
Ms. Jamie M. Haynes

School Adequate Capacity Determination
Finding of Adequate Capacity Letter

June 16, 2020

Smith Brigman Brock
 Jeffrey P. Brock; Esq.
 220 Charles Street
 Port Orange FL. 32129

RE: Osprey Pointe Apartments – Port Orange
 School Capacity Review #20-03-23-002-A

Dear Mr. Brock:

The County Charter requires any Comprehensive Plan Amendment or Rezoning allowing increased residential density be effective only when adequate public schools can be timely planned and constructed to serve the projected increase in student population. The district uses this requirement as the guiding principle behind the school adequate capacity review.

The School District has reviewed the information for the proposed Osprey Pointe Apartments associated with 35.005 +/- acres of property located at 3835 Clyde Morris Blvd. within the city limits of Port Orange. Proposed amendment would provide for three hundred and eighty-four (384) multi-family units.

The district uses county wide Student Generation Rates (SGRs) of (.127) for multi-family dwelling units. By applying the SGR to the use types in Table 1, we find the project could generate forty-nine (49) full time students.

Table 1

UNIT TYPE	SGR	UNIT COUNT	STUDENTS GENERATED
Single Family Dwelling Unit	.273	0	0
Multifamily Dwelling Unit	.127	384	48.768
Manufactured Home Dwelling Unit	.047	0	0
Total			49

Osprey Pointe Apartments – Port Orange
June 16, 2020

When performing adequate capacity review district staff evaluates the effects of the proposed change compared to any remaining permanent capacity within the impacted schools, up to 100%, Table 2. The projected increase in student population may be over 100% if there are plans to serve increased student population in that planning area within the long-term planning horizon. A finding of adequate capacity may be issued in either case.

Table 2

Schools	2019-20 SY Enrollment	% of Permanent Capacity	Plans for capacity increase long-term	Traditional K-12 Students projected
Sugar Mill Elementary	633	107%	no	21
Silver Sands Middle	1324	118%	no	13
Atlantic High	1412	107%	no	14
Other				1

The students projected to be generated by this project will increase the existing percentage above 100% permanent capacity at all levels. Sugar Mill elementary is the projected to decrease in total students over the next several years. Currently the planning area for Silver Sands Middle School and Atlantic High (Halifax Planning area) is not over 100%. The School Board also owns a future school site in the Corasci area, grade levels to be determined. Based upon these long-term plans for growth, the school district has no objections to the proposed rezoning.

All future development orders, such as site plans and subdivisions, are subject to school concurrency review. School concurrency will be evaluated at that time when the impact of development is specifically quantified and known. Only funded school improvements and then current capacity will be considered at that time. No Student Reservations have been made at this time.

No Student Reservations have been made at this time.

Please note that the School Board has the right to adjust the attendance boundaries to balance the student enrollment populations at these area schools. Consequently, students generated from this project may not attend the current assigned schools.

If you should have additional questions please contact me at (386) 947-8786, extension 50806.

Sincerely,



Stephanie B. Doster,
Coordinator, Planning

Cc: Dr. Scott Fritz, Superintendent of Schools
Steve Grube, Director of Planning and Construction
Penelope Cruz, City of Port Orange
Kiersta Hill, Volusia County School Board
Project File

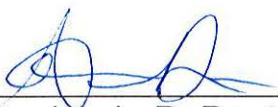


Finding of Adequate School Capacity **Volusia County School Board**

Project Information	
Project Name	Osprey Pointe Apartments
VCSB Project #	#20-06-16-001-A
Jurisdiction Project#	
Parcel ID Numbers:	6306-00-00-0130; 6306-00-00-0132; 6306-00-00-0112
Project Location:	3835 Clyde Morris Blvd
Potential Residential Units:	384
Property Owner/Applicant:	Palmetto Pointe
Notes: Additional review will be required at time of subdivision/site plan submittal(s). No Student Reservations have been made.	

Based upon the Findings of Fact, pursuant to School Board Policy 612 and Section 206 of the County Charter, the school district has determined at this time that school capacity is adequate to serve the proposed increase in residential density. This Finding shall constitute competent substantial evidence that adequate public school capacity is likely to be available at the time it is required to serve the planned new development.

Capacity is not being reserved with this Finding unless otherwise noted on this document. This Finding of Adequate School Capacity allows this subject project to continue through the Comprehensive Plan Amendment and/or rezoning process; however, may be subject to additional school capacity review in the future.



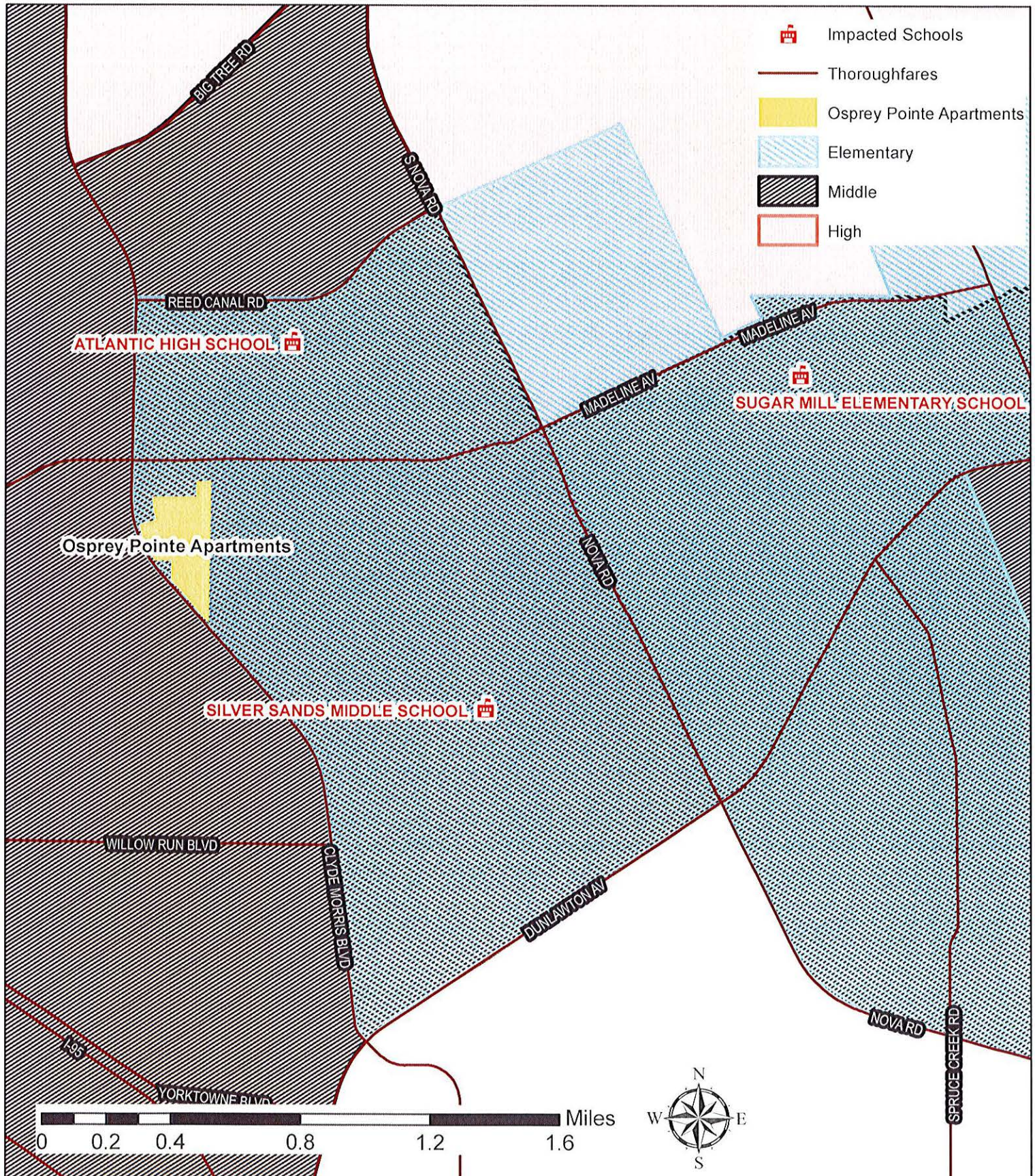
Stephanie B. Doster,
Coordinator, Planning

____16June2020_____
Issue Date

VCSB Schools Impacted by Development

Adequate Capacity Review - Osprey Pointe Apartments

Created by Facilities Services
June 2020





CITY COUNCIL AGENDA ITEM

REQUESTED COUNCIL MEETING DATE 10/20/2020

Consent item: No

SUBJECT: (H18) First Reading - Ordinance No. 2020-35 - Rezoning/3835 Clyde Morris Boulevard (Osprey Pointe Apartments)

DEPARTMENT: Community Development

GOAL:

RECOMMENDED MOTION: Move to approve Ordinance No. 2020-35, rezoning approximately ±35 acres from Planned Unit Development (PUD) to Moderate Density Multi-Family Residential (R-3M).

SUMMARY: Planning Commission Action (09/24/20): Recommended Approval

Jeffrey Brock, applicant on behalf of the property owner, Palmetto Pointe, LLP, requests to rezone the ± 35-acre subject property from Planned Unit Development (PUD) to Moderate Density Multi-Family Residential District (R-3M). The property is located along the east side of Clyde Morris Boulevard, south of Madeline Avenue, between Clyde Morris Boulevard and Bruner Road. The rezoning request is a shift from the negotiated PUD zoning district to a conventional residential zoning district that uses the Land Development Code (LDC) to provide development regulations.

The subject property was part of the ±52.73 acre The Palms PUD approved in 2007 which allowed for the development of 451 multi-family units and 187,000 square feet of commercial uses. The MDA for the previously approved The Palms PUD, expired in 2009 and the property remained vacant. In 2015, ±17.72 acres of the original The Palms PUD were rezoned to the Palmetto Pointe Planned Commercial Development (PCD) and was developed with a commercial development (Walmart Neighborhood Market). The applicant is requesting to rezone the subject property to R-3M with the intent to construct a multi-family development.

According to the LDC, the R-3M zoning district is intended to provide moderate density multi-family development on relatively large tracts of land in single or common ownership with a maximum of 12 dwelling units per acre. If approved, the applicant intends to construct a 384-unit apartment complex (±10.9 units per acre), with associated site improvements and off-site improvements. The proposed R-3M zoning district is consistent with the Urban High Density Residential (8-16 units/acre) Future Land Use (FLU) designation that the applicant has applied to change concurrently with the subject rezoning application (Case No. 20-20000002).

The applicant's development application request to change the zoning designation on the subject property does not affect the Comprehensive Plan regarding the extension of Bruner Road from its current southern terminus to Clyde Morris Boulevard. If the

rezoning application is approved, Staff has discussed with Volusia County and the potential developer about maintaining the right-of-way for the possible extension of Bruner Road in the future, but not constructing Bruner Road from its terminus to Clyde Morris Boulevard as part of developing the subject property. According to the LDC, a property zoned R-3M is required to have its main access onto an arterial or major collector road. The subject property has direct access onto Clyde Morris Boulevard, therefore, the main access point for any development will be from Clyde Morris Boulevard.

As part of any future site development, site plans and/or building permits will be required to be submitted for staff review to verify all LDC and Florida Building Code requirements are met, such as landscape buffers, parking, building setbacks, tree preservation, and infrastructure, to ensure compatibility with adjoining properties, and that adequate public facilities and services are available. The staff report is attached for more information.

Project No.: Funding Account No.:

Presenter: Penelope Cruz

ATTACHMENTS:

1.	Ordinance No. 2020-35 with exhibits	Ord. No. 2020-35 Rezoning.pdf
2.	Staff Report - Rezoning Osprey Pointe	Staff Report - Rezoning Osprey Pointe.pdf

Penelope Cruz	Created/Initiated - 9/29/2020
Tim Burman	Approved - 10/1/2020
Shannon Balmer	Approved - 10/9/2020
Jamie Miller	Approved - 10/9/2020
Robin Fenwick	Final Approval - 10/9/2020

ORDINANCE NO. 2020-35

AN ORDINANCE OF THE CITY OF PORT ORANGE,
VOLUSIA COUNTY, FLORIDA, REZONING PROPERTY
CONSISTING OF APPROXIMATELY ±35 ACRES FROM
PLANNED UNIT DEVELOPMENT (PUD) TO MODERATE
DENSITY MULTI-FAMILY RESIDENTIAL DISTRICT (R-3M);
AUTHORIZING REVISION OF THE OFFICIAL ZONING
ATLAS; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, ±35 acres of the property located at 3835 Clyde Morris Boulevard to be rezoned from Planned Unit Development (PUD) to Moderate Density Multi-Family Residential District (R-3M); and

WHEREAS, a public hearing was held following public notice as prescribed by ordinance; and

WHEREAS, the Planning Commission has by a majority vote recommended approval of the proposed rezoning; and

WHEREAS, the City Council has approved by a majority vote of the members present the rezoning of the described property; and

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

Section 1. The City Council of the City of Port Orange does hereby rezone ±35 acres of the property located at 3835 Clyde Morris Boulevard to be rezoned from Planned Unit Development (PUD) to Moderate Density Multi-Family Residential District (R-3M), more particularly described in **Exhibit “1”**, attached hereto.

Section 2. The City Council of the City of Port Orange does hereby approve, authorize and direct the revision of the City's Official Zoning Atlas to show the

classification for the areas as hereby rezoned as shown on **Exhibit “2”**, attached hereto.

Section 4. This ordinance shall become effective immediately upon adoption.

MAYOR DONALD O. BURNETTE

ATTEST:

Robin L. Fenwick, MMC, City Clerk

Passed on first reading on the day of

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

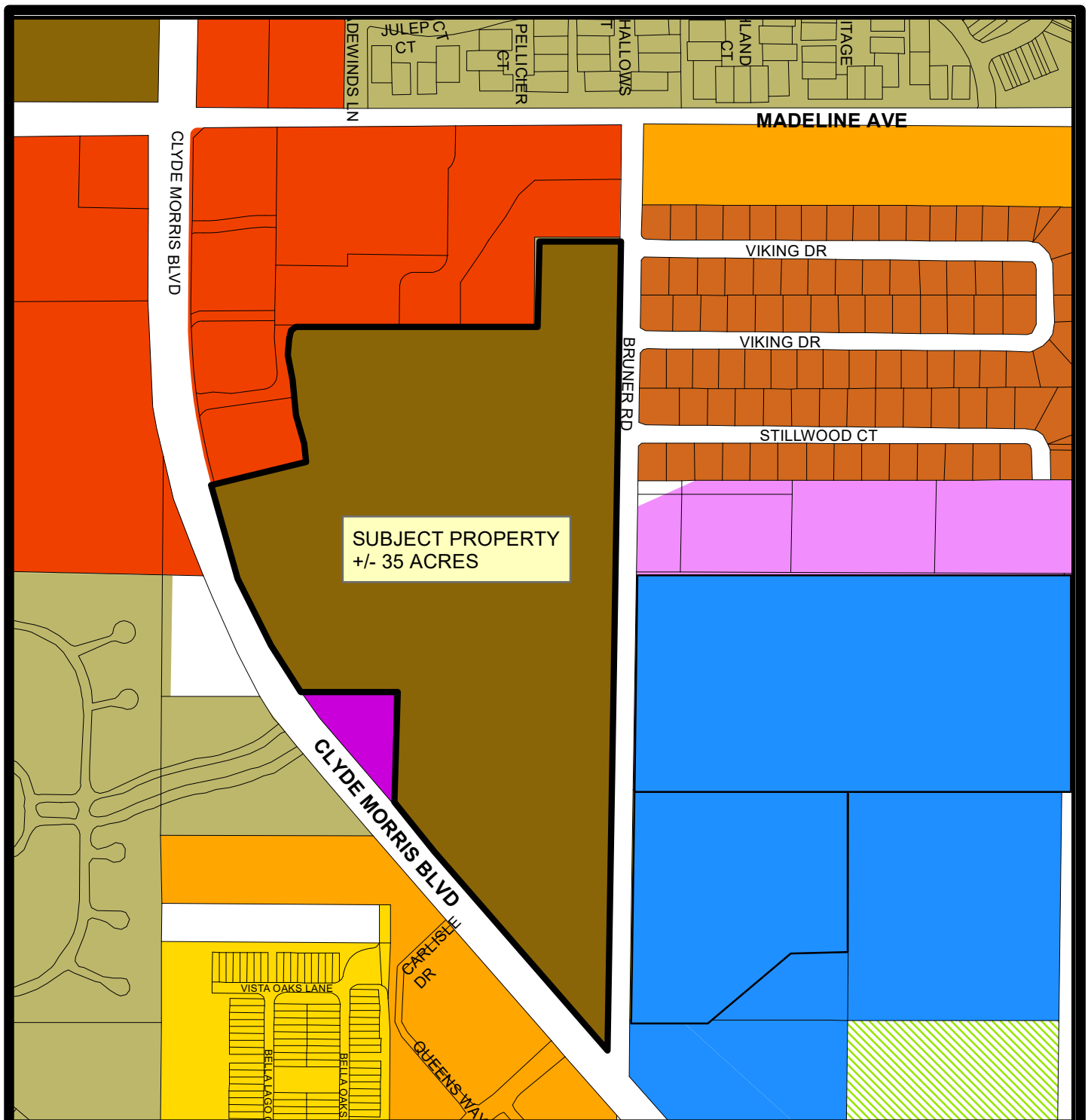
Reviewed and Approved: _____
Shannon K. Balmer, Assistant City Attorney

Exhibit 1

A PARCEL OF LAND LYING IN SECTIONS 6 AND 7, TOWNSHIP 16 SOUTH, RANGE 33 EAST, VOLUSIA COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGIN AT THE SOUTHWEST CORNER OF LOT 6, PALMETTO POINTE MARKETPLACE AS RECORDED IN PLAT BOOK 56, PAGE 191 OF THE PUBLIC RECORDS OF VOLUSIA COUNTY, FLORIDA; THENCE NORTHERLY ALONG THE SOUTH LINE OF SAID LOT 6, $N75^{\circ}50'34''E$, 283.80 FEET TO THE EAST LINE OF SAID LOT 6 AND THE BEGINNING OF A NON-TANGENT CURVE CONCAVE EASTERLY, HAVING A RADIUS OF 1575.61 FEET, A CENTRAL ANGLE OF $12^{\circ}34'31''$ AND A CHORD BEARING OF $N09^{\circ}01'16''E$, THENCE NORTHERLY ALONG THE EAST LINE OF SAID LOT 6 AND THE EAST LINE OF TRACT C AND ALONG THE ARC OF SAID CURVE, 345.81 FEET TO THE BEGINNING OF A COMPOUND CURVE CONCAVE SOUTHEASTERLY, HAVING A RADIUS OF 44.50 FEET, A CENTRAL ANGLE OF $93^{\circ}13'51''$ AND A CHORD BEARING OF $N43^{\circ}51'13''E$, THENCE NORTHEASTERLY ALONG THE EAST LINE OF TRACT C AND THE ARC OF SAID CURVE, 72.41 FEET TO THE SOUTH LINE OF LOT 2, SAID PALMETTO POINTE MARKETPLACE; THENCE ALONG SAID SOUTH LINE OF LOT 2, TRACT D AND TRACT E, SAID PALMETTO POINTE MARKETPLACE $S89^{\circ}31'52''E$, 668.39 FEET; THENCE CONTINUE ALONG TRACT E THE FOLLOWING TWO CALLS, $N00^{\circ}32'03''W$, 253.47 FEET; THENCE $S89^{\circ}25'59''E$, 246.70 FEET TO THE SOUTHEAST CORNER OF TRACT E AND THE WEST RIGHT-OF-WAY LINE OF BRUNER ROAD (60' R/W); THENCE ALONG SAID WEST RIGHT-OF-WAY LINE THE FOLLOWING TWO CALLS, $S01^{\circ}02'42''W$, 926.58 FEET; THENCE $S00^{\circ}36'25''W$, 1378.98 FEET TO THE EASTERLY RIGHT-OF-WAY OF CLYDE MORRIS BOULEVARD (100' R/W); THENCE ALONG THE SAID EASTERLY RIGHT-OF-WAY LINE $N41^{\circ}10'59''W$, 950.95 FEET; THENCE DEPART SAID EASTERLY RIGHT-OF-WAY LINE $N01^{\circ}21'10''E$, 302.95 FEET; THENCE $N89^{\circ}39'19''W$, 254.70 FEET TO EASTERLY RIGHT-OF-WAY LINE OF CLYDE MORRIS BOULEVARD AND THE BEGINNING OF A NON-TANGENT CURVE CONCAVE EASTERLY, HAVING A RADIUS OF 1859.36 FEET, A CENTRAL ANGLE OF $19^{\circ}56'45''$ AND A CHORD BEARING OF $N25^{\circ}06'40''W$, THENCE NORTHERLY ALONG THE EASTERLY RIGHT-OF-WAY LINE OF CLYDE MORRIS BOULEVARD AND THE ARC OF SAID CURVE, 647.28 FEET TO THE POINT OF BEGINNING.

CONTAINING 35.005 ACRES, MORE OR LESS.



ZONING

- Government/Public Use
- Planned Commercial Development
- Planned Unit Development
- R-3L Multi-Family Residential

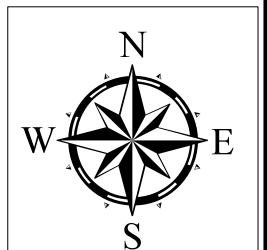
- R-3M Multi-Family Residential
- R-8SF Single Family Residential
- Residential Mobile Home
- Volusia County A-2
- Rural Mobile Home

- Urban Mobile Home



CITY OF PORT ORANGE

DEPARTMENT OF COMMUNITY DEVELOPMENT





REVISED STAFF REPORT CONVENTIONAL REZONING Planned Unit Development (PUD) to Moderate Density Multi-Family Residential (R-3M) CASE NO. 20-60000003

REQUEST:	Rezone $\pm$ 35 acres from Planned Unit Development (PUD) to Moderate Density Multi-Family Residential District (R-3M)
LOCATION:	3835 Clyde Morris Blvd. (Figure 1 – Location Map)
PROPERTY OWNER:	Palmetto Pointe, LLP
APPLICANT:	Jeffrey Brock, Smith Bigman Brock, P.A.
STAFF CONTACT:	Gwen Perney, Senior Planner (386) 506-5673
STAFF RECOMMENDATION:	Approval
PLANNING COMMISSION:	Recommended Approval (September 24, 2020)
CITY COUNCIL:	October 20, 2020

Property Overview

Jeffrey Brock, applicant on behalf of the property owner, Palmetto Pointe, LLP, requests to rezone the $\pm$ 35-acre subject property from Planned Unit Development (PUD) to Moderate Density Multi-Family Residential District (R-3M). The property is located along the east side of Clyde Morris Boulevard, south of Madeline Avenue, between Clyde Morris Boulevard and Bruner Road. The rezoning request is a shift from the negotiated PUD zoning district to a conventional residential zoning district that uses the Land Development Code (LDC) to provide development regulations. If the rezoning is approved, the applicant intends to submit a site plan for the development of a 384-unit multi-family complex on the subject property.

Figure 1. Location Map



The applicant's request to change the zoning designation on the subject property does not affect the Comprehensive Plan regarding the extension of Bruner Road from its current southern terminus to Clyde Morris Boulevard. If the rezoning application is approved, Staff has discussed with Volusia County and the potential developer about maintaining the right-of-way for the possible extension of Bruner Road in the future, but NOT constructing Bruner Road from its terminus to Clyde Morris Boulevard as part of developing the subject property. However, the proposed development of subject property will construct a sidewalk along Bruner Road connecting to Clyde Morris Boulevard to increase walkability of the area and reduce vehicular trips to nearby shopping and services.

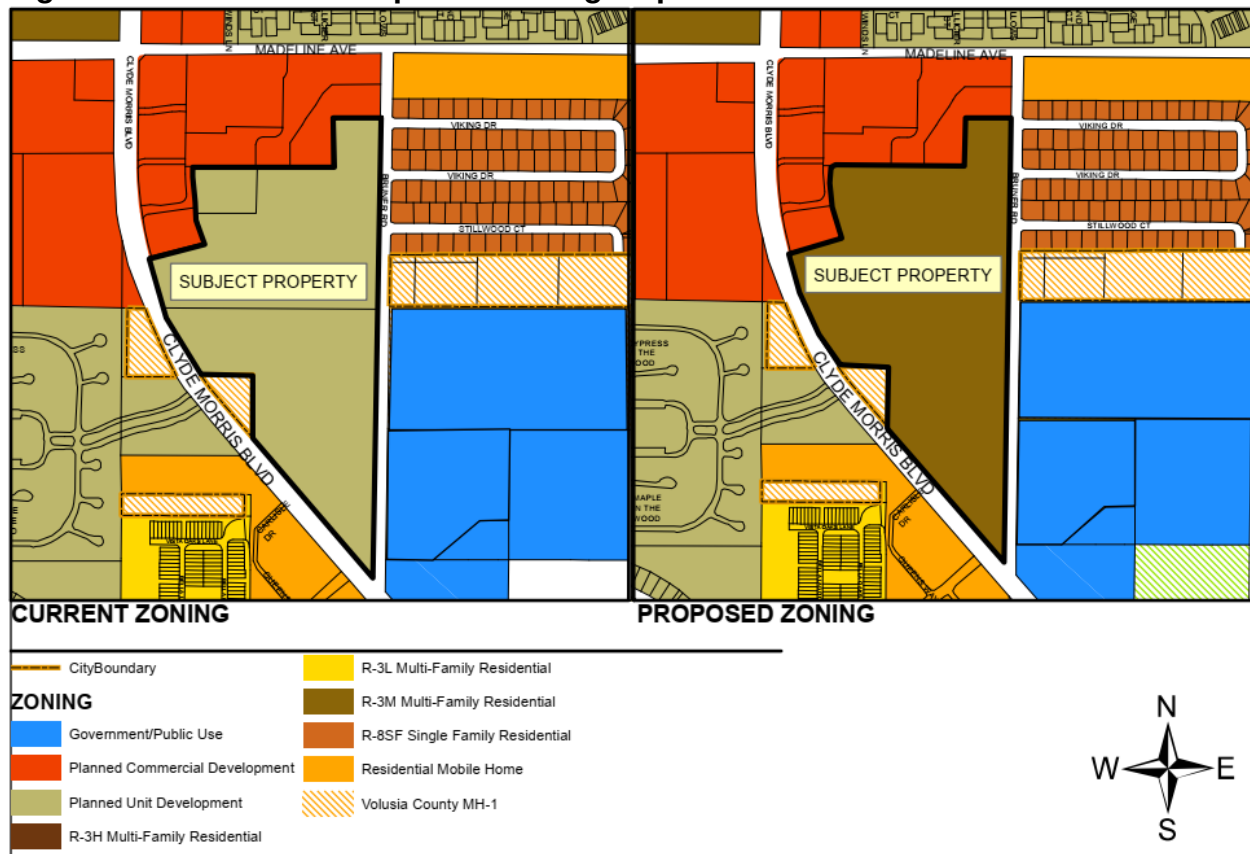
DISCUSSION

The applicant is requesting to rezone the subject property to R-3M with the intent to construct a multi-family development. According to the LDC, the R-3M zoning district is intended to provide moderate density multi-family development on relatively large tracts of land in single or common ownership with a maximum of 12 dwelling units per acre. The proposed R-3M zoning district is consistent with the *Urban High Density Residential* (8-16 units/acre) Future Land Use (FLU) designation that the applicant has applied to change concurrently with the subject rezoning application. A similar property in the City that is zoned R-3M and developed with a multi-family development is The Groves Apartments, located at the northwest corner of Clyde Morris Boulevard and Madeline Avenue.

If approved, the applicant intends to construct a 384-unit apartment complex, with associated site improvements and off-site improvements. The proposed density for the project is ± 10.9 units per acre, which is less than the proposed R-3M zoning district maximum of 12 units per acre.

The subject property was part of the ± 52.73 acre The Palms PUD approved in 2007 which allowed for the development of 451 multi-family units and 187,000 square feet of commercial uses. The MDA for the previously approved The Palms PUD, expired in 2009 and the property remained vacant. In 2015, ± 17.72 acres of the original The Palms PUD were rezoned to the Palmetto Pointe Planned Commercial Development (PCD) and was developed with a commercial development (Walmart Neighborhood Market).

The remaining ± 35 -acre subject property is still vacant and zoned Planned Unit Development (PUD) without a Master Development Agreement (MDA). According to the LDC, the PUD zoning district is intended to provide a variety of housing types with a broad range of housing costs allowing for the integration of differing age groups and socioeconomic classes. However, the LDC does not provide residential permitted uses or dimensional requirements for properties zoned PUD without an MDA. The rezoning of the subject property to R-3M is to establish residential permitted uses and dimensional requirements (minimum lot width and area, building setbacks, maximum height, building coverage, open space, etc.) as provided in the LDC so the property can be developed as a multi-family development (Figure 2).

Figure 2. Current and Proposed Zoning Map

The current PUD zoning on the subject property is a residential designation; however, without an MDA, there are no listed permitted uses or dimensional requirements for the subject property. The PUD zoning district is intended to provide a flexible approach for unique and innovative residential development proposals, which would otherwise not be permitted by this code. Because the applicant intends to develop the site in compliance with the requirements already established in the LDC for a multi-family residential development and does not anticipate any deviations from basic code provisions, the applicant has selected to use a standard zoning district consistent with the proposed FLU designation of the property (See Case No. 20-20000002 Staff Report). Currently, no development can occur until the subject property is rezoned to a conventional City zoning district or a new MDA is approved.

If the subject property is rezoned to the R-3M conventional zoning category, the City's Land Development Code will provide permitted uses and dimensional requirements for any proposed development on the subject property. The dimensional requirements for the R-3M zoning district are shown in Table 1.

Table 1. Dimensional Requirements for the R-3M Zoning District

	Min Living Area/D.U. (Sq. Ft.)	Min Lot Area/D.U.	Min Lot Width	Max Building Coverage	Min Open Space	Front Building Setback	Side Building Setback	Rear Building Setback	Max Building Height
Apartments & Condominiums	600	—	150'	40%	60%	30	25**	25**	45'
Fee simple Townhomes	900	2,000 sq. ft.	20' D.U.	40%	60%	—	—	25**	35'
**Multifamily buildings of greater than 25 feet in height shall have a building setback equal to or greater than the building height									

All future development plans (subdivision and site plan) will require detailed technical review by the Staff Development Review Committee (SDRC) to determine all requirements in the Land Development Code (LDC) and City's Comprehensive Plan are met. Specific site development requirements listed in the LDC, such as the width of the landscape buffers, location and size of the stormwater pipes, water lines, and sewer lines, parking lot design, architectural design, tree and wetland preservation/mitigation, and other development requirements are finalized with the site plan. Site plans are typically a 20 to 50-page set of technical documents that are signed and sealed by a licensed engineer and contain extensive engineering, landscaping, and construction details. The site plan for the subject property will be required to be designed to meet the requirements of the LDC.

As with all development, specific site development proposals for the subject property are subject to concurrency regulations at the time of development such as school and transportation concurrency. Concurrency review determines if the developer is required to construct facilities, or for the developer to enter into a mitigation agreement to pay for their impacts. As for traffic, the developer may need to enter into a Transportation Fair-Share and Concurrency Agreement to pay for part of the scheduled improvements for impacts to the roadway network. Any subsequent development on the subject property will also be required to comply with all federal, state, regional and local regulations pertaining to the protection, relocation, mitigation, and preservation of trees, gopher tortoises, wetlands and other environmental resources.

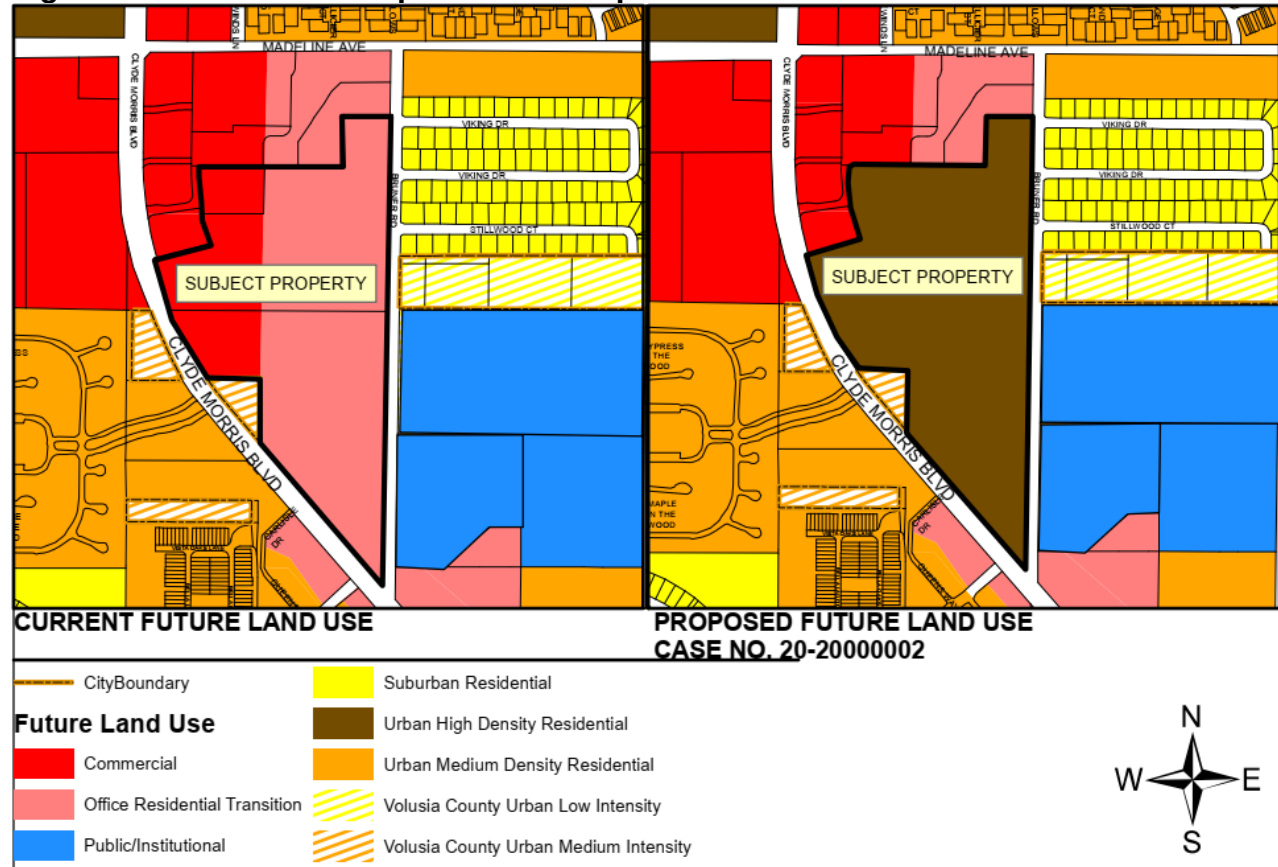
In addition to the standard development requirements in the LDC, there is a specific development requirement for any property zoned R-3M regarding project access. According to the LDC, a property zoned R-3M is required to have direct access onto an arterial or major collector road as designated under the functional classification system in the City's Comprehensive Plan. The subject property has direct access onto Clyde Morris Boulevard, which is designated as an arterial road in the City's Comprehensive Plan and will be required to provide an access point onto Clyde Morris Boulevard. Staff has discussed with the potential developer about maintaining the right-of-way for the possible extension of Bruner Road in the future, but not constructing Bruner Road from its terminus to Clyde Morris Boulevard as part of developing the subject property. However, the LDC does not restrict access from the subject property onto Bruner Road.

The rezoning request was reviewed according to the criteria established in Chapter 3, Section 7 of the Land Development Code (LDC) in terms of consistency with the Comprehensive Plan and the surrounding land uses and zoning.

Consistency with Comprehensive Plan

The applicant has applied to change the FLU designations of the subject property to *Urban High Density Residential (8-16 units per acre)* concurrently with the subject rezoning application (Case No. 20-20000002). The proposed R-3M zoning district is consistent with the proposed *Urban High Density Residential (8-16 units per acre)* FLU designation as the R-3M zoning district allows for multi-family development up to 12 residential units per acre (see Exhibit 1). If the rezoning is approved, the applicant intends to submit a site plan for the development of a 384-unit multi-family apartment complex, at a density of approximately ± 10.9 units/acre, which is consistent with the proposed FLU category and zoning (see Figure 3).

Figure 3. Current and Proposed FLU Map



Compatibility with Surrounding Uses and Zoning

The subject parcel is currently vacant. The surrounding existing land uses, Future Land Use designations, and Zoning classifications are identified in Table 2. The proposed R-3M zoning district will serve as a transition from a higher intensity commercial development at the Clyde Morris Boulevard/Madeline Avenue commercial node and the single-family residential properties to the east. Placement of higher density residential zoning near designated commercial nodes provides density to support existing

commercial development, and future development of the designated commercial node around the intersection of Clyde Morris Boulevard and Madeline Avenue. The existing commercial node centered around the intersection of Clyde Morris Boulevard/Madeline Avenue is designated as a Community Commercial Node. Community Commercial nodes are generally designed to serve the general shopping needs of areas within a ± 2 -mile radius.

The City's Comprehensive Plan, Future Land Use Element encourages the creation of a residential land use pattern that accommodates a diverse housing mix that meets the life-cycle and socio-economic needs of City residents (Objective 4.1), and mixed residential densities in older neighborhoods as a financially feasible alternative to commercial encroachment (Policy 4.2.1). Similar development scenarios in the City exist at the intersection of Clyde Morris Boulevard and Dunlawton Avenue (Ocean Oaks Apartments), Clyde Morris Boulevard and Reed Canal Road (Atlantic Apartments and Reserve at Crystal Lake Apartments), and Village Trail and Dunlawton Avenue (Lakeside Apartments and Park at Countryside Apartments).

Table 2. Surrounding Land Uses and Zoning

Direction	Existing Land Use	FLU Designation	Zoning District
North	Commercial	<i>Commercial/ Office/Residential Transition</i>	Palmetto Pointe Planned Commercial Development (PCD)
South	Clyde Morris Blvd.; Mobile Home Park	<i>Urban Medium Density Residential; Office/Residential Transition</i>	Residential Mobile Home (RMH)
West	Clyde Morris Blvd.; vacant commercial; mobile home park	<i>Commercial; Urban Medium Density Residential</i>	Palmetto Pointe PCD; Groves PCD, Colony in The Wood Planned Unit Development (PUD); Residential Mobile Home (RMH)
East	Bruner Road; Single-Family; City owned land; Police Department	<i>Suburban Residential; Urban Low Intensity; Urban Medium Density Residential; Office/Residential Transition</i>	Single Family Residential (R-8SF); Volusia County MH-1; Multi-Family Residential (R-3L); Government Public Use (GPU)

Schools

The Volusia County School District reviewed the proposed rezoning for impacts to school capacity and determined that there is adequate school capacity for the estimated 49 students anticipated to be generated by the proposed rezoning. If the rezoning is approved, further review will be conducted by the Volusia County School District for capacity reservation for the schools in the proposed development's school zone.

Smart Growth Summary

The proposed rezoning expands housing choices by developing areas of infill or underutilized vacant land within the City that has accesses to existing infrastructure and services (water, sewer, roads, schools, etc.) [Future Land Use Element, Policy 1.2.4 and 2.3.8] and continues a development pattern in this area of offering different residential unit types that can allow for senior citizens to stay within the City as they age, single adults to afford a place to live, and families to find a safe, attractive residential option they can afford near desired amenities and services. Creating residential housing options near established commercial nodes also provides residents with close access to necessary services, creates new business opportunities to serve new and existing residents, and strengthens the local tax base through maintaining and expanding commercial uses.

The proposed development of subject property will connect to the sidewalk network on Clyde Morris Boulevard and construct a sidewalk along Bruner Road connecting to Clyde Morris Boulevard. This will promote walking and biking to established commercial development, offices, services, multi-modal facilities (Votran bus service, sidewalks and bike lanes) along the Clyde Morris Boulevard and Madeline Avenue corridors and provides residents the option of walking, bicycling, taking public transportation to nearby retail, offices, schools, houses of worship, parks, and other amenities. In addition, creating residential housing options near retail, offices, schools, houses of worship, parks, and other amenities can require less vehicle trips and vehicle miles on the City's roadway network as these uses are nearby residential areas.

The infill development of this property with residential uses would utilize existing infrastructure (roads, sewer, water, etc.), discourages sprawl, and is anticipated to maintain or improve local commercial businesses in this area.

Public Notice

On May 22, 2020, staff posted the property notifying the public of the proposed amendment. As of the time this agenda item was prepared, staff has received 20 inquiries regarding the proposed amendment with general inquiries regarding what type of development is being proposed as well as environmental and traffic concerns including opposition of access to Bruner Road as well as the construction of the remainder of Bruner Road.

Staff Recommendation

Staff recommends approval of the request to rezone ±35 acres from Planned Unit Development (PUD) to Moderate Density Multi-family Residential (R-3M) District.

Attachments

Exhibit 1 – List of permitted uses for R-3M

Exhibit 1

Section 12: - Moderate density multifamily residential (R-3M) district.

(a) Purpose and intent. The moderate density multifamily residential (R-3M) district is intended to provide moderate density multifamily development on relatively large tracts of land in single or common ownership.

(b) Permitted uses.

(1) Multifamily dwellings (12 units per gross acre maximum allowable density).

(bb) Permitted uses with special development requirements (chapter 18, section 4).

(1) Assisted living facilities (subsection 1).

(2) Childcare centers (subsection 4).

(3) Clubs, lodges, and fraternal organizations (subsection 5).

(4) Nursing homes (subsection 10).

(5) Community gardens (subsection 5.1).

(c) Special exception uses (chapter 18, section 3).

(1) Houses of worship (subsection 8).

(2) Private schools (subsection 16).



CITY COUNCIL AGENDA ITEM

REQUESTED COUNCIL MEETING DATE 10/20/2020

Consent item: No

SUBJECT: (H19) First Reading - Ordinance No. 2020-36 - LDC Amendment/Chapter 3
- Neighborhood Meetings (Case No. 20-25000006)

DEPARTMENT: Community Development

GOAL:

RECOMMENDED MOTION: Move to approve Ordinance No. 2020-36, amending Chapter 3 of the Land Development Code regarding neighborhood meetings.

SUMMARY: Planning Commission (9/24/20): Recommended Approval

The proposed amendment provides regulations for neighborhood meetings to be part of the development review process for specific development applications. The following development proposals would require a neighborhood meeting to be held:

- Comprehensive Plan Future Land Use Amendment for a non-residential or multifamily use adjacent to an existing single-family development;
- Rezoning for a non-residential or multifamily use adjacent to an existing single-family development;
- Site Plan or Subdivision for a non-residential or multifamily use adjacent to an existing single-family development; or
- As directed by the Community Development Director based on size and potential impacts of the proposed development to the adjacent properties

It will be the responsibility of the developer of a project to schedule and hold the neighborhood meeting. The purpose of the neighborhood meeting is for a developer of a project and the community to meet in an informal setting to discuss and explain their proposed development project and provide the developer an opportunity to answer questions, hear comments and concerns, and discuss design alternatives to improve compatibility. The neighborhood meeting is intended to benefit both the applicant and the community by initiating early discussion of the project and often the developer can make modifications to address or minimize concerns raised at a neighborhood meeting. Other cities in Volusia County also have similar requirements for neighborhood meetings as part of their development review process.

The staff report is attached for additional information.

Project No.: Funding Account No.:

Presenter: Penelope Cruz

ATTACHMENTS:

1.	Ordinance No. 2020-36	Ord 2020-36.pdf
2.	Staff Report - LDC Neighborhood Meetings	Staff Report - LDC Neighborhood Meetings.pdf

Penelope Cruz	Created/Initiated - 9/28/2020
Tim Burman	Approved - 10/1/2020
Shannon Balmer	Approved - 10/9/2020
Jamie Miller	Approved - 10/9/2020
Robin Fenwick	Final Approval - 10/9/2020

ORDINANCE NO. 2020-36

AN ORDINANCE OF THE CITY OF PORT ORANGE,
VOLUSIA COUNTY, FLORIDA AMENDING THE LAND
DEVELOPMENT CODE CHAPTER 3, ARTICLE I
RELATING TO CODE ADMINISTRATION ESTABLISHING
REGULATIONS FOR NEIGHBORHOOD MEETINGS TO BE
PART OF THE DEVELOPMENT REVIEW PROCESS FOR
SPECIFIC DEVELOPMENT APPLICATIONS; PROVIDING
FOR REPEAL OF CONFLICTING ORDINANCES;
PROVIDING FOR SEVERABILITY; AND PROVIDING AN
EFFECTIVE DATE.

WHEREAS, the Planning Commission has recommended amendments to the
Land Development Code; and

WHEREAS, the proposed amendments are necessary to improve the content of
the existing Land Development Code ("Code") as part of an ongoing maintenance effort
to make the Code and the development review process more efficient and consistent in
its application.

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 3, Article I of the Land Development Code, to establish a new Section 8
providing regulations for neighborhood meetings as part of the development review
process to read as follows:

Chapter 3 – ADMINISTRATION

ARTICLE I: - CODE ADMINISTRATION

Section 8. Neighborhood Meeting.

1. Purpose. The purpose of the neighborhood meeting is to provide an opportunity where an applicant and the community can meet and discuss a proposed development in an informal environment, to inform and contribute to the community's understanding and knowledge about a proposed development, and to provide the applicant an opportunity to hear comments and concerns about the proposed development and address outstanding issues where possible.

2. Applicability.

a. Neighborhood Meeting Mandatory. A neighborhood meeting is required after the pre-application meeting with staff and at least 21 days before any of the following applications is reviewed by the Planning Commission (if applicable) or prior to the first resubmittal if the application does not require public hearings. If a resubmittal on the subject development application is not received within six months of the neighborhood meeting, a subsequent neighborhood meeting may be required by the Administrative Official. This requirement does not apply if the application is one initiated by the City of Port Orange.

i. Comprehensive Plan Amendment for a non-residential or multifamily use adjacent to a single-family district.

ii. Rezoning for a non-residential or multifamily use adjacent to a single-family district.

iii. Site Plan or Subdivision for a non-residential or multifamily use adjacent to a single-family district.

iv. As directed by Community Development Director based on size and potential impacts of the proposed development.

b. Neighborhood Meeting Optional. A neighborhood meeting is encouraged, but not required, of any application for a development reviewed under this Code other than those listed in subparagraph [a] above.

3. Procedure. If a neighborhood meeting is held by the applicant, whether it is mandatory or voluntary, it shall comply with the following procedures. A record of the meeting including written meeting minutes and a sign-in sheet listing those in attendance shall be provided to the Community Development Department. It is the responsibility of the applicant to notify, in writing, all affected parties, including the Homeowners' Association, if one exists, the appropriate City staff person, and the City Council person for the district the property is located in, of the meeting's date, time, and place.

a. *Time and Place.* The meeting shall be held at a place within the City that is convenient and accessible to neighbors residing in close proximity to the land subject to the application. It shall be scheduled after 6:00 p.m. on a weekday. The meeting shall not occur on the same night as a Planning Commission or City Council meeting.

b. *Mail Notice.* The applicant shall mail notice of the meeting date, time, place and general nature of the development proposal, a minimum of ten days in advance of the meeting, to the Council Member for the City Council District the site is located in, City staff, and all property owners and adjacent neighborhood Home Owner Association's inside a radius of five hundred (500) feet, including property owners that may be located within a different jurisdiction, from the boundary of the proposed development. Documentation of the mailed notice in the form of a stamped mailing list by the local postal office or comparable certification signifying the notice was sent shall be provided to staff for verification.

c. *Posted Notice.* The applicant shall post the property subject to the development application with a sign(s) notice of the neighborhood meeting at least ten days before the date fixed for the meeting. The sign shall be approximately 24"x36" and in a form that is weatherproof and legible to the public without the need to trespass onto to subject property. The notice shall state the time and place of the meeting, summary of the development proposal, and the applicant's contact information for further information. Signs shall be placed, at a minimum, along all public road frontages, with at least one sign located every 500 feet along any one frontage.

d. *Conduct of Meeting.* At the meeting, the applicant shall explain the development proposal and application, inform attendees about the application review process, respond to questions and concerns neighbors raise about the application, propose ways to resolve conflicts and concerns, and note that a written summary of the meeting shall be prepared and made available to the public for response.

e. *Staff Attendance.* City staff shall not be required to attend the neighborhood meeting. If City staff attends the meeting they shall only act as an observer of the proceedings.

f. *Written Summary of Neighborhood Meeting.* The applicant shall submit a written summary of the meeting to City staff at least 14 days after the meeting. The summary shall include a list of meeting attendees, a summary of attendee comments, discussed issues related to the development proposal, note of the opportunity to submit a written response to the summary, and any other information the applicant deems appropriate. The meeting summary shall be

included with the application materials and be made available to the public for inspection.

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: The provisions of this Ordinance shall become and be made a part of the Land Development Code 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 4: If any provision of this ordinance or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of 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 5: This Ordinance shall take effect immediately upon adoption.

MAYOR DONALD O. BURNETTE

ATTEST:

Robin L. Fenwick, MMC, 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: _____
Shannon K. Balmer, Assistant City Attorney



STAFF REPORT
CASE NO. 20-25000006
LDC Amendment/Chapter 3

REQUEST:	To amend Chapter 3 of the Land Development Code (LDC) to add requirements for neighborhood meetings.
APPLICANT:	City of Port Orange
STAFF RECOMMENDATION:	Approval
STAFF CONTACT:	Penelope Cruz, Planning Manager (386) 506-5671
PLANNING COMMISSION:	Recommended Approval (September 24, 2020)
CITY COUNCIL:	October 20, 2020

SUMMARY OF PROPOSED AMENDMENT

The proposed amendment is intended to improve the content of the existing Land Development Code (LDC), as part of an on-going maintenance effort. The proposed amendment provides regulations for neighborhood meetings to be part of the development review process for specific development applications. It will be the responsibility of the developer of a project to schedule and hold the neighborhood meeting.

The purpose of the neighborhood meeting is for a developer of a project and the community to meet in an informal setting to discuss and explain their proposed development project and provide the developer an opportunity to answer questions, hear comments and concerns, and discuss design alternatives to improve compatibility. The neighborhood meeting is intended to benefit both the applicant and the community by initiating early discussion of the project and often the developer can make modifications to address or minimize concerns raised at a neighborhood meeting. Other cities in Volusia County also have similar requirements for neighborhood meetings as part of their development review process.

Over the past few years staff has been able to encourage developers to conduct neighborhood meetings without it being a requirement in the LDC. Developers that held these neighborhood meetings prior to the first public hearing have been able to assist in the community's understanding of the proposed development and address specific concerns raised at the neighborhood meeting. However, many times the developer looks to staff for standards in scheduling the meeting and notifying the community.

The proposed amendment is to provide consistent regulations for noticing, hosting, and summarizing a neighborhood meeting and the type of development proposal a neighborhood meeting is required for. In the proposed amendment, a neighborhood meeting is required after a pre-application meeting with staff and at least 21 days before a development application is reviewed by the Planning Commission (if applicable) or prior

to the first resubmittal of a development application if the application does not require public hearings (i.e. site plan). The following development proposals would require a neighborhood meeting to be held

- Comprehensive Plan Future Land Use Amendment for a non-residential or multifamily use adjacent to an existing single-family development.
- Rezoning for a non-residential or multifamily use adjacent to an existing single-family development.
- Site Plan or Subdivision for a non-residential or multifamily use adjacent to an existing single-family development.
- As directed by the Community Development Director based on size and potential impacts of the proposed development to the adjacent properties.

The developer will be required to mail a notice of the meeting date, time, place and general nature of their development proposal, a minimum of ten (10) days in advance of the meeting. Those to be notified will include all property owners and adjacent neighborhood Home Owner Associations' inside a radius of five hundred (500) feet measured from the boundary of the development site, including property owners that may be located within a different jurisdiction, the Council Member for the City Council District the development project is located in, and City staff. The applicant will also be required to post the property with a sign(s) to notice the neighborhood meeting at least ten (10) days before the meeting. The proposed 500-foot notice radius and posting of property were selected to be consistent with current requirements in the LDC as it relates to notices for variances, special exceptions, and conditional uses. After the neighborhood meeting, the developer will be required to submit a summary of the meeting to City staff at least 14 after the meeting.

RECOMMENDATION

Approval of the amendment to Chapter 3 of the Land Development Code, adding requirements for a developer to hold a neighborhood meeting.

Attachments

Exhibit 1 – Proposed LDC Amendments to Chapter 3 (See Ordinance Exhibit)



CITY COUNCIL AGENDA ITEM

REQUESTED COUNCIL MEETING DATE 10/20/2020

Consent item: No

SUBJECT: (I20) First Reading - Ordinance No. 2020-37 - Amending Chapter 54, Article V, Police Pension Fund, Section 54-139, Internal Revenue Code Compliance

DEPARTMENT: Administrative Services

GOAL:

RECOMMENDED MOTION: Move to approve Ordinance No. 2020-37.

SUMMARY: At its quarterly meeting on August 20, 2020, the Port Orange Police Pension Board approved a proposed ordinance bringing its plan document into compliance with recent changes to the Internal Revenue Code pursuant to the SECURE (Setting Every Community Up for Retirement Enhancement) Act (adopted by the U.S. Congress in December 2019). Specifically, the SECURE Act changed the mandatory age for required minimum distributions from 70½ to 72. The law firm of Sugarman & Susskind is rolling out a similar ordinance for all of its retirement plans.

Attached is a copy of the proposed ordinance along with the actuary's statement of no impact to accompany same.

Project No.: Funding Account No.:

Presenter: Jamie Miller

ATTACHMENTS:

1.	Ordinance No. 2020-37 - SECURE Act Pension Amendment	Ordinance No. 2020-37 - SECURE Act Pension Amendment.pdf
2.	SECURE Act - Impact Statement	SECURE Act - Impact Statement.pdf

Robin Fenwick
Heather Carrizales
Lupe Reyna-Coffin
Scott Neils
Matthew Jones
Jamie Miller
Robin Fenwick

Created/Initiated - 10/2/2020
Approved - 10/2/2020
Approved - 10/5/2020
Approved - 10/5/2020
Approved - 10/9/2020
Approved - 10/9/2020
Final Approval - 10/9/2020

ORDINANCE NO. 2020- 37

AN ORDINANCE OF THE CITY OF PORT ORANGE, VOLUSIA COUNTY, FLORIDA, AMENDING CHAPTER 54, ARTICLE V, POLICE PENSION FUND, SECTION 54-139, INTERNAL REVENUE CODE COMPLIANCE, TO PROVIDE FOR COMPLIANCE WITH THE SECURE ACT; PROVIDING FOR CODIFICATION; PROVIDING FOR REPEAL OF CONFLICTING ORDINANCES; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Port Orange (the "City") currently sponsors a Police Pension Fund ("Pension Fund"); and

WHEREAS, the Setting Every Community Up for Retirement Enhancement ("SECURE") Act, signed into law on December 20, 2019, amended the definition of "Required Beginning Date" under Section 401(a)(9) of the Internal Revenue Code; and

WHEREAS, amendments to the Plan are necessary to conform the Pension Fund to the requirements of the SECURE Act; and

WHEREAS, the Board of Trustees of the City of Port Orange Police Pension Fund has recommended an amendment to the Pension Fund to comply with the SECURE Act; and

WHEREAS, the trustees of the City of Port Orange Police Pension Fund have requested and approved the amendments provided herein as being in the best interests of the participants and beneficiaries and improving the administration of the Plan, and

WHEREAS, the City Council has received and reviewed an actuarial impact statement related to this change and attached as such; and

WHEREAS, the City Council deems it to be in the public interest to provide this change to the Pension Fund for its police officers;

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

Section 1. Section 54-139, Internal Revenue Code Compliance, subparagraph (b), *Required beginning date*, of the Port Orange Police Pension Fund is hereby amended as follows:

Sec. 54-139. – Internal Revenue Code Compliance.

* * * * *

(b) *Required beginning date.* Notwithstanding any other provision of the plan, payment of a participant's retirement benefits under the plan shall commence not later than the participant's required beginning date, which is defined as ~~the later of:~~

(1) With regard to distributions required to be made to a participant who reaches age 70 ½ before January 1, 2020: April 1 of the calendar year that next follows the calendar year in which the participant attains or will attain the age of 70½ years; or ~~¶~~ April 1 of the calendar year that next follows the calendar year in which the participant retires, whichever is later.

(2) With regard to distributions required to be made on or after January 1, 2020 to a participant who reaches the age of 70 ½ on or after said date: April 1 of the calendar year that next follows the calendar year in which the participant attains or will attain the age of 72 years, or April 1 of the calendar year that next follows the calendar year in which the participant retires, whichever is later.

* * * * *

Section 2. Specific authority is hereby granted to codify and incorporate this ordinance in the existing Code of Ordinances of the City of Port Orange.

Section 3. All ordinances or parts of ordinances in conflict with this ordinance are hereby repealed to the extent of such conflict.

Section 4. If any provision of this ordinance or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provision or applications of this ordinance which can be given effect without the invalid provision or application, and to this and the provisions of this ordinance are declared severable.

Section 5 This ordinance amendment shall take effect upon adoption.

MAYOR DONALD O. BURNETTE

ATTEST:

Robin L. Fenwick, City Clerk

Passed on first reading on the _____ day of _____, 2020.

Passed and adopted on second and final reading on the _____ day of _____, 2020.

Reviewed and Approved: _____
Matthew J. Jones, City Attorney



September 22, 2020

Karan Rounsavall
Pension Administrator
City of Port Orange Police Officers' Pension Fund
3695 Indian River Drive
Cocoa FL 32926

Re: Impact of Proposed Ordinance Regarding Required Beginning Date

Dear Karan:

This letter is being written to provide a statement of no impact with regard to the attached proposed ordinance which modifies the City of Port Orange Police Officers' Pension Fund (the Plan).

Summary of Changes

Proposed changes are summarized in the following.

§	Title	Description
54-139	Internal Revenue Code Compliance.	Subsection (b) modified to reflect change in the "Required beginning date" to April 1 following age 72 for those who reach age 70 ½ on or after January 1, 2020.

Actuarial Impact

The liability of the Plan is not anticipated to be materially affected by this amendment to Plan provisions.

Please let us know if you have any questions or need additional information.

Sincerely,

A handwritten signature in black ink, appearing to read "Chad Little", is written over a light blue rectangular background.

Chad M. Little, ASA, EA
Partner, Consulting Actuary

RECEIVED

By Rounsavall at 4:48 pm, Sep 22, 2020

ORDINANCE NO. 2020-_____

AN ORDINANCE OF THE CITY OF PORT ORANGE, VOLUSIA COUNTY, FLORIDA, AMENDING CHAPTER 54, ARTICLE V, POLICE PENSION FUND, SECTION 54-139, INTERNAL REVENUE CODE COMPLIANCE, TO PROVIDE FOR COMPLIANCE WITH THE SECURE ACT; PROVIDING FOR CODIFICATION; PROVIDING FOR REPEAL OF CONFLICTING ORDINANCES; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Port Orange (the “City”) currently sponsors a Police Pension Fund (“Pension Fund”); and

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WHEREAS, amendments to the Plan are necessary to conform the Pension Fund to the requirements of the SECURE Act; and

WHEREAS, the Board of Trustees of the City of Port Orange Police Pension Fund has recommended an amendment to the Pension Fund to comply with the SECURE Act; and

WHEREAS, the trustees of the City of Port Orange Police Pension Fund have requested and approved the amendments provided herein as being in the best interests of the participants and beneficiaries and improving the administration of the Plan, and

WHEREAS, the City Council has received and reviewed an actuarial impact statement related to this change and attached as such; and

WHEREAS, the City Council deems it to be in the public interest to provide this change to the Pension Fund for its police officers;

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* * * * *

(b) *Required beginning date.* Notwithstanding any other provision of the plan, payment of a participant's retirement benefits under the plan shall commence not later than the participant's required beginning date, which is defined as ~~the later of:~~

(1) With regard to distributions required to be made to a participant who reaches age 70 ½ before January 1, 2020: April 1 of the calendar year that next follows the calendar year in which the participant attains or will attain the age of 70½ years; or ~~¶~~ April 1 of the calendar year that next follows the calendar year in which the participant retires, whichever is later.

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* * * * *

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Section 5 This ordinance amendment shall take effect upon adoption.

MAYOR DONALD O. BURNETTE

ATTEST:

Robin L. Fenwick, City Clerk

Passed on first reading on the _____ day of _____, 2020.

Passed and adopted on second and final reading on the _____ day of _____, 2020.

Reviewed and Approved: _____
Matthew J. Jones, City Attorney



CITY COUNCIL AGENDA ITEM

REQUESTED COUNCIL MEETING DATE 10/20/2020

Consent item: No

SUBJECT: (J22) City Manager

DEPARTMENT: City Manager

GOAL:

RECOMMENDED MOTION:

SUMMARY: Update on upcoming City events

Project No.: Funding Account No.:

Presenter:

ATTACHMENTS:

Robin Fenwick
Jamie Miller
Robin Fenwick

Created/Initiated - 10/2/2020
Approved - 10/8/2020
Final Approval - 10/8/2020
