



REGULAR CITY COUNCIL MEETING

6:30 PM – COUNCIL CHAMBERS – CITY HALL

JANUARY 5, 2016

AGENDA

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

A. OPENING

1. Pledge of Allegiance
2. Invocation - Pastor Scott Kirschner of Christ the King Community Church
3. Roll Call
4. Rules of Procedure
5. Election of Vice Mayor
6. Appointments to Council Committees for 2016

B. AGENDA APPROVAL

C. PUBLIC HEARING

7. Second Reading – Ordinance No. 2015-44 - 2015 Comprehensive Plan Capital Improvements Element (CIE) Annual Update; CASE NO. 15-27500001
8. Second Reading - Ordinance No. 2015-45 - LDC Amendment/Chapters 17 and 18; Case No. 15-25000005
9. Second Reading - Ordinance No. 2015-47 - Relating to Bidding Requirements
10. Special Exception for Farmers/Flea Market at 5001, 5005, and 5013 Ridgewood Ave.; Case No. 15-70000002

D. ANNUAL MEETINGS OF CORPORATIONS

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

13. City Center Corporate Park Property Owner's Association, Inc. Joint Annual Meeting of Members and Directors
14. Golf Club at Cypress Head, Inc. Joint Annual Meeting of Shareholders and Directors
15. Port Orange Business Park Property Owner's Association, Inc. Joint Annual Meeting for Members and Directors

E. SPECIAL AWARDS, REPORTS, RECOGNITION AND PROCLAMATIONS

16. Reports from Kemper Sports Management regarding Cypress Head Golf Course

F. BOARD APPOINTMENTS, INTERVIEWS, REPORTS

17. Fire Pension Plan Appointment

G. CITIZEN PARTICIPATION (Agenda)

18. Bully Me Now - Victor Ezeir
19. Happy Wanderers- Elaine Brayton
20. Special Olympics Fee Waiver Request
21. Lauren Valle- Volleyball Co- Sponsor Request

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

I. COUNCIL COMMENTS

22. Comments/Concerns from Council Members

J. CONSENT AGENDA

23. Approval of Minutes
 - a. December 8, 2015 - Regular City Council Meeting
 - b. December 22, 2015 - Special City Council Meeting
24. Council Meeting Schedule for 2016
25. Resolution No. 16-1 - Budget Appropriation
26. Resolution No. 16-3 - Sanctuary Traffic Enforcement Agreement
27. Resolution No. 16-4 - 2015 Edward Byrne Memorial Justice Assistance Grant (JAG) Program
28. Ratify and confirm the decision of the City Manager for Emergency Waters Edge Force Main Cleaning to Professional Piping Services, Inc.

K. REGULAR AGENDA

29. Resolution No. 16-2 - Utility Billing Adjustments

30. Financial Report- Nov 15

31. Discussion Regarding Palmer College Lease Agreement

32. Discussion regarding for YMCA Phase Three Renovations

L. COMMENTS

33. City Attorney Comments - Howard Porter v. City of Port Orange

34. City Manager Comments

M. COUNCIL COMMITTEE REPORTS

35. City Council Committee Reports

a. River to Sea TPO

b. General Employee's Pension Board

c. YMCA

N. ADJOURNMENT

ANY PERSON WHO DECIDES TO APPEAL ANY DECISION MADE BY THE CITY COUNCIL WILL NEED A RECORD OF THE PROCEEDINGS, AND FOR SUCH PURPOSE HE OR SHE MAY NEED TO ENSURE AT HIS OR HER OWN EXPENSE FOR THE TAKING AND PREPARATION OF A VERBATIM RECORD OF ALL TESTIMONY AND EVIDENCE OF THE PROCEEDINGS UPON WHICH THE APPEAL IS TO BE BASED.

NOTE: IF YOU ARE A PERSON WITH A DISABILITY WHO NEEDS ANY ACCOMMODATION IN ORDER TO PARTICIPATE IN THIS PROCEEDING, YOU ARE ENTITLED, AT NO COST TO YOU, TO THE PROVISION OF CERTAIN ASSISTANCE. PLEASE CONTACT THE CITY CLERK FOR THE CITY OF PORT ORANGE, 1000 CITY CENTER CIRCLE, PORT ORANGE, FLORIDA 32129, TELEPHONE NUMBER 386-506-5563, WITHIN 2 WORKING DAYS OF YOUR RECEIPT OF THIS NOTICE OR 5 DAYS PRIOR TO THE MEETING DATE; IF YOU ARE HEARING OR VOICE IMPAIRED, CONTACT THE RELAY OPERATOR AT 1-800-955-8771.



CITY COUNCIL AGENDA ITEM

REQUESTED COUNCIL MEETING DATE 01/05/2016

Consent item: No

SUBJECT: Election of Vice Mayor

DEPARTMENT: City Clerk

GOAL:

OBJECTIVE:

RECOMMENDED MOTION: Staff recommends Council elect a Vice Mayor for 2016 and authorize the City Clerk to amend related contact information as necessary.

SUMMARY: In accordance with Article III, Section 3.03 of the City Charter: "The vice mayor shall be elected at the first meeting of the newly elected council after the regular city elections; and, in nonelection years, at the first regular council meeting in January and commencing in 2007 at the first regular council meeting in December. The vice mayor shall act as mayor during the absence or disability of the mayor. In case of death, resignation, or removal of the mayor, the vice mayor shall serve as mayor for the remaining unexpired term of such office. The council vacancy left by the vice mayor shall be filled as provided in section 3.05(c). A vice mayor shall be elected by the council from its members either before or after the filling of the council vacancy as provided in the preceding sentence. In all instances, the vice mayor shall be elected by the affirmative vote of the majority of the council."

Project	Funding Account
No.:	No.:

ATTACHMENTS:

Fenwick, Robin

Created/Initiated - 11/30/2015



CITY COUNCIL AGENDA ITEM

REQUESTED COUNCIL MEETING DATE 01/05/2016

Consent item: No

SUBJECT: Appointments to Council Committees for 2016

DEPARTMENT: City Manager

GOAL:

OBJECTIVE:

RECOMMENDED MOTION:

SUMMARY: Below is a listing of committees and the current Council Member assigned to that committee:

ArtHaus – Councilman Burnette
City Investment Committee – Councilman Stiltner
General Employees Retirement Trust Fund – Councilman Stiltner
Golf Course Board of Directors – Councilman Ford
Library Advisory Board – Vice Mayor Bastian
Transportation Planning Organization – Councilman Ford
Municipal Firefighters Pension Board – Councilman Ford
Municipal Police Officers Retirement Trust – Vice Mayor Bastian
Port Orange/South Daytona Chamber of Commerce – Councilman Burnette
Roundtable of Elected Officials – Mayor Green
Volusia League of Cities – Mayor Green
YMCA – Councilman Stiltner

Appointments will need to be made for service on these committees for 2016.

Project	Funding Account
No.:	No.:

ATTACHMENTS:

Fenwick, Robin

Created/Initiated - 12/10/2015



CITY COUNCIL AGENDA ITEM

REQUESTED COUNCIL MEETING DATE 01/05/2016

Consent item: No

SUBJECT: Second Reading – Ordinance No. 2015-44 - 2015 Comprehensive Plan Capital Improvements Element (CIE) Annual Update; CASE NO. 15-27500001

DEPARTMENT: Community Development

GOAL: 1 - Infrastructure Preservation

OBJECTIVE: N/A

RECOMMENDED MOTION: Move to approve Ordinance No.2015-44 , amending the Capital Improvements Element of the City's Comprehensive Plan, in accordance with Florida Statutes.

SUMMARY: PLANNING COMMISSION ACTION 11/19/15: Recommended approval

Each year, the City is required to amend their Comprehensive Plan Capital Improvements Element (CIE) to include projects from the City's current Capital Improvements Program (CIP). The projects copied from the CIP are primarily improvements needed to maintain the City's adopted level of service (LOS) standards for public facilities. These facilities include water, sewer, stormwater, solid waste, roads, parks, and schools. On September 9, 2015, the City Council ratified the approved CIP for FY 2015/16 – 2020/21 dated August 11, 2015, that included various projects to support the LOS for City public facilities. The proposed amendments take these projects previously approved by Council with the CIP and add them into the CIE. All of the required public facilities meet the City's adopted level of service standards.

State law requires that local governments update their Comprehensive Plan Capital Improvements Element (CIE) every year to show that they have funded or planned to fund the public facility improvements needed to support their population. The propose amendments in Exhibit A are required to be in the underline/strikethrough format. For each table or text that is to be updated from the prior year (FY14/15 - 19/20) to the current year CIP (FY15/16 - 20/21) the deleted prior year text is struck through and in red and the added current year text is underlined and displayed in blue. Text neither struck through nor underlined remains as existing text.

Project	Funding Account
No.:	No.:

ATTACHMENTS:

1.	Ord. No. 2015-44	Ord. No. 2015-44 .pdf
2.	Ordinance Exhibit "A"	Ordinance Exhibit.pdf
3.	Staff Report	CC_2015 CIE Update staff report.pdf

Cruz, Penelope

Created/Initiated - 12/09/2015

ORDINANCE NO. 2015- 44

AN ORDINANCE OF THE CITY OF PORT ORANGE, VOLUSIA COUNTY, FLORIDA, RELATING TO COMPREHENSIVE PLANNING; PROVIDING FOR ADOPTION OF THE FY2016-2021 FIVE YEAR SCHEDULE OF CAPITAL IMPROVEMENTS AS SET FORTH IN THE COMPREHENSIVE PLAN, CAPITAL IMPROVEMENTS ELEMENT AND SUPPORTING DATA; PROVIDING FOR REPEAL OF CONFLICTING ORDINANCES AND RESOLUTIONS; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, after careful review, the Planning Commission, sitting as the Local Planning Agency, has forwarded a recommendation to the City Council regarding the adoption of the Five Year Schedule of Capital Improvements as set forth in the Capital Improvement Element of the Comprehensive Plan for the City of Port Orange including supporting data; and

WHEREAS, Section 163.3177(3), Florida Statutes (2013) requires the City to review the Capital Improvement Element annually, together with other elements or sub-elements that are directly related to the Five Year Schedule of Capital Improvements; and

WHEREAS, the attached documents incorporate data from the Transportation Planning Organization (TPO) Transportation Improvements Program (TIP) and the Volusia County School District Five-Year Work Program; and

WHEREAS, the City Council has provided an opportunity to receive comments and proposals from the general public with regard to the adoption of the Five Year Schedule of Capital Improvements; and

WHEREAS, the City has determined that this ordinance may be published in accordance with Section 166.041(3)(a), Florida Statutes (2013); and

WHEREAS, the City Council has received comments on the proposed amendment to the Comprehensive Plan; 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, 215-42 and this ordinance; and including Binder No. 2, Supporting Data.

Section 2. The City Council hereby adopts an amendment setting forth the Five Year Schedule of Improvements for the Capital Improvements Element for the Comprehensive Plan City of Port Orange 2010-2025, as attached hereto as **Exhibit “A”**, and incorporated herein by this reference.

Section 3. The Community Development Director or designee is hereby authorized to transmit copies of the proposed amendment to the Capital Improvement Element of the Comprehensive Plan City of Port Orange 2010-2025 to the appropriate agencies and to any other unit of local government.

Section 4. All ordinances or resolutions or parts of ordinances or resolutions in conflict with the provisions of this ordinance are hereby repealed to the extent of such conflict.

Section 5. 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 6. This ordinance shall become effective immediately upon adoption.

MAYOR ALLEN GREEN

ATTEST:

Robin L. Fenwick, CMC, City Clerk

Passed on first reading on the day of

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

Reviewed and Approved: _____
City Attorney

Exhibit A

Annual Update to the Capital Improvements Element

*Underline text indicates additions / ~~striketrough~~ text indicates deletions.
Text neither struck through nor underlined remains as existing text.*

For each table or text that is to be updated from the prior year CIP (FY14/15 - 19/20) to the current year CIP (FY15/16 - 20/21) the deleted prior year text is struck through and displayed in red and the added current year text is underlined and displayed in blue.

Please also note that there are no text changes beyond page 26.

CHAPTER 10: CAPITAL IMPROVEMENTS ELEMENT

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INVENTORY OF MAPS

FIGURE 10 – 1 CAPITAL IMPROVEMENT PROJECTS

INTRODUCTION

Under the 1985 Growth Management Act, local governments are mandated to plan for the availability of public facilities and services to support development and the impacts of such development. The purpose of the Capital Improvements Element (CIE) and the Capital Improvements Schedule (Schedule) is to identify the capital improvements that are needed to implement the Comprehensive Plan and ensure that the adopted Level of Service (LOS) Standards are achieved and maintained for concurrency related facilities.

The 2005 Growth Management Act requires the Schedule to be financially feasible. As defined by Chapter 163.3164(32) F.S., in order for a Schedule to be financially feasible it must demonstrate that sufficient revenues are currently available or will be available from committed funding sources for the first 3 years, or will be available from committed or planned funding sources for years 4 and 5. These revenues must be adequate to fund the projected costs of the capital improvements identified in the comprehensive plan necessary to ensure that adopted LOS standards are achieved and maintained within the period covered by the 5-year Schedule. The requirement that LOS standards be achieved and maintained does not apply if the proportionate-share process set forth in Chapter 163.3180(12) and (16), F.S., is used.

This Element, intended to demonstrate the financial feasibility of the City of Port Orange's Comprehensive Plan, commences in the fiscal year ~~2014/15~~2015/16 and identifies potential projects for the initial five-year planning period. Individual Capital Improvement needs identified in this Element are, for the most part, those improvements which cost \$25,000 or more and are generally non-recurring purchase items. The capital improvements identified in the other Elements of this Comprehensive Plan are listed with a brief description in Table 1 along with their estimated cost, funding source, and projected year of expenditure. The improvements are listed by type of service, related to the various Elements of the Comprehensive Plan. As required by Section 9J-5.016, F.A.C., the Capital Improvements Element addresses existing and future capital improvements needed for at least the first five fiscal years after the adoption of the comprehensive plan. Therefore, Table 1 lists improvements identified for the years ~~2015-2020~~2016-2021.

The capital improvements projects listed in Table 1 are not inclusive of all anticipated capital expenditures by the City during the designated time period. For the most part, the list of improvements has been limited to the capital projects required to meet or maintain adopted LOS standards or implement the Goals, Objectives, and Policies of the Comprehensive Plan. Improvements on a smaller scale (generally under \$25,000 in cost) are outlined in the City's five-year Capital Improvement Program and annual budget as they are needed over time. Tables 1A-E, provided as a supplement to Table 1, list specific improvements to the City's water and sewer system, as well as specific street resurfacing projects for the years ~~2015-2020~~2016-2021, and current transportation proportionate fair-share agreements.

CAPITAL IMPROVEMENTS ELEMENT

TABLE 1
CAPITAL IMPROVEMENTS SCHEDULE

<u>Project</u>	<u>FY 15-16</u>	<u>FY 16-17</u>	<u>FY 17-18</u>	<u>FY 18-19</u>	<u>FY 19-20</u>	<u>FY 20-21</u>	<u>Total</u>
<u>WATER</u>							
<u>029408: Water System Replacement/ Upsizing</u>	<u>900,000</u>	<u>1,500,000</u>	<u>600,000</u>	<u>700,000</u>	<u>800,000</u>	<u>1,200,000</u>	<u>5,700,000</u>
<u>Water/Sewer Operating (401)</u>	<u>250,000</u>	<u>325,000</u>	<u>400,000</u>	<u>370,000</u>	<u>350,000</u>	<u>550,000</u>	<u>2,245,000</u>
<u>Water/Sewer R&R (403)</u>	<u>425,000</u>	<u>800,000</u>	<u>50,000</u>	<u>155,000</u>	<u>250,000</u>	<u>450,000</u>	<u>2,130,000</u>
<u>Water Impact Fee (405)</u>	<u>225,000</u>	<u>375,000</u>	<u>150,000</u>	<u>175,000</u>	<u>200,000</u>	<u>200,000</u>	<u>1,325,000</u>
<u>Total</u>	<u>900,000</u>	<u>1,500,000</u>	<u>600,000</u>	<u>700,000</u>	<u>800,000</u>	<u>1,200,000</u>	<u>5,700,000</u>
<u>Planned replacement of undersized galvanized steel piping in older sections of the city and peninsula area. Target areas to be accomplished based on current priorities. (Consistent w/ Comp Plan: Pot. Water, Policy 1.1, 2.6 and 2.7)</u>							
<u>029409: Water System Extensions/ Upsizing</u>	<u>50,000</u>	<u>50,000</u>	<u>50,000</u>	<u>50,000</u>	<u>700,000</u>	<u>50,000</u>	<u>950,000</u>
<u>Water Impact Fee (405)</u>	<u>50,000</u>	<u>50,000</u>	<u>50,000</u>	<u>50,000</u>	<u>700,000</u>	<u>50,000</u>	<u>950,000</u>
<u>Total</u>	<u>50,000</u>	<u>50,000</u>	<u>50,000</u>	<u>50,000</u>	<u>700,000</u>	<u>50,000</u>	<u>950,000</u>
<u>Provide water service to existing residential areas not presently served by the City and provide for greater system redundancy and looping. Additional water main installations that serve to reinforce the distribution system to eliminate or avoid areas of substandard water pressure. (Consistent w/ Comp Plan: Pot. Water, Policy 2.2, 2.4 and 2.5)</u>							
<u>039493: Potable Water Plant Reno/ Replacements</u>	<u>450,000</u>	<u>350,000</u>	<u>350,000</u>	<u>350,000</u>	<u>350,000</u>	<u>250,000</u>	<u>2,100,000</u>
<u>Water/Sewer Operating (401)</u>	-	-	-	-	-	-	-
<u>Water/Sewer R&R (403)</u>	<u>450,000</u>	<u>350,000</u>	<u>350,000</u>	<u>350,000</u>	<u>350,000</u>	<u>250,000</u>	<u>2,100,000</u>
<u>Total</u>	<u>450,000</u>	<u>350,000</u>	<u>350,000</u>	<u>350,000</u>	<u>350,000</u>	<u>250,000</u>	<u>2,100,000</u>
<u>Planned improvements for City's water treatment plant and various wells per Table 2A Water Treatment Plant Improvements. (Consistent w/ Comp Plan: Pot. Water, Policy 1.7 and San. Swr., Policy 1.6)</u>							
<u>TOTAL - WATER</u>	<u>1,400,000</u>	<u>1,900,000</u>	<u>1,000,000</u>	<u>1,100,000</u>	<u>1,850,000</u>	<u>1,500,000</u>	<u>8,750,000</u>
<u>SANITARY SEWER</u>							
<u>049467: Sewer System Rehabilitation</u>		<u>2,000,000</u>	<u>2,000,000</u>	<u>2,000,000</u>	<u>2,000,000</u>	<u>2,000,000</u>	<u>10,000,000</u>
<u>Water/Sewer Operating (401)</u>		<u>2,000,000</u>	<u>2,000,000</u>	<u>2,000,000</u>	<u>2,000,000</u>	<u>2,000,000</u>	<u>10,000,000</u>
<u>Total</u>		<u>2,000,000</u>	<u>2,000,000</u>	<u>2,000,000</u>	<u>2,000,000</u>	<u>2,000,000</u>	<u>10,000,000</u>
<u>Rehabilitation of aging sewer collection system, especially areas with clay pipe. Reduce inflow and infiltration per Table 2C Sewer System Rehabilitation. (Consistent w/ Comp Plan: San. Swr., Policy 1.5 and 4.3)</u>							
<u>038964: Reclaimed Water Plan Reno/ Replacements</u>	<u>320,000</u>	<u>655,000</u>	<u>420,000</u>	<u>990,000</u>	<u>520,000</u>	<u>560,000</u>	<u>3,465,000</u>
<u>Water/Sewer R&R (403)</u>	<u>320,000</u>	<u>655,000</u>	<u>420,000</u>	<u>990,000</u>	<u>520,000</u>	<u>560,000</u>	<u>3,465,000</u>
<u>Total</u>	<u>320,000</u>	<u>655,000</u>	<u>420,000</u>	<u>990,000</u>	<u>520,000</u>	<u>560,000</u>	<u>3,465,000</u>
<u>Scheduled facility repair and equipment replacement of electrical and mechanical system components for the City's wastewater treatment plant per Table 2D Wastewater Treatment Plant Improvements. (Consistent w/ Comp Plan: Pot. Water, Policy 1.1 and 2.6 along with San. Swr, Policy 1.6)</u>							
<u>201552: White Acres Central Wastewater Connection</u>	<u>500,000</u>	-	-	-	-	-	<u>500,000</u>
<u>Sewer Impact Fee (405)</u>	<u>500,000</u>	-	-	-	-	-	<u>500,000</u>
<u>Total</u>	<u>500,000</u>	-	-	-	-	-	<u>500,000</u>
<u>Construction of a wastewater collection system to a poorly drained area of the City. Location is at Spruce Creek and Central Park. (Consistent w/ Comp Plan: San. Swr., Policy 2.2. and 2.3)</u>							

CAPITAL IMPROVEMENTS ELEMENT

<u>Project</u>	<u>FY 15-16</u>	<u>FY 16-17</u>	<u>FY 17-18</u>	<u>FY 18-19</u>	<u>FY 19-20</u>	<u>FY 20-21</u>	<u>Total</u>
<u>201653: Riverwalk Utilities</u>	<u>200,000</u>	-	-	-	-	-	<u>200,000</u>
Water/Sewer R&R (403)	150,000	-	-	-	-	-	150,000
Water Impact Fee (405)	50,000	-	-	-	-	-	50,000
Total	<u>200,000</u>	-	-	-	-	-	<u>200,000</u>
Utility improvements/replacements/upgrades along the east side of Ridgewood Avenue north of Oceans Avenue. Gravity sewer line and four manholes to eliminate a pump station and upsizing an existing 6" water line to 8" water line. To be constructed in conjunction with the Riverwalk 1B Phased Project. (Consistent w/ Comp Plan: San. Swr. Obj. 4, Policy 4.2)							
TOTAL - SANITARY SEWER	<u>1,020,000</u>	<u>2,655,000</u>	<u>2,420,000</u>	<u>2,990,000</u>	<u>2,520,000</u>	<u>2,560,000</u>	<u>14,165,000</u>
<u>WATER & SANITARY SEWER</u>							
<u>038710: City Cost Participation</u>	<u>50,000</u>	<u>100,000</u>	<u>100,000</u>	<u>100,000</u>	<u>100,000</u>	<u>100,000</u>	<u>550,000</u>
Water Impact Fee (405)	25,000	50,000	50,000	50,000	50,000	50,000	275,000
Sewer Impact Fee (405)	25,000	50,000	50,000	50,000	50,000	50,000	275,000
Total	<u>50,000</u>	<u>100,000</u>	<u>100,000</u>	<u>100,000</u>	<u>100,000</u>	<u>100,000</u>	<u>550,000</u>
Citywide annual cost participation program with new development to upsize various water and sewer lines, extension of various mains, upsizing of lift stations, and other miscellaneous items. (Consistent w/ Comp Plan: San. Swr., Policy 4.2 and Pot. Water, Policy 2.5 & 2.7)							
TOTAL - WATER & SAN. SEWER	<u>50,000</u>	<u>100,000</u>	<u>100,000</u>	<u>100,000</u>	<u>100,000</u>	<u>100,000</u>	<u>550,000</u>
<u>TRANSPORTATION</u>							
<u>430201: Road Program</u>	<u>747,500</u>	<u>747,500</u>	<u>747,500</u>	<u>747,500</u>	<u>747,500</u>	<u>747,500</u>	<u>4,485,000</u>
Capital Projects (301)	747,500	747,500	747,500	747,500	747,500	747,500	4,485,000
Total	<u>747,500</u>	<u>747,500</u>	<u>747,500</u>	<u>747,500</u>	<u>747,500</u>	<u>747,500</u>	<u>4,485,000</u>
Annual citywide resurface program for existing streets and collector roads, per Table 1E Street Resurfacing Projects. (Consistent w/ Comp Plan: Transp. Objective 2.14 and 2.7)							
<u>PNC007: Yorktowne Blvd Middle Segment</u>	-	-	-	<u>675,000</u>	-	-	<u>675,000</u>
Prop. Fair Share / Other / Grant	-	-	-	675,000	-	-	675,000
Total	-	-	-	<u>675,000</u>	-	-	<u>675,000</u>
Estimated project cost is \$2,400,000. Currently, \$1,725,000 has been funded in previous fiscal years. This project is proposed as a 4 lane divided curb and gutter section designed to Volusia County standards. It is composed of 1600' of 4 lane roadway and 800' of improvements in the existing 2-3 lane section to the south of Hidden Lakes Drive, including turn lanes and transition tapers in the existing Yorktowne Blvd. and Hidden Lakes section. (Consistent w/ Comp Plan: Transp. Objective 2.7, 2.9, 2.13 and 2.14)							
<u>200905: Williamson Blvd. N. of Pavilion</u>	-	-	-	<u>220,000</u>	<u>260,935</u>	<u>2,200,000</u>	<u>2,680,935</u>
Developer Fairshare Contr. (Planned)	-	-	-	220,000	260,935	2,200,000	2,680,935
Total	-	-	-	<u>220,000</u>	<u>260,935</u>	<u>2,200,000</u>	<u>2,680,935</u>
This project involves adding 2 lanes to the existing 2 lane Williamson Blvd. roadway from the north boundary of the Pavilion project north to Town West Blvd., a 0.53 mile section. Project cost estimates are based on construction of an additional 2 travel lanes within the existing right-of-way with minimal impact to the existing roadway. The new construction will require stormwater treatment and it will be necessary to acquire an estimated 1 acre of off-site property for this purpose. (Consistent w/ Comp Plan: Transp. Objective 2.6, 2.7, 2.13, and 2.14)							
<u>200907: Coraci Blvd. Extension</u>	-	-	<u>257,000</u>	<u>2,150,000</u>	-	-	<u>2,407,000</u>
Developer Fairshare Contr. (Planned)	-	-	257,000	2,150,000	-	-	2,407,000
Total	-	-	<u>257,000</u>	<u>2,150,000</u>	-	-	<u>2,407,000</u>

CAPITAL IMPROVEMENTS ELEMENT

<u>Project</u>	<u>FY 15-16</u>	<u>FY 16-17</u>	<u>FY 17-18</u>	<u>FY 18-19</u>	<u>FY 19-20</u>	<u>FY 20-21</u>	<u>Total</u>
<u>This project involves construction of a 1/2 mile 2-lane divided roadway extending Coraci Blvd. 2600' from the south limits of Coquina Cove III to Carmody Lake Drive within the existing undeveloped right-of way. Drainage improvements are projected to be constructed in the right-of-way. This will serve as an alternate route and reliever route for traffic generated by the Forest Lakes subdivision and to a lesser extent to Coquina Cove and reduce impacts on Taylor Road. This roadway is indicated as a future collector road in the Comprehensive Plan. (Consistent w/ Comp Plan: Transp. Objective 2.7, 2.10, and 2.14)</u>							
<u>201008: Yorktowne Blvd North Section (Nautica Lakes)</u>	-	-	<u>3,500,000</u>	-	-	-	<u>3,500,000</u>
<u>Developer Fairshare Contr. (Planned)</u>	-	-	<u>3,500,000</u>	-	-	-	<u>3,500,000</u>
<u>Total</u>	-	-	<u>3,500,000</u>	-	-	-	<u>3,500,000</u>
<u>This project is proposed as a 4 lane divided curb and gutter section designed to the Volusia County standards. The roadway design is complete and was done in conjunction with the Nautica Lakes development. This improvement is required to complete the Yorktowne Boulevard connection between Hidden Lakes Drive and Willow Run Boulevard. (Consistent w/ Comp Plan: Transp. Objective 2.7, 2.9, 2.13 and 2.14)</u>							
<u>201013: Williamson Blvd. South Extension</u>	<u>321,923</u>	-	<u>1,824,231</u>	-	-	-	<u>2,146,154</u>
<u>Developer Fairshare Contr. (Planned)</u>	<u>321,923</u>	-	<u>1,824,231</u>	-	-	-	<u>2,146,154</u>
<u>Total</u>	<u>321,923</u>	-	<u>1,824,231</u>	-	-	-	<u>2,146,154</u>
<u>This project consists of the proposed widening of a 2,950 foot segment (0.6 miles) of Williamson Blvd. from Airport Road south to the west boundary of the Woodhaven PUD property from a 2-lane undivided to a 4-lane divided facility with sidewalks. (Consistent w/ Comp Plan: Transp. Objective 2.6, 2.7, 2.9, 2.13, 2.14, and 2.15)</u>							
<u>201015: Willow Run Boulevard Widening</u>	-	-	-	-	<u>180,000</u>	<u>1,500,000</u>	<u>1,680,000</u>
<u>Capital Projects (301)</u>	-	-	-	-	<u>180,000</u>	<u>1,500,000</u>	<u>1,680,000</u>
<u>Total</u>	-	-	-	-	<u>180,000</u>	<u>1,500,000</u>	<u>1,680,000</u>
<u>A 1/4 mile segment of Willow Run east of Williamson Boulevard to the proposed intersection of the Yorktowne Boulevard extension will need to be improved to accommodate future traffic flows diverted from Williamson Boulevard and future traffic on the new Yorktowne north extension. A traffic circle or other improvements at the Willow Run/Yorktowne intersection will be considered as part of the design. (Consistent w/ Comp Plan: 2.7, 2.9, 2.13, and 2.14)</u>							
<u>TOTAL - TRANSPORTATION</u>	<u>1,069,423</u>	<u>747,500</u>	<u>6,328,731</u>	<u>3,792,500</u>	<u>1,188,435</u>	<u>4,447,500</u>	<u>17,574,089</u>
<u>DRAINAGE</u>							
<u>180202: Storm Drain Pipe Lining</u>	-	-	-	-	-	-	-
<u>Drainage Fund 412</u>	-	-	-	<u>150,000</u>	-	-	<u>150,000</u>
<u>Total</u>	-	-	-	<u>150,000</u>	-	-	<u>150,000</u>
<u>Annual citywide program for rehabilitation of existing stormwater drainage facilities. (Consistent w/ Comp Plan: Drainage, Policy 1.2 through 1.4)</u>							
<u>201439: Halifax River Outfall Replacement</u>	-	-	-	<u>60,000</u>	<u>615,000</u>	-	<u>675,000</u>
<u>Drainage Fund 412</u>	-	-	-	<u>60,000</u>	<u>615,000</u>	-	<u>675,000</u>
<u>Total</u>	-	-	-	<u>60,000</u>	<u>615,000</u>	-	<u>675,000</u>
<u>Replace stormwater discharge outfalls directly to the Halifax River and construct or reconstruct several headwalls. The City may also be Installing engineered tidal gates at certain locations. (Consistent w/ Comp Plan: Drainage, Policy 1.2 through 1.4)</u>							
<u>201441: Southwinds Stormwater Pond Outfall Retrofit - Phase I</u>	-	-	-	-	<u>45,000</u>	<u>630,000</u>	<u>675,000</u>
<u>Drainage Fund 412</u>	-	-	-	-	<u>45,000</u>	<u>630,000</u>	<u>675,000</u>
<u>Total</u>	-	-	-	-	<u>45,000</u>	<u>630,000</u>	<u>675,000</u>
<u>This project involves modification to the existing stormwater ponds of the Southwinds neighborhood stormwater system. (Consistent w/ Comp Plan: Drainage, Policy 1.2 through 1.4)</u>							
<u>201643: White Acres Subdivision Drainage Improvements</u>	<u>80,679</u>	-	-	-	-	-	<u>80,679</u>

CAPITAL IMPROVEMENTS ELEMENT

<u>Project</u>	<u>FY 15-16</u>	<u>FY 16-17</u>	<u>FY 17-18</u>	<u>FY 18-19</u>	<u>FY 19-20</u>	<u>FY 20-21</u>	<u>Total</u>
<u>Drainage Fund 412</u>	<u>80,679</u>	<u>-</u>	<u>-</u>	<u>-</u>	<u>-</u>	<u>-</u>	<u>80,679</u>
Total	80,679	-	-	-	-	-	80,679
Drainage improvements to coincide with Public Utilities Sanitary Sewer Central Wastewater Connection Project 201552, City Project UET022. Works involves placing pipe in the transitions of driveways and roadways and in the existing ditches and regrading of swales above the pipe for water quality treatment. Additional funding from a State Grant is anticipated to fund this project. (Consistent w/ Comp Plan: Drainage, Policy 1.2 through 1.4)							
201642: Howes Street Stormwater Improvements	-	49,250	80,000	-	-	-	129,250
<u>Drainage Fund 412</u>	<u>-</u>	<u>49,250</u>	<u>80,000</u>	<u>-</u>	<u>-</u>	<u>-</u>	<u>129,250</u>
Total	-	49,250	80,000	-	-	-	129,250
Howes Street experiences standing water several times a year due to not having a drainage system to convey the runoff. This project has two options. Option A would connect to existing 24" pipe and inlets and install 24" reinforced concrete pipe (RCP) with precast type "C" inlets east to the Westridge Avenue outfall. Option B would connect to existing 24" pipe and inlets and install 24" RCP with precast type "C" inlets west and south to Frederick Avenue and Depot Pond. (Consistent w/ Comp Plan: Drainage, Policy 1.2 through 1.4)							
TOTAL - DRAINAGE	80,679	49,250	80,000	210,000	660,000	630,000	1,709,929
-	-	-	-	-	-	-	-
TOTAL - CAPITAL IMPROVEMENTS	3,620,102	5,451,750	9,928,731	8,192,500	6,318,435	9,237,500	42,749,018

(Editing Note: 2014 Capitol Improvements Schedule below based on FY 14/15- FY19/20 CIP)

Project #	Description	FY 14-15	FY 15-16	FY 16-17	FY 17-18	FY 18-19	FY 19-20	Total
WATER								
029408	Water System Rplmnt	250,000	425,000	420,000	500,000	520,000	450,000	2,565,000
Water/Sewer Operating (401)		—	250,000	325,000	400,000	370,000	350,000	1,695,000
Water/Sewer R&R (403)		250,000	175,000	95,000	100,000	150,000	100,000	870,000
-								
Total		250,000	425,000	420,000	500,000	520,000	450,000	2,565,000
Planned replacement of undersized galvanized steel piping in older sections of the city and peninsula area. Target areas to be accomplished based on current priorities. (Consistent w/ Comp Plan: Pot. Water, Policy 1.1, 2.6 and 2.7)								
029409	Water System Extensions/ Rnformnts	—	50,000	50,000	50,000	50,000	50,000	250,000
Water/ Sewer Impact (405)		—	50,000	50,000	50,000	50,000	50,000	250,000
-								
Total		—	50,000	50,000	50,000	50,000	50,000	250,000
Provide water service to existing residential areas not presently served by the City and provide for greater system redundancy and looping. Additional water main installations that serve to reinforce the distribution system to eliminate or avoid areas of substandard water pressure. (Consistent w/ Comp Plan: Pot. Water, Policy 2.2, 2.4 and 2.5)								
039493	Potable Water Plant Reno/ Rplemnts	405,000	315,000	350,000	300,000	325,000	375,000	2,070,000
Water/ Sewer Operating (401)		65,000	—	—	—	—	—	65,000
Water/Sewer R&R (403)		340,000	315,000	350,000	300,000	325,000	375,000	2,005,000
-								
Total		405,000	315,000	350,000	300,000	325,000	375,000	2,070,000

CAPITAL IMPROVEMENTS ELEMENT

Planned improvements for City's water treatment plant and various wells per Table 2A Water Treatment Plant Improvements. (Consistent w/ Comp Plan: Pot. Water, Policy 1.7 and San. Swr., Policy 1.6)								
-	TOTAL—WATER	655,000	790,000	820,000	850,000	895,000	875,000	4,885,000
Project #	Description	FY 14-15	FY 15-16	FY 16-17	FY 17-18	FY 18-19	FY 19-20	Total
<u>SANITARY SEWER</u>								
049467	Sewer System Rehab.	400,000	900,000	900,000	900,000	900,000	900,000	4,900,000
Water/Sewer Operating (401)		—	400,000	400,000	400,000	400,000	400,000	2,000,000
Water/Sewer R&R (403)		400,000	500,000	500,000	500,000	500,000	500,000	2,900,000
-	Total	400,000	900,000	900,000	900,000	900,000	900,000	4,900,000
Rehabilitation of aging sewer collection system, especially areas with clay pipe. Reduce inflow and infiltration per Table 2C Sewer System Rehabilitation. (Consistent w/ Comp Plan: San. Swr., Policy 1.5 and 4.3)								
038964	Reclaimed Water Plan Reno./ Rplemnts	530,000	540,000	965,000	420,000	490,000	460,000	3,405,000
Water/Sewer R&R (403)		530,000	540,000	965,000	420,000	490,000	460,000	3,405,000
-	Total	530,000	540,000	965,000	420,000	490,000	460,000	3,405,000
Scheduled facility repair and equipment replacement of electrical and mechanical system components for the City's wastewater treatment plant per Table 2D Wastewater Treatment Plant Improvements. (Consistent w/ Comp Plan: Pot. Water, Policy 1.1 and 2.6 along with San. Swr, Policy 1.6)								
-	TOTAL—SANITARY SEWER	930,000	1,440,000	1,865,000	1,320,000	1,390,000	1,360,000	8,305,000
Project #	Description	FY 14-15	FY 15-16	FY 16-17	FY 17-18	FY 18-19	FY 19-20	Total
<u>WATER & SANITARY SEWER</u>								
038710	City Cost Participation	100,000	250,000	250,000	250,000	250,000	250,000	1,350,000
Water/Sewer Operating (401)		—	—	—	—	—	—	—
Water/Sewer Impact (405)		100,000	250,000	250,000	250,000	250,000	250,000	1,350,000
-	Total	100,000	250,000	250,000	250,000	250,000	250,000	1,350,000
Citywide annual cost participation program with new development to upsize various water and sewer lines, extension of various mains, upsizing of lift stations, and other miscellaneous items. (Consistent w/ Comp Plan: San. Swr., Policy 4.2 and Pot. Water, Policy 2.5 & 2.7)								
-	TOTAL—WATER & SAN. SEWER	100,000	250,000	250,000	250,000	250,000	250,000	1,350,000
<u>TRANSPORTATION</u>								
430201	Road Program	544,196	527,927	581,466	518,808	517,500	517,500	3,207,397
Capital Projects (301)		544,196	527,927	581,466	518,808	517,500	517,500	3,207,397

CAPITAL IMPROVEMENTS ELEMENT

-								
	Total	544,196	527,927	581,466	518,808	517,500	517,500	3,207,397
Annual citywide resurface program for existing streets and collector roads, per Table 1E Street Resurfacing Projects. (Consistent w/ Comp Plan: Transp. Objective 2.14 and 2.7)								
200313	Traffic Signal- Clyde Morris/Pines	—	51,750	293,250	—	—	—	345,000
Prop. Fair Share / Other / Grant		—	51,750	293,250	—	—	—	345,000
-								
	Total	—	51,750	293,250	—	—	—	345,000
A traffic signal is required to ensure safe, efficient traffic flow given the number of turning movements and traffic volumes at this location. A signal warrant analysis study was prepared for Volusia County in December 2008 that recommended signalization of the intersection. The signal will be constructed with mast arms. (Consistent w/ Comp Plan: Transp. Objective 2.10 and 2.7)								
PNC007	Yorktowne Blvd Middle Segment	—	—	—	675,000	—	—	675,000
Prop. Fair Share / Other / Grant		—	—	—	675,000	—	—	675,000
-								
	Total	—	—	—	675,000	—	—	675,000
Estimated project cost is \$2,400,000. Currently, \$1,725,000 has been funded in previous fiscal years. This project is proposed as a 4 lane divided curb and gutter section designed to Volusia County standards. It is composed of 1600' of 4 lane roadway and 800' of improvements in the existing 2-3 lane section to the south of Hidden Lakes Drive, including turn lanes and transition tapers in the existing Yorktowne Blvd. and Hidden Lakes section. (Consistent w/ Comp Plan: Transp. Objective 2.7, 2.9, 2.13 and 2.14)								
200905	Williamson Blvd. N. of Pavilion	—	—	220,000	260,935	2,200,000	—	2,680,935
Developer Fairshare Contr. (Planned)		—	—	220,000	260,935	2,200,000	—	2,680,935
-								
	Total	—	—	220,000	260,935	2,200,000	—	2,680,935
This project involves adding 2 lanes to the existing 2 lane Williamson Blvd. roadway from the north boundary of the Pavilion project north to Townwest Blvd., a 0.53 mile section. Project cost estimates are based on construction of an additional 2 travel lanes within the existing right of way with minimal impact to the existing roadway. The new construction will require stormwater treatment and it will be necessary to acquire an estimated 1 acre of off-site property for this purpose. (Consistent w/ Comp Plan: Transp. Objective 2.6, 2.7, 2.13, and 2.14)								
200907	Coraci Blvd. Extension	—	—	257,000	2,150,000	—	—	2,407,000
Developer Fairshare Contr. (Planned)		—	—	257,000	2,150,000	—	—	2,407,000
-								
	Total	—	—	257,000	2,150,000	—	—	2,407,000
This project involves construction of a 1/2 mile 2 lane divided roadway extending Coraci Blvd. 2600' from the south limits of Coquina Cove III to Carmody Lake Drive within the existing undeveloped right of way. Drainage improvements are projected to be constructed in the right of way. This will serve as an alternate route and reliever route for traffic generated by the Forest Lakes subdivision and to a lesser extent to Coquina Cove and reduce impacts on Taylor Road. This roadway is indicated as a future collector road in the Comprehensive Plan. (Consistent w/ Comp Plan: Transp. Objective 2.7, 2.10, and 2.14)								
201008	Yorktowne Blvd North Section (Nautica Lakes)	—	3,500,000	—	—	—	—	3,500,000
Developer Fairshare Contr. (Planned)		—	3,500,000	—	—	—	—	3,500,000

CAPITAL IMPROVEMENTS ELEMENT

-								
	Total	3,500,000						3,500,000
This project is proposed as a 4 lane divided curb and gutter section designed to the Volusia County standards. The roadway design is complete and was done in conjunction with the Nautica Lakes development. This improvement is required to complete the Yorktowne Boulevard connection between Hidden Lakes Drive and Willow Run Boulevard. (Consistent w/ Comp Plan: Transp. Objective 2.7, 2.9, 2.13 and 2.14)								
201013	Williamson Blvd. South Extension	321,923		1,824,231				2,146,154
Developer Fairshare Contr. (Planned)		321,923		1,824,231				2,146,154
-	Total	321,923		1,824,231				2,146,154
This project consists of the proposed widening of a 2,950 foot segment (0.6 miles) of Williamson Blvd. from Airport Road south to the west boundary of the Woodhaven PUD property from a 2 lane undivided to a 4 lane divided facility with sidewalks. (Consistent w/ Comp Plan: Transp. Objective 2.6, 2.7, 2.9, 2.13, 2.14, and 2.15)								
201015	Willow Run Boulevard Widening		180,000	1,500,000				1,680,000
Prop. Fair Share / Other / Grant			180,000	1,500,000				1,680,000
-	Total		180,000	1,500,000				1,680,000
A 1/4 mile segment of Willow Run east of Williamson Boulevard to the proposed intersection of the Yorktowne Boulevard extension will need to be improved to accommodate future traffic flows diverted from Williamson Boulevard and future traffic on the new Yorktowne north extension. A traffic circle or other improvements at the Willow Run/Yorktowne intersection will be considered as part of the design. (Consistent w/ Comp Plan: 2.7, 2.9, 2.13, and 2.14)								
201332	Herbert St. Westbound Right Turn Ln	24,362						24,362
Transportation Impact Fee Fund		24,362						24,362
-	Total	24,362						24,362
Add a westbound right turn lane at the intersection of Herbert Street and Clyde Morris to add roadway capacity at the intersection. (Consistent w/ Comp. Plan: Transp. Objective 2.4, 2.7 and 2.8)								
-	TOTAL— TRANSPORTATION	890,481	4,259,677	4,675,947	3,604,743	2,717,500	517,500	16,665,848
Project #	Description	FY 14-15	FY 15-16	FY 16-17	FY 17-18	FY 18-19	FY 19-20	Total
DRAINAGE								
180202	Storm Drain Pipe Lining							
Drainage Fund								
-	Total							
Annual citywide program for rehabilitation of existing stormwater drainage facilities. (Consistent w/ Comp Plan: Drainage, Policy 1.2 through 1.4)								
201439	Halifax River Outfall Replacement				60,000	615,000		675,000
Funding to be determined					60,000	615,000		675,000
-	Total				60,000	615,000		675,000

CAPITAL IMPROVEMENTS ELEMENT

Replace stormwater discharge outfalls directly to the Halifax River and construct or reconstruct several headwalls. The City may also be installing engineered tidal gates at certain locations. (Consistent w/ Comp Plan: Drainage, Policy 1.2 through 1.4)								
201441	Southwinds Stormwater Pond Outfall Retrofit	—	—	—	45,000	1,250,000	—	1,295,000
Funding to be determined		—	—	—	45,000	1,250,000	—	1,295,000
-		—	—	—	45,000	1,250,000	—	1,295,000
Total		—	—	—	45,000	1,250,000	—	1,295,000
This project involves modification to the existing stormwater ponds of the Southwinds neighborhood stormwater system. (Consistent w/ Comp Plan: Drainage, Policy 1.2 through 1.4)								
-		—	—	—	105,000	1,865,000	—	1,970,000
TOTAL DRAINAGE		—	—	—	105,000	1,865,000	—	1,970,000
-		—	—	—	—	—	—	—
TOTAL CAPITAL IMPROVEMENTS		2,575,481	6,739,677	7,610,947	6,129,743	7,117,500	3,002,500	33,175,848

Source: City of Port Orange, Department of Finance, Department of Community Development, ~~2014~~[2015](#)

CAPITAL IMPROVEMENTS ELEMENT

TABLE 1A - WATER TREATMENT PLANT IMPROVEMENTS

Description	FY 15-16	FY 16-17	FY 17-18	FY 18-19	FY 19-20	FY 20-21	Total
<u>Filter wash pumping system upgrade</u>	<u>250,000</u>						<u>250,000</u>
<u>Facility Maintenance</u>	-	<u>75,000</u>	<u>75,000</u>	<u>50,000</u>	<u>60,000</u>	<u>50,000</u>	<u>310,000</u>
<u>Facility Painting</u>	-	-	-	-	-	<u>75,000</u>	<u>75,000</u>
<u>Installation of Screen for Re-Carbonation Tanks</u>	-	<u>150,000</u>	-	-	-	-	<u>150,000</u>
<u>Replace Sludge Pumps</u>	<u>125,000</u>	-	-	-	-	-	<u>125,000</u>
<u>Replace Vacuum Press Vacuum Pumps</u>	-	<u>100,000</u>	-	-	-	-	<u>100,000</u>
<u>Rehab/Replace Rotating Pumps Assembly</u>	-	-	<u>75,000</u>	<u>75,000</u>	-	-	<u>150,000</u>
<u>Replace Chemical Feed Pumps</u>	-	-	-	<u>100,000</u>	-	-	<u>100,000</u>
<u>Replace Lime Pumps</u>	-	-	-	-	<u>125,000</u>	<u>125,000</u>	<u>250,000</u>
<u>Backwash Recovery (BWR) Variable Frequency Drive (VFD) add an upgrade</u>	<u>75,000</u>	-	-	-	-	-	<u>75,000</u>
<u>Rehab/Replace Backwash Recovery (BWR) Pumps</u>	-	-	-	-	<u>50,000</u>	-	<u>50,000</u>
<u>Replace Large Roof Support Infrastructure and Painting at the Cypress Head Remote Pump Station</u>	-	<u>25,000</u>	-	-	-	-	<u>25,000</u>
<u>Filter Media Replacement</u>	-	-	<u>125,000</u>	<u>125,000</u>	-	-	<u>250,000</u>
<u>Replace Variable Frequency Drivers (VFD) and Programmable Logic Controllers (PLC)</u>	-	-	<u>75,000</u>	-	<u>75,000</u>	-	<u>150,000</u>
<u>Replace Softener (Flenders) Drive Units</u>	-	-	-	-	<u>40,000</u>	-	<u>40,000</u>
Total - Plant Improvements:	450,000	350,000	350,000	350,000	350,000	250,000	2,100,000

Description	FY 14-15	FY 15-16	FY 16-17	FY 17-18	FY 18-19	FY 19-20	Total
GWP VFD H.S. Pump Upgrade	165,000				-		165,000
Hypochlorite Pumps	140,000	-	-	-	-	-	140,000
Accelerator Drive Units	50,000	-	-	-	-	-	50,000
Replace Limp Pumps	50,000	-	-	-	-	-	50,000
Sludge Pumps	-	150,000	-	-	-	-	150,000
Vacuum & filtrate Pumps	-	125,000	-	-	-	-	125,000
Replace Poly Feed system	-	40,000	-	-	-	-	40,000
H.S. VFD's	-	-	50,000	-	-	-	50,000
Filter Media Replacement	-	-	125,000	-	-	-	125,000
Thickener Drive	-	-	100,000	-	-	-	100,000
Hypochlorite Pumps Remote Stations	-	-	75,000	-	-	-	75,000
BWR VFD Pumps	-	-	-	125,000	-	-	125,000
H.S. Pump room rotating							

CAPITAL IMPROVEMENTS ELEMENT

assemblies & POLC's	-	-	-	75,000	-	-	75,000
Miscellaneous chemical feed pumps	-	-	-	100,000	-	-	100,000
Miscellaneous regulatory improvements	-	-	-	-	100,000	-	100,000
H.S.P Rotating Assemblies	-	-	-	-	100,000	-	100,000
Replace Limp Pumps	-	-	-	-	125,000	-	125,000
Misc equipment rehab @ pump stations	-	-	-	-	-	150,000	150,000
Facility painting	-	-	-	-	-	75,000	75,000
Misc. process waste equipment rehab	-	-	-	-	-	150,000	150,000
-Total-Plant Improvements:	-405,000	-315,000	-350,000	300,000	-325,000	-375,000	\$2,070,000

TABLE 1B - SEWER SYSTEM EXTENTIONS

Description	FY 14-15 15-16	FY 15-16 16-17	FY 16-17 17-18	FY 17-18 18-19	FY 18-19 19-20	FY 19-20 20-21	Total
Econ. Dvlpmnt => Citywide - Various Locations	-	-	-	-	-	-	-
Total - Sewer System Extensions	-	-	-	-	-	-	-

TABLE 1C - SEWER SYSTEM REHABILITATION

Description	FY 15-16	FY 16-17	FY 17-18	FY 18-19	FY 19-20	FY 20-21	Total
<u>Filter wash pumping system upgrade</u>	<u>250,000</u>						<u>250,000</u>
<u>Facility Maintenance</u>	-	<u>75,000</u>	<u>75,000</u>	<u>50,000</u>	<u>60,000</u>	<u>50,000</u>	<u>310,000</u>
<u>Facility Painting</u>	-	-	-	-	-	<u>75,000</u>	<u>75,000</u>
<u>Installation of Screen for Re-Carbonation Tanks</u>	-	<u>150,000</u>	-	-	-	-	<u>150,000</u>
<u>Replace Sludge Pumps</u>	<u>125,000</u>	-	-	-	-	-	<u>125,000</u>
<u>Replace Vacuum Press Vacuum Pumps</u>	-	<u>100,000</u>	-	-	-	-	<u>100,000</u>
<u>Rehab/Replace Rotating Pumps Assembly</u>	-	-	<u>75,000</u>	<u>75,000</u>	-	-	<u>150,000</u>
<u>Replace Chemical Feed Pumps</u>	-	-	-	<u>100,000</u>	-	-	<u>100,000</u>
<u>Replace Lime Pumps</u>	-	-	-	-	<u>125,000</u>	<u>125,000</u>	<u>250,000</u>
<u>Backwash Recovery (BWR) Variable Frequency Drive (VFD) add an upgrade</u>	<u>75,000</u>	-	-	-	-	-	<u>75,000</u>
<u>Rehab/Replace Backwash Recovery (BWR) Pumps</u>	-	-	-	-	<u>50,000</u>	-	<u>50,000</u>
<u>Replace Large Roof Support Infrastructure and Painting at the Cypress Head Remote Pump Station</u>	-	<u>25,000</u>	-	-	-	-	<u>25,000</u>
<u>Filter Media Replacement</u>	-	-	<u>125,000</u>	<u>125,000</u>	-	-	<u>250,000</u>
<u>Replace Variable Frequency Drivers (VFD) and Programmable Logic Controllers (PLC)</u>	-	-	<u>75,000</u>	-	<u>75,000</u>	-	<u>150,000</u>
<u>Replace Softener (Flenders) Drive Units</u>	-	-	-	-	<u>40,000</u>	-	<u>40,000</u>
Total - Plant Improvements:	450,000	350,000	350,000	350,000	350,000	250,000	2,100,000

CAPITAL IMPROVEMENTS ELEMENT

Description	FY 14-15	FY 15-16	FY 16-17	FY 17-18	FY 18-19	FY 19-20	Total
Halifax Estates-MHP Rehab	-	-	-	-	-	-	-
Force Main Cleaning (Pigging)	-	-	-	-	-	-	-
Reserve Funds for Line Repair/Replacement	-	-	-	-	-	—	-
Wet Wells & Man Holes Citywide	400,000	200,000	200,000	200,000	200,00	200,000	1,400,000
Sewer Main Cleaning & Videoing	—	-	-	-	-	-	-
Sewer Main Lining/ Replacement		500,000	500,000	500,000	500,000	500,000	2,500,000
Sewer Lateral Lining/Replacement	—	200,000	200,000	200,000	200,000	200,000	1,000,000
-Total- Sewer System Rehabilitation	400,00	900,000	900,000	900,000	900,000	900,000	4,900,000

TABLE 1D - WASTEWATER TREATMENT PLANT IMPROVEMENTS

Description	FY 15-16	FY 16-17	FY 17-18	FY 18-19	FY 19-20	FY 20-21	Total
Rehab 2 press	200,000						200,000
Rehab 3 press		300,000					300,000
Replace 5 Polymer Pumps				30,000			730,000
Replace 5 Press Room Sludge Pumps						100,000	100,000
Replace 2 Press Room Jockey Pumps						40,000	40,000
Teacups	90,000	-					90,000
Rehab Teacups and Controls		80,000					80,000
Rehab Bar Screens					300,000		300,000
Screen for CL2 Containment Area	30,000			-			30,000
Replace 3 CL2 Pumps				100,000			100,000
Upgrade Data Flow Systems		80,000					80,000
Replace 3 Recharge Reservoir VFD's		135,000					135,000
Replace 2 Williamson Blvd VFD's						90,000	90,000
Replace High Service Pump (HSP) Rotary Assembly @ Recharge Reservoir Pump Station		60,000	-			-	60,000
Replace Cypress Head Pump, Meter & Cont			20,000				20,000
Replace Memorial Park Pump, Mter & Cont			60,000				60,000

CAPITAL IMPROVEMENTS ELEMENT

Replace 6 Return Activative Sludge (RAS) Pumps (3 @ T-1 & 3 @ T-2)			120,000				120,000
Replace 4 Waste Activative Sludge (WAS) Pumps (2 @ T-1 & 2 @ T-2)			80,000				80,000
Replace 2 Sludge Transfer Pumps T-1			50,000				50,000
Rehab 4 Clear Well Pumps			90,000				90,000
Rehab 2 Denite Backwash Pumps				90,000			90,000
Replace Denite Blowers				180,000			180,000
Engineering Design for Plant Modifications for 5-5-3-1				500,000			500,000
Plant Modification for 5-5-3-1				6,000,000			6,000,000
Rebuild Oak Street Deep Well				90,000			90,000
Rehab 5 Repair Pumps					60,000		60,000
Replace 2 Sodium Bisulfite Feed pumps					70,000		70,000
Replace Sodium Bisulfite Tank					30,000		30,000
Rehab 2 Influent Pumps & Meters at the West Master Lift Station					60,000		60,000
Rehab 6 Internal Recycle (IR) Pumps & Motors						240,000	240,000
Rehab 3 Outfall Pumps						90,000	90,000
Total - Plant Improvements:	320,000	655,000	420,000	6,990,000	520,000	560,000	9,465,000

Description	FY 14-15	FY 15-16	FY 16-17	FY 17-18	FY 18-19	FY 19-20	Total
Replace 3 150hp A/O Blowers	450,000		_____	_____	_____	_____	450,000
Rehab 6 Tetra Filters & Air Comp	60,000		_____	_____	_____	_____	60,000
Rehab Air Comp. Reservoir & Williamson Blvd.	20,000		_____	_____	_____	_____	20,000
Replace 2 150hp A/O Blowers	_____	300,000		_____	_____	_____	300,000
Replace Denite Blowers	_____	150,000		_____	_____	_____	150,000
Rehab Tea Cups and Controls	_____	_____	80,000		_____	_____	80,000
Rehab 2 Press	_____	_____	150,000		_____	_____	150,000
Upgrades—Data Flow Systems	_____	_____	80,000		_____	_____	80,000

CAPITAL IMPROVEMENTS ELEMENT

Plant Modifications for 5-5-3-1	-	-	500,000	-	-	-	500,000
Replace Williamson Blvd. VFD's	_____	90,000	_____	_____	_____	_____	90,000
Replace 3 Recharge Reservoir VFD's	_____	_____	135,000	_____	_____	_____	135,000
Replace Cypress Head Pump, Meter & Controls	_____	_____	_____	20,000	_____	_____	20,000
Replace Memorial Park Pump, Meter & Controls	_____	_____	-	60,000	_____	_____	60,000
Replace 4 RAS Pumps (2 @ T-1 & 2 @ T-2)	-	-	-	70,000	-	-	70,000
Replace 4 WAS Pumps (2 @ T-1 & 2 @ T-2)	-	-	-	60,000	-	-	60,000
Replace 2 T-1 Sludge Transfer Pumps	-	-	-	30,000	-	-	30,000
Repl HSP Rot Assys - Recharge Reservoir PS	_____	_____	20,000	_____	_____	_____	20,000
Rebuild Oak Street Deep Well	_____	_____	_____	90,000	_____	_____	90,000
Rehab 4 Clearwell Pumps	_____	_____	_____	90,000	_____	_____	90,000
Rehab 2 Denite Backwash pumps	-	-	-	-	90,000	-	90,000
Replace 5 Polymer Pumps	_____	_____	_____	_____	30,000	_____	30,000
Replace 3 CI2 Pumps	_____	_____	_____	_____	70,000	_____	70,000
Rehab 3 press	-	-	-	-	300,000	-	300,000
Rehab Bar Screens	_____	_____	_____	_____	_____	-300,000	-300,000
Replace 2 Sodium Bisulfite Feed pumps	-	-	-	-	-	70,000	70,000
Replace Sodium Bisulfite Tank	-	-	-	-	-	30,000	30,000
Rehab 5 Repair pumps	-	-	-	-	-	60,000	60,000
Total Plant Improvements:	530,000	540,000	965,000	420,000	490,000	460,000	3,405,000

SOURCE: Tables 1A-D, City of Port Orange, Department of Finance, ~~2014~~2015

CAPITAL IMPROVEMENTS ELEMENT

TABLE 1E - STREET RESURFACING PROJECTS

Description	FY 15-16	FY 16-17	FY 17-18	FY 18-19	FY 19-20	FY 20-21	Total
<u>Cypress Head Parkway</u>	<u>133,050</u>						<u>133,050</u>
<u>Palm Vista St.</u>	<u>33,019</u>						<u>33,019</u>
<u>Palm Springs Ct.</u>	<u>5,051</u>						<u>5,051</u>
<u>Paradise Island Ct.</u>	<u>18,393</u>						<u>18,393</u>
<u>Montego Bay</u>	<u>11,425</u>						<u>11,425</u>
<u>St. Thomas Court</u>	<u>20,564</u>						<u>20,564</u>
<u>Willow Run (Joint to Williamson Blvd.)</u>	<u>27,987</u>						<u>27,987</u>
<u>Smokerise Drive</u>	<u>53,591</u>						<u>53,591</u>
<u>Country Lane</u>	<u>142,062</u>						<u>142,062</u>
<u>Ocean Avenue</u>	<u>24,105</u>						<u>24,105</u>
<u>Riverside Drive (Fleming to Joint)</u>	<u>135,031</u>						<u>135,031</u>
<u>Windsor Hill Dr.</u>	<u>41,797</u>						<u>41,797</u>
<u>Hyde Park Dr.</u>	<u>22,221</u>						<u>22,221</u>
<u>Surrey Park</u>	<u>2,403</u>						<u>2,403</u>
<u>N. Wembley</u>	<u>42,946</u>						<u>42,946</u>
<u>S. Wembley</u>	<u>33,855</u>						<u>33,855</u>
<u>Ashely Circle</u>		<u>8,230</u>					<u>8,230</u>
<u>Wendham Court</u>		<u>38,406</u>					<u>38,406</u>
<u>Trailside Drive</u>		<u>36,577</u>					<u>36,577</u>
<u>Ashton Lane</u>		<u>32,188</u>					<u>32,188</u>
<u>Mossy Oak</u>		<u>39,686</u>					<u>39,686</u>
<u>Geiger Drive</u>		<u>12,802</u>					<u>12,802</u>
<u>Kingswood Drive</u>		<u>47,807</u>					<u>47,807</u>
<u>Chelsea Way</u>		<u>33,277</u>					<u>33,277</u>
<u>Kimberly Court</u>		<u>21,215</u>					<u>21,215</u>
<u>York Way</u>		<u>38,667</u>					<u>38,667</u>
<u>Oxford Way</u>		<u>27,578</u>					<u>27,578</u>
<u>Pineland</u>		<u>61,083</u>					<u>61,083</u>
<u>Niver</u>		<u>64,887</u>					<u>64,887</u>
<u>Roberts</u>		<u>107,096</u>					<u>107,096</u>
<u>Taylor</u>		<u>39,136</u>					<u>39,136</u>
<u>Rogers</u>		<u>138,865</u>					<u>138,865</u>
<u>Mystic</u>			<u>192,929</u>				<u>192,929</u>
<u>Clover</u>			<u>13,002</u>				<u>13,002</u>
<u>Villas</u>			<u>13,031</u>				<u>13,031</u>
<u>Wales Avenue</u>			<u>80,195</u>				<u>80,195</u>
<u>Oxford</u>			<u>21,719</u>				<u>21,719</u>
<u>Casey Lane</u>			<u>65,598</u>				<u>65,598</u>
<u>Dexter W.</u>			<u>35,666</u>				<u>35,666</u>
<u>Dexter S.</u>			<u>16,991</u>				<u>16,991</u>
<u>Dexter E.</u>			<u>32,809</u>				<u>32,809</u>
<u>Dexter N.</u>			<u>61,609</u>				<u>61,609</u>
<u>Tammy Way</u>			<u>10,490</u>				<u>10,490</u>
<u>Craig</u>			<u>48,885</u>				<u>48,885</u>
<u>Chardonnay</u>			<u>59,735</u>				<u>59,735</u>
<u>Rusty Circle</u>			<u>48,041</u>				<u>48,041</u>
<u>Alcorn Lane</u>			<u>19,287</u>				<u>19,287</u>
<u>Leone Lane</u>			<u>27,513</u>				<u>27,513</u>
<u>Wood Street</u>				<u>66,839</u>			<u>66,839</u>
<u>Azalea Pointe</u>				<u>38,206</u>			<u>38,206</u>
<u>Ana Maria Court</u>				<u>41,753</u>			<u>41,753</u>
<u>Chamale Lane</u>				<u>50,263</u>			<u>50,263</u>
<u>Kerry Court</u>				<u>10,106</u>			<u>10,106</u>
<u>Pirogue Court</u>				<u>10,638</u>			<u>10,638</u>

CAPITAL IMPROVEMENTS ELEMENT

<u>Description</u>	<u>FY 15-16</u>	<u>FY 16-17</u>	<u>FY 17-18</u>	<u>FY 18-19</u>	<u>FY 19-20</u>	<u>FY 20-21</u>	<u>Total</u>
Tim Court				10,638			10,638
Biloxi Court				10,638			10,638
Harden Rd. E.				31,443			31,443
Harden Rd. W.				40,778			40,778
Chamberlain				87,369			87,369
Durant				50,676			50,676
James				43,256			43,256
Finely				44,618			44,618
Newman				43,907			43,907
Wilson				39,333			39,333
Marshfield				37,391			37,391
Foxhound Drive				89,648			89,648
Pheasant Ridge Drive					26,435		26,435
Red Stag Drive					47,707		47,707
Sterling Chase Drive					97,519		97,519
Crossbow Lane					17,350		17,350
Commonwealth Blvd					19,653		19,653
Cambridge Blvd					11,821		11,821
Cambridge Drive					65,918		65,918
Avon Street					69,636		69,636
Avon Court					15,149		15,149
London Place					16,859		16,859
N. Brighton Drive					114,597		114,597
Westminster Drive					34,817		34,817
Trafalga Avenue					23,226		23,226
Devon Street					186,813		186,813
Jackson Street						248,199	248,199
Oak Street						167,133	167,133
Sweetwater Estates						100,814	100,814
City Center Athletic Complex						56,130	56,130
Summer Trees Subdivision - Various						175,224	175,224
Total - Resurface Program:	747,500	747,500	747,500	747,500	747,500	747,500	4,485,000

Description	FY 14-15	FY 15-16	FY 16-17	FY 17-18	FY 18-19	FY 19-20	Total
Central Prk Sp Ck East to Oakland Prk							
Hensel Road							
Amber Village				27,092			-27,092
Azalea Point							
Barefoot Park				127,555			127,555
Bennett's Hammock							
Briarwood—Dublin Circle		7,718					7,718
Briarwood—Gregory Circle		7,718					-7,718
Briarwood—Jackson Circle		7,718					7,718
Briarwood—Melrose Circle		7,718					-7,718
Briarwood—Montreal Circle		7,718					7,718
Briarwood—Reynolds Circle		7,718					7,718
Cambridge Acres				78,258			-78,258
Cambridge Villas				89,279			-89,279
Christy Drive		16,319					-16,319
City Center Athletic Complex						48,809	48,809

CAPITAL IMPROVEMENTS ELEMENT

Commonwealth Sub						19,869	19,869
Cross Creek							
Cypress Head Sub—Cypress Sp. Prkwy.	84,334						84,334
Francis St		11,444					-11,444
Freemanville		42,088					-42,088
Halifax Estates			71,211				-71,211
Herbert st. (Railroad—Clyde Morris)	142,842						142,842
Hidden Lakes	-	-	-	-	262,759		262,759
Hockney Ct	-	-	-	-	22,695		-22,695
Jackson St.						215,825	215,825
Kingswood			175,501				175,501
Leisure Villas			79,229				79,229
Montego Bay	5,712						5,712
Nixon Lane			55,951				-55,951
Oak St. (Dul. Spruce Creek)						145,333	145,333
Oldtown—Carlton Place				10,879			10,879
Oldtown—Crowell St.				12,981			12,981
Oldtown—Howes St.				12,981			12,981
Oldtown—Jefferson Ave.					-		
Oldtown—Pineland Ave.	-			29,477			29,477
Oldtown—Taylor Ave.				29,477			29,477
Oldtown—Voss Place				4,415			-4,415
Oldtown—White Place				27,711			27,711
Oldtown—Willis Ave.				5,740			5,740
Palms Vista St.	21,866						21,866
Palm Springs Ct.	3,279						3,279
Paradise Island Ct.	13,197						13,197
Pheasant Run							
Portona		208,288					208,288
Raintree			69,939				69,939
Riverside Dr. (Commonwealth—Dead End)	100,548						100,548
Sawgrass Point Sub	-	-	-	-	119,789		119,789
Sky Meadows							
Southport W.	21,739						21,739
St. Thomas Ct.	14,855						14,855
Sterling Chase		148,040					148,040
Sugar Plum Ln.	67,855						67,855
Sugar Mill Sub				24,214			24,214
Sweetwater Estates						87,664	87,664
Terrace Village							
Tree Top			75,962				75,962
Unitin Sub				38,749			38,749
Willow Run (joint— Williamson Blvd.)	67,969						67,969
Windsor Hill							
Winter Woods			53,673				53,673
Wood St		55,440					
Woods, The	-	-	-	-	112,257		112,257

CAPITAL IMPROVEMENTS ELEMENT

Total Resurface Program:	544,196	527,927	581,466	518,808	517,500	-517,500	-3,207,397
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NOTE: The above projects involve resurfacing of existing City streets only. [Subject to change based on funding, field conditions, or re-evaluation.](#)

SOURCE: Port Orange Capital Improvements Program, FY ~~2015-2020~~ [2016-2021](#)

CAPITAL IMPROVEMENTS ELEMENT

TABLE 2
TRANSPORTATION PROPORTIONATE FAIR-SHARE AGREEMENTS BY PROJECT

Developer	Development	Agreement Approval	Date of Contribution	Total
Project 1: Dunlawton / Taylor at I-95				
Intervest Construction, Inc	Waters Edge Phase 9A and 11	08/17/04	01/26/06	50,000
Centerline Homes (Prev. Olson Assoc 4/25/06)	Port Orange Landings Phase I	03/29/05	03/29/05	32,878
Tomoka Farms Dev, LLC (DR Horton)	Coquina Cove Phase I	04/19/05	04/19/05	104,242
Airport Pharmacy LLC (Charles Wayne)	Walgreens at Taylor Road	08/16/05	02/23/07	13,763
Villages of Royal Palm (Winston-James)	Royal Palm PUD, Phase III	11/15/05	11/15/05	54,797
D.R. Horton	Port Orange Plantation Phase II	11/15/05	11/15/05	32,878
Holiday Builders	Port Orange Landings, Phase II	03/21/06	09/27/07	41,034
Viscomi and Associates (Paytas Homes)	Pinnacle PUD, Phase II	06/27/06	09/22/06	106,791
D.R. Horton	Port Orange Plantation Phases III, IV, V	07/25/06	12/06/06	49,445
D.R. Horton	Villas of P.O. Plantation Phases I, II	09/26/06	12/06/06	62,953
Intervest Construction, Inc	Waters Edge Phase 9B	06/05/07	07/05/07	27,526
Quest Design Group	Crystal Lake Business Park	08/07/07	09/19/07	16,567
Floridian Bank	Floridian Bank	08/28/07	08/28/07	10,959
All Aboard Storage	Nova Depot	09/18/07	09/18/07	10,959
Shoppes at Southwinds LLC	Shoppes at Southwinds	10/08/07	10/08/07	8,156
Port Orange Properties, LC	Port Orange Properties	11/13/07	11/16/07	38,486
Halifax Veterinary Clinic	Halifax Veterinary Clinic	12/18/07	01/04/08	2,804
Continental 217 Fund, LLC	Westport Square - Kohls	01/15/08	01/15/08	175,351
Atlantic Coast, LLC	Atlantic Coast Office Building	04/16/08	04/16/08	2,804
Cruz Investment Group	Nova Bella Piazza	04/22/08	04/23/08	10,959
City of Port Orange	Port Orange Business Park	05/06/08	08/05/09	235,756
Port Orange Apartment Assoc.	Reserve at Crystal Lake	05/27/08	02/24/09	2,804
K E M Associates, LLC	Countryside Commercial	08/19/08	09/17/08	2,804
Sun Glow Construction Inc.	Summer Trees Plaza - Site "B"	01/27/09	05/02/09	2,804
Sun Glow Construction Inc.	National City Bank	01/27/09	01/27/09	8,156
Four Lanes, LLC	CVS Pharmacy #4112 (Altamira CVS)	04/15/10	04/15/10	8,156
US Foodservice, Inc.	US Foodservice Facility Expansion	06/22/10	06/22/10	13,763
The Pavilion at Port Orange, LLC	Pavilion at Port Orange	08/19/09	09/30/09	500,000
Four Lanes, LLC	Altamira Shopping Center	01/24/12	Deferred	312,472
Dunlawton Yorktowne, LLC	Dunlawton-Yorktowne Shopping Center	01/24/12	Deferred	134,317
Ferber Construction Mgmt, LLC	Gateway Center Lot 6A – Multi-Tenant Retail	02/28/12	02/28/12	43,838
Total - Approved Contribution Amounts for Project 1				\$ 2,118,222
Project 2: Dunlawton / Clyde Morris				
D.R. Horton	Port Orange Plantation Phase II	11/15/05	11/15/05	19,788
Villages of Royal Palm (Winston-James)	Royal Palm PUD, Phase III	11/15/05	11/15/05	29,681
Holiday Builders	Port Orange Landings, Phase II	03/21/06	09/27/07	74,204
Viscomi and Associates (Paytas Homes)	Pinnacle PUD, Phase II	06/27/06	09/22/06	39,575
D.R. Horton	Port Orange Plantation Phases III, IV, V	07/25/06	12/06/06	34,628
Linen Group	Nova Oaks	09/26/06	09/26/06	9,894
D.R. Horton	Villas of P.O. Plantation Phases I, II	09/26/06	12/06/06	34,628
Intervest Construction, Inc	Waters Edge Phase 9B	06/05/07	07/05/07	14,841
Quest Design Group	Crystal Lake Business Park	08/07/07	09/19/07	9,894

CAPITAL IMPROVEMENTS ELEMENT

Floridian Bank	Floridian Bank	08/28/07	08/28/07	54,416
All Aboard Storage	Nova Depot	09/18/07	09/18/07	9,894
Shoppes at Southwinds LLC	Shoppes at Southwinds	10/08/07	10/08/07	9,894
Port Orange Properties, LC	Port Orange Properties	11/13/07	11/16/07	29,681
Halifax Veterinary Clinic	Halifax Veterinary Clinic	12/18/07	01/04/08	4,947
CBL	Pavillion at Port Orange	12/18/07	01/08/08	317,447
Continental 217 Fund, LLC	Westport Square - Kohls	01/15/08	1/15/2008	34,628
Atlantic Coast, LLC	Atlantic Coast Office Building	04/16/08	04/16/08	9,894
Cruz Investment Group	Nova Bella Piazza	04/22/08	04/23/08	9,894
City of Port Orange	Port Orange Business Park	05/06/08	08/05/09	29,681
Port Orange Apartment Assoc.	Reserve at Crystal Lake	05/27/08	02/24/09	14,841
The Animal, LLC	Ravenwood Veterinary Clinic	08/18/08	09/05/08	4,947
K E M Associates, LLC	Countryside Commercial	08/19/08	09/17/08	4,947
ABC Liquors, Inc.	ABC Liquor Store and Bank	05/19/09	05/27/09	9,894
LaCour & Company (Southwind Villas)	Dollar General Store	01/19/10	01/19/10	4,947
Four Lanes, LLC	CVS Pharmacy #4112 (Altamira CVS)	04/15/10	04/15/10	29,681
Houligan's Port Orange, LLC	Houligan's Restaurant & Office Bldg.	06/03/10	06/03/10	4,947
Four Lanes, LLC	Altamira Shopping Center	01/24/12	04/15/12	59,363
Dunlawton Yorktowne, LLC	Dunlawton-Yorktowne Shopping Center	01/24/12	06/21/12	24,735
Total - Approved Contribution Amounts for Project 2				\$ 935,811
Project 3: Town West / Williamson Signalization				
D.R. Horton	Port Orange Plantation Phase II	11/15/05	11/15/05	82,994
Villages of Royal Palm (Winston-James)	Royal Palm PUD, Phase III	11/15/05	11/15/05	66,736
D.R. Horton	Port Orange Plantation Phases III, IV, V	07/25/06	12/06/06	80,770
D.R. Horton	Villas of P.O. Plantation Phases I, II	09/26/06	12/06/06	76,064
Port Orange Properties, LC	Port Orange Properties	11/13/07	11/16/07	5,813
CBL	Pavillion at Port Orange	12/18/07	01/08/08	162,657
Continental 217 Fund, LLC	Westport Square - Kohls	01/15/08	01/15/08	24,957
Continental 217 Fund, LLC – (Refund Issued)	Westport Square - Kohls	01/15/08	12/20/12	(17,467)
Total - Approved Contribution Amounts for Project 3				\$ 482,524
Project 4: Summertrees Road Extension				
Villages of Royal Palm (Winston-James)	Royal Palm PUD, Phase III	11/15/05	11/15/05	65,896
Holiday Builders	Port Orange Landings, Phase II	03/21/06	09/27/07	18,287
Viscomi and Associates (Paytas Homes)	Pinnacle PUD, Phase II	06/27/06	09/22/06	84,183
D.R. Horton	Port Orange Plantation Phases III, IV, V	07/25/06	12/06/06	47,609
D.R. Horton	Villas of P.O. Plantation Phases I, II	09/26/06	12/06/06	40,358
Intervest Construction, Inc	Waters Edge Phase 9B	06/05/07	07/05/07	22,071
All Aboard Storage	Nova Depot	09/18/07	09/18/07	7,252
Shoppes at Southwinds LLC	Shoppes at Southwinds	10/08/07	10/08/07	7,252
Port Orange Properties, LC	Port Orange Properties	11/13/07	11/16/07	47,609
Halifax Veterinary Clinic	Halifax Veterinary Clinic	12/18/07	01/04/08	3,784
CBL	Pavillion at Port Orange	12/18/07	01/08/08	889,220
Continental 217 Fund, LLC	Westport Square - Kohls	01/15/08	01/15/08	172,466
Atlantic Coast, LLC	Atlantic Coast Office Building	04/16/08	04/16/08	3,784
City of Port Orange	Port Orange Business Park	05/06/08	08/05/09	168,682
Port Orange Apartment Assoc.	Reserve at Crystal Lake	05/27/08	02/24/09	7,252
K E M Associates, LLC	Countryside Commercial	08/19/08	09/17/08	7,252
Sun Glow Construction Inc.	Summer Trees Plaza - Site "B"	01/27/09	05/02/09	11,035
Sun Glow Construction Inc.	National City Bank	01/27/09	01/27/09	36,574
Four Lanes, LLC	CVS Pharmacy #4112 (Altamira CVS)	04/15/10	04/15/10	11,035

CAPITAL IMPROVEMENTS ELEMENT

US Foodservice, Inc.	US Foodservice Facility Expansion	06/22/10	06/22/10	29,322
Four Lanes, LLC	Altamira Shopping Center	01/24/12	04/15/12	102,786
Dunlawton Yorktowne, LLC	Dunlawton-Yorktowne Shopping Center	01/24/12	06/21/12	44,142
Ferber Construction Mgmt, LLC	Gateway Center Lot 6A – Multi-Tenant Retail	02/28/12	02/28/12	11,036
Intervest Construction, Inc	Water's Edge Phase XII	06/05/07	08/30/13	91,751
LIV Development	Whitepalm Apartments	02/26/13	03/18/13	47,610
Total - Approved Contribution Amounts for Project 4				\$ 1,978,248
Project 5: Devon / Taylor Road Signalization				
Total - Approved Contribution Amounts for Project 5				\$
Grand Total - All Projects				\$ 5,514,805

Notes: Initial funding for above transportation concurrency projects was appropriated during previous or current fiscal years.

Total contributions received through fair share agreements through 9/30/~~14~~¹⁵. Total contributions include actual project costs for projects 1, 2, and 4 which have been completed. Total contributions, on projects 3 and 5, include estimated project costs and contingency funding for potential cost overruns.

SOURCE: City of Port Orange, Department of Finance, Department of Community Development, ~~2014~~²⁰¹⁵

CAPITAL IMPROVEMENTS ELEMENT

TABLE 3
SUMMARY OF CAPITAL IMPROVEMENTS

<u>Facility Type</u>	<u>FY 15-16</u>	<u>FY 16-17</u>	<u>FY 17-18</u>	<u>FY 18-19</u>	<u>FY 19-20</u>	<u>FY 20-21</u>	<u>Total</u>
Water	1,400,000	1,900,000	1,000,000	1,100,000	1,850,000	1,500,000	8,750,000
Sanitary Sewer	1,020,000	2,655,000	2,420,000	2,990,000	2,520,000	2,560,000	14,165,000
Water & Sewer	50,000	100,000	100,000	100,000	100,000	100,000	550,000
Drainage	80,679	49,250	80,000	210,000	660,000	630,000	1,709,929
Transportation	1,069,423	747,500	6,328,731	3,792,500	1,188,435	4,447,500	17,574,089
Total Capital Improvements	3,620,102	5,451,750	9,928,731	8,192,500	6,318,435	9,237,500	42,749,018

Facility Type	FY 14-15	FY 15-16	FY 16-17	FY 17-18	FY 18-19	FY 19-20	Total
Water	655,000	790,000	820,000	850,000	895,000	875,000	4,885,000
Sanitary Sewer	930,000	1,440,000	1,865,000	1,320,000	1,390,000	1,360,000	8,305,000
Water & Sewer	100,000	50,000	50,000	250,000	250,000	250,000	1,350,000
Drainage				105,000	1,865,000		1,970,000
Transportation	890,481	4,259,677	4,675,947	3,604,743	2,717,500	517,500	16,665,848
Total	2,575,481	6,739,677	7,610,947	6,129,743	7,117,500	3,002,500	33,175,848

TABLE 4
SUMMARY SCHEDULE OF COMMITTED AND PLANNED FUNDS

<u>Fund</u>	<u>FY 15-16</u>	<u>FY 16-17</u>	<u>FY 17-18</u>	<u>FY 18-19</u>	<u>FY 19-20</u>	<u>FY 20-21</u>	<u>Total</u>
Capital Projects (301)	747,500	747,500	747,500	747,500	927,500	2,247,500	6,165,000
Water/Sewer Operating (401)	250,000	2,325,000	2,400,000	2,370,000	2,350,000	2,550,000	12,245,000
Water/Sewer R&R (403)	1,345,000	1,805,000	820,000	1,495,000	1,120,000	1,260,000	7,845,000
Water/Sewer Impact (405)	875,000	525,000	300,000	325,000	1,000,000	350,000	3,375,000
Drainage Construct/Operating (412)	80,679	49,250	80,000	210,000	660,000	630,000	1,709,929
Proportionate Fair Share / Other / Grant				675,000			675,000
Developer Fairshare Contr. (Planned)	321,923		5,581,231	2,370,000	260,935	2,200,000	10,734,089
Total Committed and Planned Funds	3,620,102	5,451,750	9,928,731	8,192,500	6,318,435	9,237,500	42,749,018

Fund	FY 14-15	FY 15-16	FY 16-17	FY 17-18	FY 18-19	FY 19-20	Total
Capital Projects (301)	544,196	527,927	581,466	518,808	517,500	—517,500	3,207,397
Transportation Impact Fee (312)	24,362						24,362
Water/Sewer Operating (401)	65,000	650,000	725,000	800,000	770,000	750,000	3,760,000
Water/Sewer R&R (403)	1,520,000	1,530,000	1,910,000	1,320,000	1,465,000	1,435,000	9,180,000
Water/Sewer Impact (405)	100,000	300,000	300,000	300,000	300,000	300,000	1,600,000
Drainage Construct/Oper							

CAPITAL IMPROVEMENTS ELEMENT

ating (412)							
To Be Determined				105,000	1,865,000		1,970,000
Proportionate Fair Share / Other / Grant		231,750	1,793,250	675,000			2,700,000
Developer Fairshare Contr. (Planned)	321,923	3,500,000	2,301,231	2,410,935	2,200,000		10,734,089
Total	2,575,481	6,739,677	7,610,947	6,129,743	7,117,500	3,002,500	33,175,848

SOURCE (For Tables 3 and 4): City of Port Orange, Department of Finance, 2014

Table 5 identifies transportation improvements included in the first five years of the applicable Transportation Planning Organization's (TPO) adopted Transportation Improvement Program (TIP), to the extent that such improvements are relied upon to ensure concurrency and financial feasibility.

TABLE 5
VOLUSIA COUNTY TPO TRANSPORTATION IMPROVEMENT PLAN*

There are no concurrency-related improvements in the 2015/16 – 2019/20 TPO TIP.

Proj- Name	Work Summary	Agency	2014/15	2015/16	2016/17	2017/18	2018/19	Total
Coraci Blvd Ext	Construction of a 2-lane roadway extending Coraci Blvd south of Town West Blvd. to Carmody Lake Dr.	Port Orange/ Developer		\$104,000	\$1,196,000			\$1,300,000
Yorktowne Blvd—North Sgmnt	0.38 mile segment connecting Hidden Lakes Dr. and Willow Run Blvd.	Port Orange/ Developer	\$3,500,000					\$3,500,000
Willow Run Blvd. Widening	Improvements to Willow Run needed as part of the proposed Yorktowne Blvd. improvement	Port Orange/ Developer	\$1,227,200					\$1,227,200
* Only projects relied upon to ensure concurrency for the build-out of the City based on the Future Land Use Map								

SOURCE: VCTPO TIP FY ~~2014/15—2018/19~~ 2015/16-2019/20; City of Port Orange, Department of Community Development, ~~2014~~ 2015

CAPITAL IMPROVEMENTS ELEMENT

Table 6 identifies public school facilities improvements included in the first five years of the 2014/15 – 2018/19 Volusia County School District Work Program.

Table 6
VOLUSIA COUNTY SCHOOL DISTRICT FIVE-YEAR WORK PROGRAM

	<u>2015-2016</u>	<u>2016-2017</u>	<u>2017-2018</u>	<u>2018-2019</u>	<u>2019-2020</u>
<u>New Construction</u>					
Pierson Elementary - Replacement	<u>1,000,000</u>	<u>15,000,000</u>		<u>1,000,000</u>	
Chisholm Elementary - Replacement		<u>1,000,000</u>	<u>15,000,000</u>	<u>1,000,000</u>	
George Marks Elementary - Replacement				<u>1,000,000</u>	
Tomoka Elementary - Replacement				<u>1,000,000</u>	
Deltona Middle - Replacement			<u>2,000,000</u>		<u>30,000,000</u>
Elementary Additional Capacity			<u>4,000,000</u>		<u>3,000,000</u>
Total New Construction	<u>1,000,000</u>	<u>16,000,000</u>	<u>21,000,000</u>	<u>4,000,000</u>	<u>33,000,000</u>
<u>Major Projects at Existing Schools & Facilities</u>					
Portable - Leases	<u>100,000</u>	<u>100,000</u>	<u>100,000</u>	<u>100,000</u>	<u>100,000</u>
Portables – Moves & Compliance	<u>400,000</u>	<u>400,000</u>	<u>400,000</u>	<u>400,000</u>	<u>400,000</u>
Various Schools – High School Athletics	<u>500,000</u>	<u>1,000,000</u>	<u>1,500,000</u>	<u>1,500,000</u>	<u>1,500,000</u>
Various Schools – Infrastructure for Technology	<u>1,000,000</u>	<u>1,000,000</u>	<u>1,000,000</u>	<u>1,000,000</u>	<u>1,000,000</u>
Various Schools - Security	<u>250,000</u>	<u>1,000,000</u>	<u>2,000,000</u>	<u>2,000,000</u>	<u>2,000,000</u>
Various Schools – Minor Projects	<u>2,500,000</u>	<u>3,000,000</u>	<u>3,000,000</u>	<u>3,000,000</u>	<u>3,000,000</u>
Atlantic High School - Renovations			<u>10,000,000</u>		
New Smyrna Beach Middle – Renovations & Additions					<u>10,000,000</u>
Orange City Elementary – Renovations & Additions				<u>8,500,000</u>	
Pine Trail Elementary – HVAC, Ceiling & Lighting	<u>5,500,000</u>				
Spruce Creek High School – Renovations & Additions				<u>15,000,000</u>	
Various Facilities – Facilities Review Projects	<u>8,295,000</u>	<u>8,500,000</u>	<u>8,500,000</u>	<u>8,500,000</u>	<u>8,500,000</u>
Total Projects at Existing Schools & Facilities	<u>18,545,000</u>	<u>15,000,000</u>	<u>26,500,000</u>	<u>40,000,000</u>	<u>26,500,000</u>
<u>Facilities Management</u>					
Facilities Management - Various Projects	<u>1,600,000</u>	<u>1,800,000</u>	<u>2,000,000</u>	<u>2,000,000</u>	<u>2,000,000</u>
<u>Technology</u>					
Network, EDP & Communications Equipment	<u>6,300,000</u>	<u>6,000,000</u>	<u>9,000,000</u>	<u>9,000,000</u>	<u>9,000,000</u>
<u>System Wide Equipment & Vehicles</u>					
Various Schools & Departments Furniture & Equipment	<u>2,500,000</u>	<u>3,000,000</u>	<u>3,000,000</u>	<u>3,000,000</u>	<u>3,000,000</u>
<u>Buses</u>					
Transportation Dept - Bus Replacement	<u>2,605,250</u>	<u>2,687,780</u>	<u>2,687,780</u>	<u>2,687,780</u>	<u>2,687,780</u>
PROJECT TOTALS	<u>32,550,250</u>	<u>44,487,780</u>	<u>64,187,780</u>	<u>60,687,780</u>	<u>76,187,780</u>
<u>Transfers</u>					
Transfers – To General Fund	<u>9,007,250</u>	<u>7,007,250</u>	<u>5,007,250</u>	<u>3,007,250</u>	<u>1,007,250</u>
Transfers – To Debt Service	<u>49,706,140</u>	<u>29,107,764</u>	<u>22,236,584</u>	<u>22,239,984</u>	<u>22,237,594</u>
Total Transfers	<u>58,713,390</u>	<u>36,115,014</u>	<u>27,243,834</u>	<u>25,247,234</u>	<u>23,244,844</u>
GRAND TOTAL	<u>91,263,640</u>	<u>80,602,794</u>	<u>91,431,614</u>	<u>85,935,014</u>	<u>99,432,624</u>

	<u>2014-2015</u>	<u>2015-2016</u>	<u>2016-2017</u>	<u>2017-2018</u>	<u>2018-2019</u>
<u>New Construction</u>					
Major Renovations—Elementary (TBD)			<u>1,500,000</u>	<u>15,000,000</u>	
DeLand Area Elem—Addition—For Growth			<u>500,000</u>	<u>2,500,000</u>	<u>2,500,000</u>
TOTAL NEW CONSTRUCTION			<u>2,000,000</u>	<u>17,500,000</u>	<u>2,500,000</u>

CAPITAL IMPROVEMENTS ELEMENT

Major Projects at Existing Schools & Facilities					
Portables—Lease	100,000	100,000	100,000	100,000	100,000
Portables—Moves & Compliance	400,000	400,000	400,000	400,000	400,000
Various Schools—Minor Projects	3,000,000	3,000,000	3,000,000	3,000,000	3,000,000
Various Facilities—Facilities Review Projects	4,980,000	5,000,000	5,000,000	5,000,000	5,000,000
Total	8,480,000	8,500,000	8,500,000	8,500,000	8,500,000
Facilities Management					
Facilities Management—Various Projects	1,150,000	1,150,000	1,150,000	1,150,000	1,150,000
Technology					
Network, EDP & Communications Equipment	4,000,000	4,000,000	4,000,000	4,000,000	4,000,000
System-Wide Equipment & Vehicles					
Various Schools & Departments Furniture & Equipment	1,000,000	1,000,000	1,000,000	1,000,000	1,000,000
Buses					
Transportation Dept—Bus Replacement	2,813,670	2,896,200	2,896,200	2,896,200	2,896,200
Transfers					
Transfers—To General Fund	11,007,250	9,007,250	7,007,250	5,007,250	3,007,250
Transfers—To Debt Service	50,660,365	50,240,090	29,640,814	22,770,834	22,770,234
Total	61,667,615	59,247,340	36,648,064	27,778,084	25,777,484
TOTALS	\$79,111,285	\$76,793,540	\$56,194,264	\$62,824,284	\$45,823,684

Source: Volusia County School District, Work Program adopted September 98, 20142015



STAFF REPORT

CASE NO. 15-27500001

Comprehensive Plan Capital Improvements Element -
2015 Annual Update

REQUEST:	Update and amend the Comprehensive Plan Capital Improvements Element (CIE) in accordance with Florida Statutes
APPLICANT:	City of Port Orange
STAFF CONTACT:	Penelope Cruz, Principal Planner (386) 506-5671
STAFF RECOMMENDATION:	Approval
PLANNING COMMISSION:	Approved
CITY COUNCIL DATE:	December 8, 2015

INTRODUCTION:

Each year, the City is required to amend their Comprehensive Plan Capital Improvements Element (CIE) to include projects from the City's current Capital Improvements Program (CIP). The projects copied from the CIP are primarily improvements needed to maintain the City's adopted level of service (LOS) standards for public facilities. These facilities include water, sewer, stormwater, solid waste, roads, parks, and schools. On September 9, 2015, the City Council ratified the approved CIP for FY 2015/16 – 2020/21 dated August 11, 2015, that included various projects to support the LOS for City public facilities. The proposed amendments take these projects previously approved by Council with the CIP and add them into the CIE. All of the required public facilities meet the City's adopted level of service standards.

State law requires that local governments update their Comprehensive Plan Capital Improvements Element (CIE) every year to show that they have funded or planned to fund the public facility improvements needed to support their population¹. The proposed amendments in Exhibit A are required to be in the underline/strikethrough format. For each table or text that is to be updated from the prior year (FY14/15 - 19/20) to the current year CIP (FY15/16 - 20/21) the deleted prior year text is struck through and in red and the added current year text is underlined and displayed in blue. Text neither struck through nor underlined remains as existing text.

PURPOSE:

Under the 1985 Growth Management Act, local governments are mandated to plan for the availability of public facilities and services to support development and the impacts of such development. The purpose of the CIE and the 5-year Capital Improvements Schedule is to identify the capital improvements needed to implement the Comprehensive Plan and

¹ Ch. 163.3177(3) F.S.

ensure the adopted Level of Service (LOS) Standards for concurrency-related facilities are achieved and maintained.

DISCUSSION:

The amendments to the CIE include the updated Schedule (copied from the City's adopted FY 2015/16 – 2020/21 Capital Improvements Program) and other amendments to update data related to the Schedule and other statutorily required information, such as excerpts from the Transportation Planning Organization's (TPO) Transportation Improvements Program (TIP) and the Volusia County School District Five-Year Work Program (Exhibit A, Tables 5 and 6).

The CIE Schedule includes projects required to meet or maintain adopted LOS standards for concurrency-related facilities or implement the Goals, Objectives, and Policies of the Comprehensive Plan (Exhibit A). The concurrency management system for the City of Port Orange is established by policy in the City's Comprehensive Plan, and administered through regulations contained within the City's Land Development Code.

The City is required to monitor the cumulative effect of all approved Development Orders and Development Permits on the capacity of public facilities. This obligation is met through individual concurrency reviews of development proposals and the annual Concurrency Management Report (CMR). The City's concurrency review evaluates the following public facilities and services:

- Transportation
- Sanitary Sewer
- Potable Water
- Stormwater Drainage
- Solid Waste
- Recreation
- Public Schools

The 2015 CMR identified that all public facilities and services subject to concurrency are at sufficient levels. The CMR also identified improvements that are planned or programmed to ensure that the City continues to maintain the adopted LOS.

RECOMMENDATION:

Staff recommends **approval** of the adoption of the 2015 CIE Annual Update.

ATTACHMENTS:

Exhibit "A" – Annual Update to the CIE (see Ordinance Exhibit)



CITY COUNCIL AGENDA ITEM

REQUESTED COUNCIL MEETING DATE 01/05/2016

Consent item: No

SUBJECT: Second Reading - Ordinance No. 2015-45 - LDC Amendment/Chapters 17 and 18; Case No. 15-25000005

DEPARTMENT: Community Development

GOAL: Economic Development

OBJECTIVE: N/A

RECOMMENDED MOTION: Move to approve Ordinance 2015-45, amending Chapters 17 and 18 of the Land Development Code

SUMMARY: Planning Commission Action (11-19-15): Recommended Approval

Andrew Clark has requested an amendment to the Land Development Code (LDC) to allow farmers/flea market as a Special Exception use in the Ridgewood Development (RD) zoning district. The properties zoned RD are generally located along Ridgewood Ave.

At the September 22 Council Meeting, Andrew Clark spoke under Citizen Participation about amending the LDC to allow the farmers/flea market use as an allowed use within the RD zoning district. Mr. Clark discussed his proposal to expand the existing flea market located on Ridgewood Ave.; however, because it is a non-conforming use, LDC requirements prohibit it from being expanded. If the LDC amendment is approved, the applicant could then apply for a Special Exception to establish the existing flea market as an Special Exception use and allow for it to be expanded.

The farmers/flea market use is a Special Exception use in the Agricultural (A) and the Agricultural Preservation (AP) zoning districts. The applicant has proposed seven Special Exception criteria. Five of the criteria are those currently in the LDC to control the aesthetics and number of farmers/flea markets in the A and AP zoning districts. The two additional criteria require all farmers/flea markets in the RD zoning district to be a minimum of two and a half acres and to allow the farmers/flea market to operate on Thursdays and until 9:00pm for one day per month.

Project Funding Account
No.: No.:

ATTACHMENTS:

1.	Ordinance No. 2015-45	LDC Am. Farmers.Flea Market.pdf
2.	Staff Report	Staff Report .pdf

Fenwick, Robin

Created/Initiated - 12/09/2015

ORDINANCE NO. 2015-45

AN ORDINANCE OF THE CITY OF PORT ORANGE, VOLUSIA COUNTY, FLORIDA AMENDING THE LAND DEVELOPMENT CODE; AMENDING CHAPTER 17, SECTION 25 TO ADD FARMERS/FLEA MARKET AS A SPECIAL EXCEPTION USE IN THE RIDGEWOOD DEVELOPMENT (RD) ZONING DISTRICT; AMENDING CHAPTER 18, SECTION 3 TO ADD SPECIAL REQUIREMENTS FOR THE FARMERS/FLEA MARKET USE; PROVIDING FOR REPEAL OF CONFLICTING ORDINANCES; PROVIDING FOR CODIFICATION; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City has received an application from a developer requesting to amend the Land Development Code ("LDC") to add farmers/flea market to the list of special exception uses in the Ridgewood Development (RD) zoning district; and

WHEREAS, the farmers/flea market use is proposed as a special exception use, thus allowing the City to control the number of facilities and aesthetics; and

WHEREAS, currently, the farmers/flea market use is a special exception use in the Agricultural Preservation (AP) and Agriculture (A) zoning districts; and

WHEREAS, the Planning Commission has recommended adoption of this Ordinance to amend the Land Development Code; and

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

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

SECTION 1: The City Council hereby amends Chapter 17, Section 25 of the Land Development Code, to read as follows:

Chapter 17 - ZONING DISTRICT REGULATIONS

Section 25: - Ridgewood development (RD) district.

- (a) *Purpose and intent.* The Ridgewood Development District is designed to encourage the development and redevelopment, modernization, and beautification of the Ridgewood Avenue corridor, while maintaining its traffic

capacity, and protecting the integrity of adjoining residential areas. It is intended to accommodate a mixture of office, commercial, warehouse/storage, and limited industrial uses based on a strategy for the corridor.

(b) *Permitted uses.*

- (1) Adult/vocational education.
- (2) Antennas.
- (3) Appliance/electronic repair shops.
- (4) Athletic/sports facilities.
- (5) Auction houses.
- (6) Banks.
- (7) Boat sales.
- (8) Business services.
- (9) Camouflaged and monopole communication towers.
- (10) Clubs, lodges, and fraternal organizations.
- (11) Commercial/industrial equipment and supplies.
- (12) Convenience stores with or without fuel operations.
- (13) Equipment rental.
- (14) Financial services.
- (15) Fleet-based services.
- (16) Fortunetellers, astrologers, and palm readers.
- (17) Funeral homes.
- (18) Furniture and appliance stores.
- (19) Greenhouses and nurseries (wholesale and retail).
- (20) Health/exercise club.
- (21) Hotels.
- (22) Houses of worship.
- (23) Laboratory, research and development.
- (24) Maintenance contractors.
- (25) Manufacturing: craftsman shops.
- (26) Manufacturing, limited.
- (27) Medical offices/clinics.
- (28) Mobile home sales.
- (29) Motor vehicle sales.
- (30) Motor vehicle service centers.
- (31) Motor vehicle service stations.
- (32) Offices.
- (33) Pawn shops.
- (34) Personal services.
- (35) Restaurants.
- (36) Retail home building materials.
- (37) Retail sales and services.

- (38) Taxidermy.
- (39) Theaters.
- (40) Veterinary clinics.
- (41) Wholesalers and distributors.
- (42) Xerographic and offset printing.
- (bb) Permitted uses with special development requirements (chapter 18, section 4).
 - (1) Assisted living facilities (subsection 1).
 - (2) Child care centers (subsection 4).
 - (3) Nursing homes (subsection 10).
 - (4) Community gardens (subsection 5.1).
- (c) Special exception uses (chapter 18, section 3).
 - (1) Bars, lounges and night clubs (subsection 3).
 - (2) Boat repair, engine (chapter 18, paragraph 3(b)(3.5)).
 - (3) Farmers/flea markets (subsection 5.5).
 - ~~(34)~~ Game/recreation facilities (subsection 7).
 - ~~(45)~~ Guyed and lattice communication towers.
 - ~~(56)~~ Manufacturing: fabrication.
 - ~~(67)~~ Marina, recreational (subsection 9.6).
 - ~~(78)~~ Mini-warehouses (subsection 10).
 - ~~(89)~~ Motor vehicle repair facilities (subsection 13).
 - ~~(910)~~ Multifamily dwellings (16 units per gross acre maximum allowable density) (subsection 14).
 - ~~(1011)~~ Tattoo parlors (subsection 20).
- (d) Reserved.
- (e) Special landscape provisions.
 - (1) Special landscape provisions for development within this district are described in chapter 13, specifically section 3(c), section 3(d)(3), section 3(e), section 4(b) and section 5(d).
- (f) Special signage provisions. Special signage provisions for development within this district are described in chapter 15, specifically section 6(b) and section 7(c)(1)(b).
- (g) Special vehicular use provisions. The use of alternative surfaces for parking and other vehicular use areas shall be permitted as provided in section 6(f)(3) of chapter 12 of this code.
- (h) Special owner-occupancy provisions. The residential occupancy by a business owner and the owner's family of a structure being used for a permitted use or permitted use with special development requirements shall be permitted as provided in subsection 2(d) of chapter 20 of this code.

SECTION 2: The City Council hereby amends Chapter 18, Section 3 of the Land Development Code, to read as follows:

CHAPTER 18 - CONDITIONAL USES, SPECIAL EXCEPTIONS AND PERMITTED USES WITH SPECIAL DEVELOPMENT REQUIREMENTS

Section 3: - Special requirements for special exception uses.

- (a) *In general.* For those special exception uses listed below, the following special requirements shall apply in addition to those described in section 2(d) above.
- (b) Special requirements
 - (1) – (5) [Remain Unchanged]
 - (5.5) Farmers/flea markets (RD).
 - (a) The proposed site shall front on an arterial roadway.
 - (b) A maximum of 20 percent of the site shall be devoted to sales area.
 - (c) Required parking shall be provided at a ratio of one space for every 200 square feet of sales area.
 - (d) Buffering shall be provided according to chapter 13 of this code, with a six-foot high opaque fence or wall required along property lines, which abut any residential zone.
 - (e) All merchandise and refuse shall be removed from the site at the end of each day.
 - (f) The proposed site shall be a minimum of two and a half (2 ½) acres with a minimum of 300 feet of frontage.
 - (g) The farmers/flea market shall only operate on the following days: Thursdays, Fridays, Saturdays, Sundays, and legal holidays which fall on Monday. Operation shall be restricted to daylight hours only, except that on one of the days of operation each month the farmers/flea market may operate until 9:00 p.m. Parking lots used after dark shall be lighted in accordance with chapter 12 of this code.
 - (6) – (25) [Remain Unchanged]

SECTION 3: CONFLICTING ORDINANCES.

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

SECTION 4: CODIFICATION.

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 relettered to accomplish such intention. The Code codifier is granted liberal authority to codify the provisions of this Ordinance.

SECTION 5: SEVERABILITY.

If any provision of this ordinance or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are declared severable.

SECTION 6: EFFECTIVE DATE.

This Ordinance shall take effect immediately upon adoption.

MAYOR ALLEN GREEN

ATTEST:

Robin L. Fenwick, CMC, City Clerk

Passed on first reading on the day of

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

Reviewed and Approved: _____
Assistant City Attorney



STAFF REPORT

LDC TEXT AMENDMENT/Chapters 17 and 18

CASE NO. 15-25000005

REQUEST: To amend Chapter 17 of the Land Development Code to add farmers/flea market as a Special Exception use in the Ridgewood Development (RD) zoning district and amend Chapter 18 of the LDC to add the special requirements for the farmers/flea market Special Exception use.

APPLICANT: D. Andrew Clark

PLANNING COMMISSION RECOMMENDATION: **Approval**

STAFF RECOMMENDATION: Approval

STAFF CONTACT: Gwen Perney, Senior Planner (386) 506-5673

CITY COUNCIL DATE: December 8, 2015

DISCUSSION:

The applicant proposes to amend the Land Development Code (LDC) to add farmers/flea market to the list of Special Exception uses in the Ridgewood Development (RD) zoning district and to add special requirements for the farmers/flea market use in the RD zoning district. The properties zoned RD are generally located along Ridgewood Avenue (Exhibit A).

At the September 22 Council Meeting, Andrew Clark spoke under Citizen Participation about amending the LDC to allow the farmers/flea market use as an allowed use within the RD zoning district. Mr. Clark discussed his proposal to expand the existing flea market located on Ridgewood Avenue; however, because it is a non-conforming use, LDC requirements prohibit it from being expanded. If the LDC amendment is approved, the applicant could then apply for a Special Exception to expand the existing flea market.

The flea market owned by Mr. Clark at 5013 Ridgewood Ave. is currently the only one operating within the RD zoning district. This flea market is operating as a non-conforming use because it is not currently an allowed use in the RD zoning district.

The RD zoning district currently allows a wide variety of uses such as office, medical office, restaurant, retail, convenience store with gas, bank, appliance/electrical repair shops, pawn shops, health/exercise club, mobile home sales and motor vehicle sales.

LDC Amendment: Add Farmers/Flea Market as a Special Exception Use in the RD Zoning District

According to the Land Development Code (LDC), the farmers/flea market use is defined as an occasional or periodic sales activity held within a building, structure, or open area where

groups of individual sellers offer goods, new and used, for sale to the public, not to include private garage sales or similar activities held by churches and other nonprofit organizations.

Currently, farmers/flea market uses are a Special Exception in the Agriculture Preservation (AP) and Agriculture (A) zoning districts. The following table (Table 1) provides the current zoning districts where farmers/flea market uses are permitted.

Table 1: Zoning Districts for Farmers/Flea Market Use

Zoning District	Permitted Use	Permitted Use with Special Development Requirements	Special Exception
Agriculture Preservation (AP)			X
Agriculture (A)			X

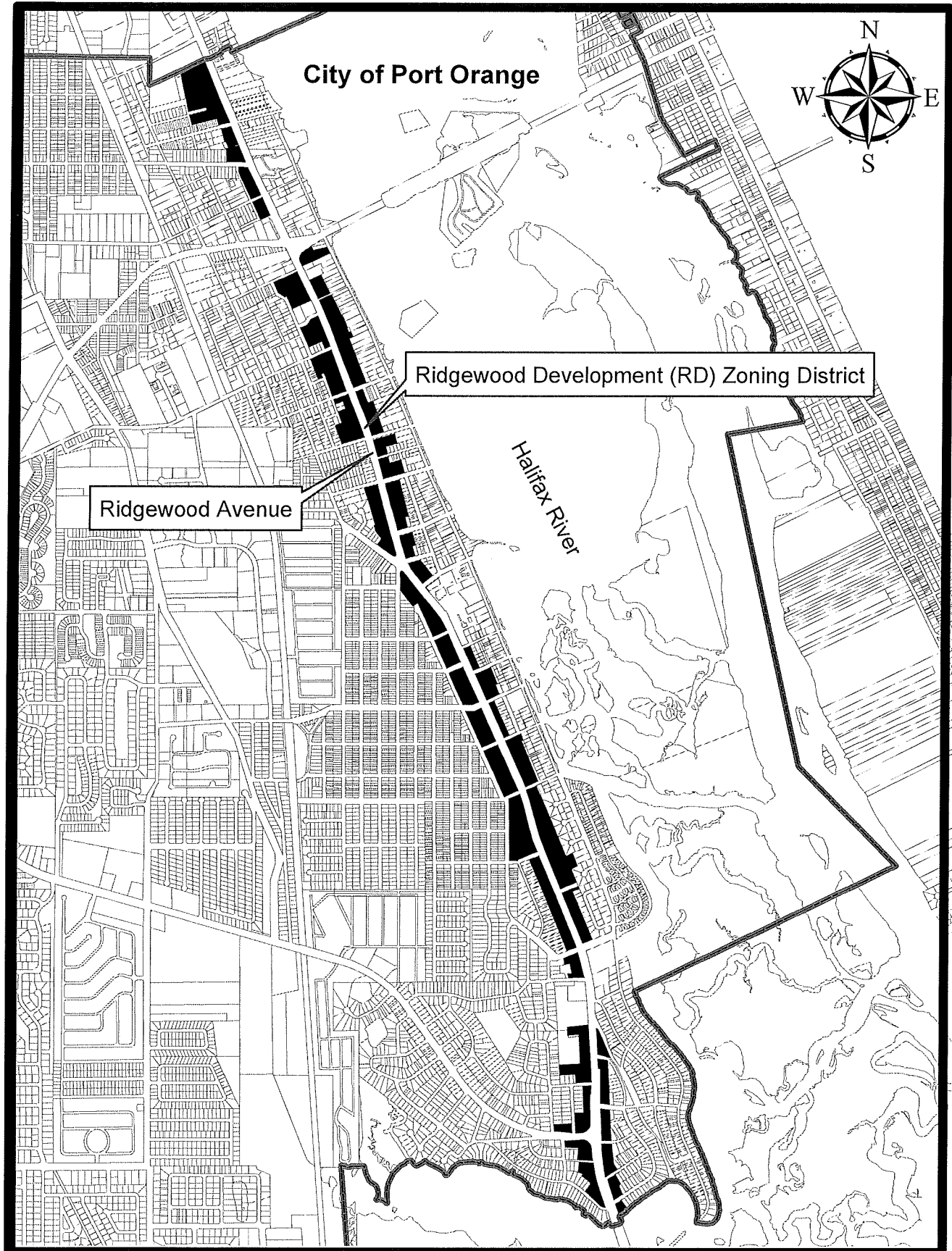
According to the LDC, a Special Exception is a use that would not be appropriate without restriction, but if controlled as to number, area, location or relation to the surrounding area, would promote the public health, safety, and general welfare. All requests for Special Exception uses must be reviewed by the Planning Commission and approved by the City Council.

All Special Exception uses must address a set of standard review criteria (traffic generation, parking, landscaping, etc.) (Exhibit B) along with use specific criteria. The applicant has proposed seven (7) Special Exception criteria. Five (5) of the criteria are those currently in the LDC to control the aesthetics and number of farmers/flea market uses in the AP and A zoning districts. The two additional criteria require all markets to be a minimum of two and a half (2 ½) acres and to allow the farmers/flea market to operate on Thursdays and until 9:00 pm for one day per month. The proposed Special Exception criteria include:

1. The proposed site shall front on an arterial roadway
2. A maximum of 20 percent of the site shall be devoted to sales area
3. Required parking shall be provided at a ratio of one space for every 200 square feet of sales area
4. Buffering shall be provided according to Chapter 13 of the Land Development Code, with a six-foot high opaque fence or wall required along property lines, which abut any residential zone
5. All merchandise and refuse shall be removed from the site at the end of each day
6. The proposed site shall be a minimum of two and a half (2 ½) acres with a minimum of 300 feet of frontage
7. Operation shall be restricted to daylight hours on Thursdays, Fridays, Saturdays, and Sundays only, and legal holidays which fall on Monday. One day of the month, on either a Thursday, Friday, Saturday or Sunday, the farmers/flea market is allowed to operate until 9:00 pm. The parking lot shall be lighted in accordance with Chapter 12 of the Land Development Code.

RECOMMENDATION:

Staff recommends approval of the request to amend the Land Development Code.



**Standard Review Criteria All Special Exception Uses Must Address
[LDC Ch 18, Sec2(d)(2)]:**

1. Traffic generation and access for the proposed use shall not adversely impact adjoining properties and the general public safety;
2. Off-street parking, loading and service area shall be provided and located such that there is no adverse impact on adjoining properties, beyond that generally experienced in the district;
3. Required yards, screening or buffering, and landscaping shall be consistent with the district in general and the specific needs of the abutting land uses;
4. Architectural and signage treatments shall comply with the general provisions applicable to permitted use in the district, to the greatest extent possible, and be sensitive to surrounding development; and
5. Size, location or number of special exception uses in an area shall be limited so as to maintain the overall character district as intended by this code.



CITY COUNCIL AGENDA ITEM

REQUESTED COUNCIL MEETING DATE 01/05/2016

Consent item: No

SUBJECT: Second Reading - Ordinance No. 2015-47 - Relating to Bidding Requirements

DEPARTMENT: Finance

GOAL:

OBJECTIVE:

RECOMMENDED MOTION: Move to approve Ordinance No. 2015-47.

SUMMARY: Ordinance No. 2015-47 has been attached to clarify exempt purchases currently set forth in Section 2-267 of the Code of Ordinances regulating bidding requirements and certain expenditures in excess of \$25,000. The City Manager is permitted but not required to report exempt purchases at his discretion.

Project	Funding Account
No.:	No.:

ATTACHMENTS:

1.	Ord. No. 2015-47	Ord. No. 2015-47.pdf
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Fenwick, Robin

Created/Initiated - 12/16/2015

ORDINANCE NO. 2015-47

AN ORDINANCE OF THE CITY OF PORT ORANGE,
VOLUSIA COUNTY, FLORIDA, AMENDING THE CITY OF
PORT ORANGE CODE OF ORDINANCES, CHAPTER 2,
ADMINISTRATION, SECTION 2-267, RELATING TO
BIDDING REQUIREMENTS FOR PURCHASES;
PROVIDING FOR REPEAL OF CONFLICTING
ORDINANCES; PROVIDING FOR SEVERABILITY; AND
PROVIDING AN EFFECTIVE DATE.

WHEREAS, after codification, staff discovered some errors in the codified ordinance relating to paragraph headings and designations; and

WHEREAS, this amendment to Section 2-267 establishes that items for resale shall be an exempt purchase; and

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

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 2, Administration, Article VI, Section 2-267 of the Code of Ordinances, to read as follows:

Chapter 2 - ADMINISTRATION

Sec. 2-267. - Bidding requirements.

- (a) [Procurement of goods and services.] The city manager shall be responsible for the procurement of supplies, materials, equipment and services paid for from city funds. The departments and/or offices shall purchase their goods and services through the division of purchasing, which is the city's official purchasing agency. All purchases shall comply with local, state and federal laws, rules regulations and policies, as applicable. No contract or purchase shall be subdivided to avoid the requirements of this article.
- (b) [Exempt purchases.] Purchases exceeding \$25,000.00 require approval by city council except for goods and/or services that do not lend themselves to the normal competitive bidding process and the city manager has approved waiving the formal bidding requirements, as follows:

- (1) Maintenance and/or service contracts, on various types of technical equipment that are offered and/or supplied only by the original manufacturer or its representative, or that are required to maintain the integrity of the manufacturer's warranty, or that are part of the manufacturer's rental, lease or lease purchase agreement's terms and conditions.
- (2) Materials purchased directly from a producer or publisher, an owner of a copyright, an exclusive agent with the state, a governmental agency or a recognized educational institution.
- (3) Public or regulated utility services or government franchised services.
- (4) Commodities or contractual services determined to only be available from a single source. The city shall electronically or otherwise publicly post a description of the commodities or contractual services for a period of at least seven business days. The posted description must include a request that prospective vendors provide information regarding their ability to supply the commodities or contractual services described.
- (5) Professional services (except as otherwise provided for in Florida law) and contracts for professional services (which include but are not limited to services provided by attorneys, accountants, actuaries, lobbyists and financial advisors) may be made or entered into by the city manager without utilizing a sealed competitive method or the written quotations method.
- (6) Admission fees.
- (7) Association fees and professional association dues.
- (8) License fees and agreements.
- (9) Media advertising (i.e., newspaper, radio, television, etc.).
- (10) Permit fees.
- (11) Petty cash replenishment.
- (12) Postage.
- (13) Registration fees.
- (14) State fees (unemployment compensation).
- (15) Travel reimbursement.
- (16) Insurance coverage or claims expenditures as provided in the insurance fund, excepting, however, damage to city-owned property.
- (17) Supplies, equipment and vehicles purchased at a public auction.
- (18) Purchases from other governmental agencies, including school boards, community colleges, federal agencies, and agencies from other states, when the awarded contract by the other entity permits purchases by the city on the same terms, conditions, and prices (or below such prices) and the purchase is considered economically advantageous to the city.

(19) Purchase, sale, lease or rental of real property.

(20) Items for resale when purchased in compliance with the restrictions listed below:

(a) Items purchased shall be exclusively for resale;

(b) Items shall include brand name specifications significant to their retail sales appeal; and

(c) Items, after reasonable expected resale, shall result in no cost to the city.

~~(c)~~ Purchase, sale, lease or rental of real property. The purchase of certain items for resale is exempt from the requirements for multiple quotations for purchases not to exceed the \$25,000.00 formal bid threshold. It should be noted, however, that it is always in the best interest and the intent of the city to obtain the most advantageous pricing possible. These purchases shall comply with the restrictions listed below:

~~(1)~~ Items purchased shall be exclusively for resale;

~~(2)~~ Items with brand name specifications significant to their retail sales appeal; and

~~(3)~~ The items, after reasonable expected resale, result in no cost to the city.

~~In such cases, the purchase of materials, supplies, equipment and contractual services may be made by negotiation without regard to the estimated cost, but only with the prior approval of the city council.~~

~~(c)(d)~~ Contract renewals. The city shall have the authority to award and reject any or all bids. The city manager shall have the authority to exercise, in subsequent years, any renewal options initially included in the bid solicitation, provided they are approved by council at the initial award of the contract, and the terms and conditions as well as current market conditions are favorable for the city. Such renewals are subject to the availability of funds.

~~(d)(e)~~ Identical prices and priorities for award. When identical prices are received from two or more vendors and all other factors are equal, priority for award shall be given to vendors in the following sequence:

(1) Drug-free workplace pursuant to F.S. § 287.087.

(2) Certified service-disabled veteran.

(3) Local businesses as defined in section 2-275 of the Code of Ordinances.

(4) Firm with the lowest volume of work on city projects within the last five years. The information will be based on information provided by the proposer, subject to verification at the city's option.

SECTION 2: CONFLICTING ORDINANCES.

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

SECTION 3: SEVERABILITY.

If any provision of this ordinance or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are declared severable.

SECTION 4: EFFECTIVE DATE.

This Ordinance shall take effect immediately upon adoption.

MAYOR ALLEN GREEN

ATTEST:

Robin L. Fenwick, CMC, City Clerk

Passed on first reading on the _____ day of _____

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

Reviewed and Approved: _____
City Attorney



CITY COUNCIL AGENDA ITEM

REQUESTED COUNCIL MEETING DATE 01/05/2016

Consent item: No

SUBJECT: Special Exception for Farmers/Flea Market at 5001, 5005, and 5013 Ridgewood Ave.; Case No. 15-70000002

DEPARTMENT: Community Development

GOAL: 3 - Economic Development

OBJECTIVE: N/A

RECOMMENDED MOTION: Move to approve the request for a Special Exception for a Farmers/Flea Market in the Ridgewood Development (RD) zoning district at 5001, 5005, 5013 Ridgewood Avenue subject to all required criteria in the Land Development Code being met.

SUMMARY: Planning Commission Action (12/17/15): Recommended Denial (3 - 3)

Andrew Clark has applied to expand a farmers/flea market within the Ridgewood Development (RD) zoning district. The proposed use is located on Ridgewood Avenue between Fleming Avenue and Norman Street.

If the Special Exception request is approved, the applicant will demolish the existing Whiskey River bar and add additional tables at this site. All of the Special Exception development criteria for the use (architecture, parking, traffic, etc.) have been met except for the landscape buffers and opaque screening.

Landscape Buffers: The applicant requests to not install additional landscaping along the rear property line or the existing Ridgewood Avenue landscape buffer due to the lack of an irrigation system and the shade of the mature trees along the rear of the property. There is currently no irrigation and no reclaimed water service available at this site.

Opaque Screening: The applicant is requesting the existing wall be considered as opaque to comply with the screening requirement. There is a combination of existing fencing and wall along the rear property line. The existing wall is opaque up to a height of approximately 4 feet but the top section of the wall has small openings and is not fully opaque (See page 5 of the staff report for a picture of the wall).

Mr. Clark has additionally requested that any associated application and advertising fees associated with the Special Exception and the LDC text amendment be reduced to cover the actual cost. A separate agenda item will come before the Council once those costs have been calculated.

Project Funding Account

No.: No.:

ATTACHMENTS:

1.	Staff Report	Staff Report.pdf
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Schmotzer, Melanie
Burman, Tim
Roberts, Margaret
Johansson, M. Jake

Created/Initiated - 12/22/2015
Approved - 12/22/2015
Approved - 12/30/2015
Final Approval - 12/30/2015



STAFF REPORT

Special Exception for a Farmers/Flea Market in the Ridgewood Development (RD) Zoning District

Case No. 15-70000002

REQUEST:	To expand operations of an existing farmers/flea market in the RD Zoning District
PROPERTY OWNER:	D. Andrew Clark
LOCATION:	5001, 5005, & 5013 Ridgewood Ave. (Exhibit A)
PLANNING COMMISSION RECOMMENDATION:	Denial (3 – 3)
STAFF RECOMMENDATION:	Approval
STAFF CONTACT:	Gwen Perney, Senior Planner (386) 506-5673
CITY COUNCIL DATE:	January 5, 2016

CASE BACKGROUND:

Andrew Clark, property owner, has applied to expand the operations of a farmers/flea market within the Ridgewood Development (RD) zoning district. The property is located along Ridgewood Ave. between Fleming Ave. and Norman St. If the Special Exception request is approved, the applicant will be required to meet all architecture, site development and infrastructure requirements of the City's Land Development Code.



The applicant has proposed a Land Development Code (LDC) amendment to permit farmers/flea markets in the RD district by Special Exception. The code amendment is being proposed simultaneously with this Special Exception application and must ultimately be approved by Council before this Special Exception request can be approved.

According to the LDC, “a special exception is a use that would not be appropriate without restriction, but which, if controlled as to number, area, location or relation to the surrounding area, would promote the public health, safety and general welfare”. The LDC defines a farmers/flea market as “an occasional or periodic sales activity held within a building, structure, or open area where groups of individual sellers offer goods, new and used, for sale to the public, not to include private garage sales or similar activities held by churches and other nonprofit organizations.”

According to the applicant, the proposed farmers/flea market will be an expansion of the existing flea market located on Ridgewood (Exhibit A). The applicant is proposing to demolish the Whiskey River bar and expand the market with additional space for tables and potentially a food and beverage pavilion in the future (Exhibit B).

SPECIAL EXCEPTION STANDARDS IN THE RIDGEWOOD DEVELOPMENT (RD) ZONING DISTRICT:

All special exception uses are required to meet a uniform list of development standards, encompassing traffic generation, landscaping and buffering, and others [Ch 18, Sec 2(d)(2) of the LDC]. The following are the development standards and how they apply to the request:

Standard Special Exception Development Standards:

1. *Traffic generation and access for the proposed use shall not adversely impact adjoining properties and the general public safety.*

According to the latest traffic counts for Ridgewood Avenue, there is capacity for the traffic estimated to be generated by the proposed development for this property (Table 1).

Table 1.

Roadway Segment	Maximum Capacity Vehicles per Day*	Current Vehicles per Day*	Remaining Capacity Vehicles Per Day	Daily V/C Ratio**
Ridgewood Ave. from Dunlawton Ave. to Commonwealth Blvd.	39,800	20,500	19,300	0.52
Ridgewood Ave. from Commonwealth Blvd. to Nova Rd.	39,800	13,200	26,600	0.33

* Source: Volusia County Traffic Engineering, 2014
 ** V/C Ratio (Volume-Demand-to-Capacity Ratio) compares roadway demand (vehicle volumes) with roadway supply (carrying capacity). A V/C of 1.00 indicates the roadway facility is operating at its capacity

The proposed farmers/flea market is estimated to generate approximately 218 daily trips, distributed along the adjacent roadway network (ITE trip generation manual, 9th edition).

The zoning for the subject property currently allows uses such as office, medical office, restaurant, retail, convenience store with gas, bank, appliance/electrical repair shops, pawn shops, health/exercise club, mobile home sales and motor vehicle sales. There is no trip generation rate listed in the ITE Trip Generation Manual, 9th edition for farmers/flea market. The traffic expected to be generated from a farmers/flea market is similar to uses currently allowed on the subject property.

Use	ITE Code	PM Peak Hour Trip Rate	Daily Trip Rate	Multiplier
Farmers/Flea Market	826	5.02	44.32	Per 1,000 SF
Medical/Dental Office	720	1.74	11.65	Per 1,000 SF
General Office	710	1.49	11.03	Per 1,000 SF
Restaurant - no Drive-Thru	934	18.49	127.15	Per 1,000 SF
Restaurant with Drive-Thru	933	47.3	496.12	Per 1,000 SF
Specialty Retail	826	5.02	44.32	Per 1,000 SF
Convenience Store	851	62.57	845.6	Per 1,000 SF
Bank	912	24.3	148.15	Per 1,000 SF
Health/Exercise Club	492	4.06	32.93	Per 1,000 SF
Automobile Sales	841	0.96	21.14	Per 1,000 SF

Source: ITE Trip Generation Manual, 9th Edition

Access will be at the existing driveways on site. There are currently eight driveways along Ridgewood Ave and one on Fleming Ave.

The site plan submittal for this property will be required to comply with the City's Concurrency Management requirements in the LDC. Detailed traffic analysis occurs at the site plan review stage to identify any improvements that might be required. Similar to other developments within the City, the developer may be required to enter into a Fair-Share Concurrency Agreement with the City to pay for part of the scheduled improvements for any impacted areas.

2. *Off-street parking, loading and service areas shall be provided and located such that there is no adverse impact on adjoining properties, beyond that generally experienced in the district.*

Parking will be provided as required by the LDC. The total number of parking spaces and design of the parking lot and spaces will be reviewed with the submittal of the site plan. The LDC requires one space per 200 square feet of sales area.

3. *Required yards, screening or buffering, and landscaping shall be consistent with the district in general and the specific needs of the abutting land uses.*

According to the LDC, a minimum 10' landscape buffer is required along Ridgewood Ave., Fleming Ave., and the east property line and a 5' buffer along the south property line. There is an existing buffer along most of Ridgewood and the south property line. The existing plant counts and plant health will need to be evaluated to ensure compliance with the code. A new 10' buffer will be required along Fleming Ave. and the undeveloped portion of property along Ridgewood Ave. if the market is expanded to this property.



There is a combination of existing fence and wall installed along the east property line from Fleming Ave. to the southeast corner of the site. There are a few existing large shade trees at the rear of the property, but no existing shrubs or understory trees that are required in a new landscaping buffer.

There is currently no irrigation on site and no reclaimed water available at this location. The property owner would need to install a well and new irrigation system for the site. Additionally, any portion of the fence/wall that is not currently 6 feet tall minimum would need to be replaced with a 6-foot fence/wall or modified to achieve 6 feet.

According to the applicant, he would prefer to not install new landscaping along the east property line due to the lack of an irrigation system and the amount of shade created from the mature trees along the rear of the lot. The lack of irrigation is also the reason the applicant would prefer to maintain the existing right-of-way buffers. There are plants that can grow under shady conditions and there may be enough existing material in the right-of-way buffers to count toward the buffer requirements.



4. *Architectural and signage treatments shall comply with the general provisions applicable to permitted uses in the district, to the greatest extent possible, and be sensitive to surrounding development.*

The architectural style of the buildings, accessory structures, wall/fence, and site furnishings will be designed with a common architectural theme and comply with the City's LDC. A formal review of the architectural design will occur with the site plan to verify compliance with the LDC. Any proposed signage will have to meet the regulations set forth by the LDC.

In addition to the standard development requirements for all special exceptions, a farmers/flea market in the RD zoning district must also comply with seven additional development requirements [Ch. 18, Sec 3(b) of the LDC]. The following are the additional development requirements for a farmers/flea market use and how they apply to the request.

Specific Farmers/Flea Market Development Requirements:

1. *The proposed site shall front on an arterial roadway.*

The site fronts onto Ridgewood Avenue which is defined by the City's Comprehensive Plan as an urban principal arterial.

2. *A maximum of 20 percent of the site shall be devoted to sales area.*

The applicant will be required to show the dimensions of the existing and proposed sales area. According to the applicant, $\pm 5,000$ square feet will be designated as sales area, which is ± 4 percent of the 2.77 acre site.

3. *Required parking shall be provided at a ratio of one space for every 200 square feet of sales area.*

Based on 5,000 square feet of sales area, 25 parking spaces will be required. There is currently sufficient parking on the site.

4. *Buffering shall be provided according to Chapter 13 of this code with a six-foot high opaque fence or wall required along property lines which abut any residential zone.*

The site abuts single-family residential homes and in accordance with Chapter 13, LDC, a 10-foot buffer is required between the single-family properties and the farmers/flea market property. There is a combination of existing fence and wall installed along the east property line from Fleming Ave. to the southeast corner of the site. The height of the fence and wall varies from 4 to 6 feet in height. Any 4-foot tall fence will be required to be replaced with 6-foot fence or modified to meet the 6-foot minimum.

According to the applicant, he would prefer to not install new landscaping along the east property line due to the lack of an irrigation system and the amount of shade created from the mature trees along the rear of the lot. The lack of irrigation is also the reason the applicant would prefer to maintain the existing right-of-way buffers. There are plants that can grow under shady conditions and

there may be enough existing material in the right-of-way buffers to count toward the buffer requirements.

5. *All merchandise and refuse shall be removed from the site at the end of the day.*

The property owner/business manager will be required to enforce the business hours of the market, to ensure regular garbage pick-up and be responsible for continued commercial property maintenance. This provision also includes the removal of pop-up tents, temporary tent structures, and any temporary signage at the end of each sales day.

6. *The proposed site shall be a minimum of 2.5 acres with a minimum of 200 feet of frontage.*

The subject property is 2.77 acres with approximately 650 feet of frontage along Ridgewood Ave. The applicant intends to combine the individual parcels and develop the site with a farmers/flea market.

7. *The farmers/flea market shall only operate on the following days: Thursdays, Fridays, Saturdays, Sundays, and legal holidays which fall on Monday. Operation shall be restricted to daylight hours only, except that on one of the days of operation each month the farmers/flea market may operate until 9:00 p.m. Parking lots used after day shall be lighted in accordance with Chapter 12 of this code.*

The market currently operates Thursdays through Sunday during daylight hours. One Thursday, Friday, Saturday, or Sunday per month the market will be permitted to operate until 9:00 p.m. There is existing parking lot lighting. The applicant will be required to provide additional lighting if parking areas are proposed to be expanded.

RECOMMENDATION:

Staff recommends **approval** of the Special Exception to allow a farmers/flea market at 5001, 5005, and 5013 Ridgewood Avenue, subject to approval of the LDC text amendment to allow farmers/flea market as a Special Exception use in the RD zoning district and all required criteria in the Land Development Code being met.

Date created: December 11, 2015

Revised: December 31, 2015 - Recommendation edited to reflect what was presented at the December 17, 2015 Planning Commission meeting.



**NOTICE OF JOINT ANNUAL MEETING
Of Members and Directors Of
PORT ORANGE PROPERTY DEVELOPMENT, INC.,
a Florida Not-for-Profit Corporation.
1000 City Center Circle, Port Orange, Florida**

TO: All Members and Directors

Pursuant to the provisions of Article 3.02, Members of the Corporation, and Article 4.03, Board of Directors, of the Bylaws of **PORT ORANGE PROPERTY DEVELOPMENT, INC.**, a Florida Not-for-Profit Corporation

YOU ARE HEREBY NOTIFIED

that the joint annual meeting of the Members and of the Board of Directors shall be held on **Tuesday, January 5, 2016, at 6:30 p.m.**, or as soon thereafter as the respective meeting may be called to order, in the City Council Chambers, City Hall, 1000 City Center Circle, Port Orange, Florida, for the following purposes:

Agenda for Meeting of Members:

1. Roll Call (all members of council)
2. Acceptance of Meeting Notice
3. Approval of Minutes of December 2, 2014 and July 7, 2015
4. Such other business as may be brought before the Members of the corporation.

Immediately following the meeting of the members, the Board of Directors shall consider and take action on the following items:

Agenda for Meeting of Board of Directors:

6. **Election of officers for the one year term:**

Current Officers

Allen Green, Chairman
Scott Stiltner, Vice Chairman
Drew Bastian, President
Donald Burnette, Vice President
Bob Ford, Secretary
Tracey Riehm, Treasurer

7. President's appointment of Executive Director, M. H. Johansson.
8. Such other business as may be brought before the Board of Directors.

DATED: December 30, 2015.

/s/ Robin Fenwick for
Bob Ford, Secretary

Copy to: Allen Green, Mayor
Drew Bastian, Vice Mayor
Donald Burnette, Councilman
Bob Ford, Councilman
Scott Stiltner, Councilman
M. H. Johansson City Manager
Tracey Riehm, Finance Director
Margaret T. Roberts, City Attorney

PORT ORANGE PROPERTY DEVELOPMENT, INC.

January 5, 2016

I call the Annual Meeting of the Members and Directors of PORT ORANGE PROPERTY DEVELOPMENT, INC., to Order.

1. **Roll Call: Members of the City Council:** Allen Green, Don Burnette, Drew Bastian, Bob Ford, and Scott Stiltner
2. **Do I have an objection to the notice of meeting?**
Hearing no objection, the notice is accepted.
3. **Do I have a motion to approve the Minutes of the December 2, 2014 meeting?**
Second? Voice vote
4. **Do I have a motion to approve the Minutes of the July 7, 2015 meeting?**
Second? Voice vote
5. **Election of Officers for the one year term:** Do I have a motion to re-elect the officers currently serving?
Second? Voice vote
6. **Appointment of Executive Director:** Do I have a motion to appoint M. H. Johansson to serve as Executive Director?
Second? Voice vote
7. **Is there any further business of the Members and Board of Directors? There being none, this annual meeting of the members is adjourned.**

December 30, 2015

Design Review Board
Port Orange Property Development, Inc.
1000 City Center Circle
Port Orange, Florida 32129

Re: Notice of Meeting

Dear Board Members,

There will be a Design Review Board for Port Orange Property Development, Inc. meeting on **Tuesday, January 5, 2016** in the Council Chambers at Port Orange City Hall, 1000 City Center Circle. This meeting will be held at approximately **6:30 p.m.** or as soon thereafter as reasonably practicable.

The purpose of the meeting is to approve the December 2, 2014, meeting minutes and to elect a Chairman and Vice-Chairman.

Sincerely yours,

/s/ Robin Fenwick for
Allen Green, Chairman

**DESIGN REVIEW BOARD FOR
PORT ORANGE PROPERTY DEVELOPMENT, INC.**



PORT ORANGE COUNCIL CHAMBERS
1000 CITY CENTER CIRCLE
PORT ORANGE, FLORIDA

January 5, 2016 – 6:30 p.m.

AGENDA

OPENING

1. Roll Call

DISCUSSION/ACTION

2. Acceptance of meeting notice
3. Approval of Minutes of December 2, 2014
4. Election of Chairman
5. Election of Vice Chairman

ADJOURNMENT

ANY PERSON WHO DECIDES TO APPEAL ANY DECISION MADE BY THE BOARD WILL NEED A RECORD OF THE PROCEEDINGS AND FOR SUCH PURPOSE HE MAY NEED TO INSURE AT HIS OWN EXPENSE FOR THE TAKING AND PREPARATION OF A VERBATIM RECORD OF ALL TESTIMONY AND EVIDENCE OF THE PROCEEDINGS UPON WHICH THE APPEAL IS TO BE BASED.

NOTE: IF YOU ARE A PERSON WITH A DISABILITY WHO NEEDS ANY ACCOMMODATION IN ORDER TO PARTICIPATE IN THIS PROCEEDING, YOU ARE ENTITLED, AT NO COST TO YOU, TO THE PROVISION OF CERTAIN ASSISTANCE. PLEASE CONTACT THE CITY CLERK FOR THE CITY OF PORT ORANGE, 1000 CITY CENTER CIRCLE, PORT ORANGE, FLORIDA 32129, TELEPHONE NUMBER 386-506-5563, WITHIN 2 WORKING DAYS OF YOUR RECEIPT OF THIS NOTICE OR 5 DAYS PRIOR TO THE MEETING DATE; IF YOU ARE HEARING OR VOICE IMPAIRED, CONTACT THE RELAY OPERATOR AT 1-800-955-8771.

**DESIGN REVIEW BOARD
FOR
PORT ORANGE PROPERTY DEVELOPMENT, INC.
MEETING
January 5, 2016**

I call this Meeting of the Design Review Board for Port Orange Property Development Incorporated to Order.

- 1. Roll Call: (all members of Council)**
- 2. Do I have a motion to approve the Minutes of the December 2, 2014, meeting?**
Second? Voice vote.
- 3. The current Chairman is Allen Green and the current Vice Chairman is Drew Bastian.**

Do I have nominations to elect the Chairman for the one year term?

_____ as Chairman
Voice vote.

- 3. Do I have nominations to elect the Vice Chairman for the one year term?**

_____ as Vice Chairman
Voice vote.

Is there any other Business?

There being none, this meeting is adjourned.



**NOTICE OF JOINT ANNUAL MEETING
Of Members and Directors of
CITY CENTER CORPORATE PARK PROPERTY
OWNERS ASSOCIATION, INC.,
a Florida Not-for-Profit Corporation
1000 City Center Circle, Port Orange, Florida**

TO: All Members and Directors

Pursuant to the provisions of Article 3.01, Members of the Corporation, and Article 7.02, Board of Directors, of the Bylaws of **CITY CENTER CORPORATE PARK PROPERTY OWNERS ASSOCIATION, INC.**, a Florida Not-for-Profit Corporation

YOU ARE HEREBY NOTIFIED

that the annual meeting of the Members and of the Board of Directors shall be held on **Tuesday, January 5, 2016 at 6:30 p.m.**, or as soon thereafter as the respective meeting may be called to order, in the City Council Chambers, City Hall, 1000 City Center Circle, Port Orange, Florida, for the following purposes:

Agenda for Meeting of Members:

- A. Roll Call (all members of Council)
- B. Proof of Notice of Meeting
- C. Approve Minutes of December 2, 2015
- D. Election of the Board of Directors for the One Year Term:

Current Board of Directors:

Drew Bastian
Donald Burnette
Bob Ford
Allen Green
Scott Stiltner

- E. Such other business as may be brought before the Members of the corporation.

Immediately following the meeting of the members, the Board of Directors shall consider and take action on the following items:

Agenda for Board of Directors Meeting:

- A. Appointment of Registered Agent – Tracey Riehm.
- B. Such other business as may be brought before the Board of Directors.

DATED: December 30, 2015

/s/ Robin Fenwick for
Donald Burnette, Secretary

Copy to: Allen Green, Mayor
Drew Bastian, Vice-Mayor
Donald Burnette, Councilman
Bob Ford, Councilman
Scott Stiltner, Councilman
M. H. Johansson, City Manager
Tracey Riehm, Finance Director
Margaret T. Roberts, City Attorney

**JOINT ANNUAL MEETING OF MEMBERS AND DIRECTORS OF
CITY CENTER CORPORATE PARK
PROPERTY OWNERS ASSOCIATION, INC.**

January 5, 2016

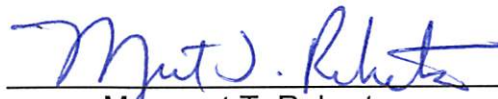
I call the Annual Joint Meeting of the Members and Board of Directors of CITY CENTER CORPORATE PARK PROPERTY OWNERS ASSOCIATION, to Order.

1. **Roll Call:** All members of the City Council: Drew Bastian, Donald Burnette, Bob Ford, Allen Green, Scott Stiltner
2. **Do I have a motion to accept the notice of meeting?**
Second? Voice vote
3. **Do I have a motion to approve the Minutes of the December 2, 2014, meeting?**
Second? Voice vote
4. **Election of the members of the Board of Directors:** **Do I have a motion to re-elect the following to serve as the Board of Directors for the one year term?**
Drew Bastian, Don Burnette, Bob Ford, Allen Green, and Scott Stiltner
Second? Voice vote
5. **Do I have a motion to appoint Tracey Riehm as Registered Agent and to update the annual report accordingly?**
Second? Voice vote
5. **Is there any further business? There being none, this meeting is adjourned.**

**RESIGNATION OF REGISTERED AGENT FOR
CITY CENTER CORPORATE PARK PROPERTY OWNERS ASSOCIATION, INC.**

The undersigned, MARGARET T. ROBERTS, hereby resigns as the Registered Agent for the City Center Corporate Park Property Owners Association, Inc. located in Port Orange, Volusia County, Florida.

The effective date of this resignation shall be January 5, 2016.



Margaret T. Roberts

Date: 1-5-16

**ACCEPTANCE OF APPOINTMENT AS REGISTERED AGENT FOR
CITY CENTER CORPORATE PARK PROPERTY OWNERS ASSOCIATION, INC.**

The undersigned, TRACEY RIEHM, hereby accepts her appointment as the Registered Agent for the City Center Corporate Park Property Owners Association, Inc. located in Port Orange, Volusia County, Florida; and states that she is familiar with and accepts the obligations of the registered agent as required by law.

The effective date of this acceptance of appointment shall be January 5, 2016.

Tracey Riehm

Date: _____

**NOTICE OF JOINT ANNUAL MEETING
Of the Shareholders and
ORGANIZATIONAL MEETING
Of the Directors of
GOLF CLUB AT CYPRESS HEAD, INC.,
a Florida For-Profit Corporation
1000 City Center Circle, Port Orange, Florida**

TO: All Shareholders and Directors

Pursuant to the provisions of Article II, Sections One and Two, Shareholders, and Article III, Board of Directors, of the Bylaws of, **GOLF CLUB AT CYPRESS HEAD, INC.**, a Florida Not-for-Profit Corporation

YOU ARE HEREBY NOTIFIED

that the joint annual meeting of the Shareholders and of the Board of Directors shall be held on **Tuesday, January 5, 2016, at 6:30 p.m.**, or as soon thereafter as the respective meetings may be called to order, in the City Council Chambers, City Hall, 1000 City Center Circle, Port Orange, Florida, for the following purposes:

Agenda for Meeting of Shareholders:

1. Call to order and Roll Call (all members of council);
2. Proof of Notice of Meeting;
3. Approval of Minutes from December 2, 2014 and August 25, 2015;
4. Reports of officers, if any;
5. Reports of committees, if any;
6. Election of Directors for the One Year Term
Current Directors:
Bob Ford
M. H. Johansson;
7. Appointment of Registered Agent;
8. Disposition of unfinished business;
9. Disposition of new business.

Immediately following the meeting of the Shareholders, the Board of Directors shall consider and take action on the following items:

Agenda for Board of Directors Meeting:

10. Ratify all action taken by the Board during the past year;
11. Election of Officers for the One Year Term
Current Officers:
Bob Ford, President
M. H. Johansson, Secretary/Treasurer

12. Such other business as may be brought before the Board of Directors.
13. Adjournment of the Joint Annual Meeting of Shareholders and Organizational Meeting of the Board of Directors

DATED: December 30, 2015

/s/ Robin Fenwick for
M. H. Johansson, Secretary/Treasurer

Copy to: Allen Green, Mayor
Drew Bastian, Vice Mayor
Donald Burnette, Councilman
Bob Ford, Councilman
Scott Stiltner, Councilman
M. H. Johansson, City Manager
Alan Rosen, Assistant City Manager
Tracey Riehm, Finance Director
Margaret T. Roberts, City Attorney

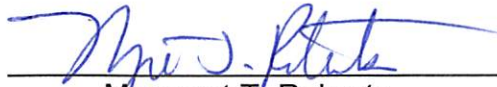
January 5, 2016

1. **Roll Call: All Members of the City Council: Drew Bastian, Don Burnette, , Bob Ford, Allen Green, and Scott Stiltner**
2. **Do I have a motion to accept the notice of meeting?
Second? Voice vote**
3. **Do I have a motion to approve the Minutes of the December 2, 2014 meeting?
Second? Voice vote**
4. **Do I have a motion to approve the Minutes of the August 25, 2015 meeting?
Second? Voice vote**
5. **Do I have any reports of officers or committees?**
6. **Election of Directors: Do I have a motion to re-elect the following directors for the one year term?
Bob Ford and M. H. Johansson
Second? Voice Vote**
6. **Appointment of Registered Agent: Do I have a motion to appoint Tracey Riehm as Registered Agent; and to update the annual report accordingly?
Second? Voice Vote**
7. **Is there any unfinished business or new business?**
8. **Election of Officers: Do I have a motion to re-elect the following officers for the one year term
(Only Bob Ford and M. H. Johansson may vote)
Bob Ford – President
M. H. Johansson – Secretary/Treasurer
Second? Voice Vote**
9. **Do I have a motion to ratify all action taken by the Board during the past year?
Second? Voice Vote**
10. **Is there any further business? There being none, this meeting is adjourned.**

**RESIGNATION OF REGISTERED AGENT FOR
GOLF CLUB AT CYPRESS HEAD, INC.**

The undersigned, MARGARET T. ROBERTS, hereby resigns as the Registered Agent for the Golf Club at Cypress Head, Inc. located in Port Orange, Volusia County, Florida.

The effective date of this resignation shall be January 5, 2016.



Margaret T. Roberts

Date: 12-30-15

**ACCEPTANCE OF APPOINTMENT AS REGISTERED AGENT FOR
GOLF CLUB AT CYPRESS HEAD, INC.**

The undersigned, TRACEY RIEHM, hereby accepts her appointment as the Registered Agent for the Golf Club at Cypress Head, Inc. located in Port Orange, Volusia County, Florida; and states that she is familiar with, and accepts, the obligations of the registered agent as required by law.

The effective date of this acceptance of appointment shall be January 5, 2016.

Tracey Riehm

Date: _____



CITY COUNCIL AGENDA ITEM

REQUESTED COUNCIL MEETING DATE 01/05/2016

Consent item: No

SUBJECT: Port Orange Business Park Property Owner's Association, Inc. Joint Annual Meeting for Members and Directors

DEPARTMENT: City Manager

GOAL: 4 - Fiscal Sustainability

OBJECTIVE: N/A

RECOMMENDED MOTION:

SUMMARY: The Port Orange Business Park Property Owner's Association, Inc. is comprised of the City of Port Orange and V & P Property Group, both of which own land in the "Association." Each year the Board of Directors must adopt a calendar year budget.

Attached are the notice, agenda and proposed motions for the joint annual meeting of the members and directors. Tracey Riehm is proposed to serve as the Registered Agent for consistency for all of the corporations established by the city council.

Project	Funding Account
No.:	No.:

ATTACHMENTS:

1.	Port Orange Business Park Property Owner's Assoc.	Port Orange Business Park Property Owners Association Annual Meeting 1.5.2016.pdf
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Fenwick, Robin
Rosen, Alan
Riehm, Tracey
Roberts, Margaret
Johansson, M. Jake

Created/Initiated - 12/14/2015
Approved - 12/18/2015
Approved - 12/29/2015
Approved - 12/30/2015
Final Approval - 12/30/2015

December 30, 2015

Port Orange Business Park Property Owners Association, Inc.
1000 City Center Circle
Port Orange, Florida 32129

Re: Notice of Joint Annual Meeting

Dear Board Members,

There will be a Port Orange Business Park Property Owners Association, Inc. meeting on **Tuesday, January 5, 2016**, in the Council Chambers at Port Orange City Hall, 1000 City Center Circle. This meeting will be held at approximately **6:30 p.m.** or as soon thereafter as reasonably practicable.

Sincerely yours,

/s/ Robin Fenwick for
Bill Rice
Secretary

JOINT ANNUAL MEETING OF MEMBERS AND DIRECTORS OF
PORT ORANGE BUSINESS PARK
PROPERTY OWNERS ASSOCIATION, INC.

COUNCIL CHAMBERS – 6:30 P.M.

JANUARY 5, 2016

AGENDA

- A. ROLL CALL
- B. PROOF OF NOTICE OF MEETING OR WAIVER OF NOTICE
- C. CONSIDERATION OF MINUTES – January 6, 2015 and July 7, 2015
- D. REPORTS OF OFFICERS – None
- E. REPORTS OF COMMITTEES - None
- F. ELECTION OF DIRECTORS
- G. ELECTION OF OFFICERS
- H. APPOINTMENT OF REGISTERED AGENT – Tracey Riehm
- I. UNFINISHED BUSINESS
- J. NEW BUSINESS
 - 1. Resolution No. 2016-1, 2016 Annual Budget and Assessments Adoption
- K. ADJOURNMENT

ANY PERSON WHO DECIDES TO APPEAL ANY DECISION MADE BY THE PORT ORANGE BUSINESS PARK PROPERTY OWNERS' ASSOCIATION, INC. BOARD WILL NEED A RECORD OF THE PROCEEDINGS, AND FOR SUCH PURPOSE HE OR SHE MAY NEED TO ENSURE AT HIS OR HER OWN EXPENSE FOR TAKING AND PREPARATION OF A VERBATIM RECORD OF ALL TESTIMONY AND EVIDENCE OF THE PROCEEDING UPON WHICH THE APPEAL IS TO BE BASED.

NOTE: IF YOU ARE A PERSON WITH A DISABILITY WHO NEEDS ANY ACCOMMODATION IN ORDER TO PARTICIPATE IN THIS PROCEEDING, YOU ARE ENTITLED, AT NO COST TO YOU, TO THE PROVISION OF CERTAIN ASSISTANCE. PLEASE CONTACT THE DEPUTY CITY CLERK FOR THE CITY OF PORT ORANGE, 1000 CITY CENTER CIRCLE, PORT ORANGE, FLORIDA 32129, TELEPHONE NUMBER 386-506-5563, WITHIN 2 WORKING DAYS OF YOUR RECEIPT OF THIS NOTICE OR 5 DAYS PRIOR TO THE MEETING DATE; IF YOU ARE HEARING OR VOICE IMPAIRED, CONTACT THE RELAY OPERATOR AT 1-800-955-8771.

**JOINT ANNUAL MEETING OF MEMBERS AND DIRECTORS OF
PORT ORANGE BUSINESS PARK
PROPERTY OWNERS ASSOCIATION, INC.**

January 5, 2016

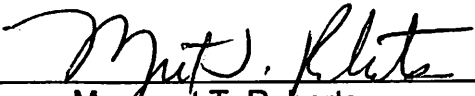
I call the Annual Joint Meeting of the PORT ORANGE BUSINESS PARK PROPERTY OWNERS ASSOCIATION, INC., to Order.

1. **Roll Call:** Allen Green, Scott Stiltner and Bill Rice
2. **Do I have a motion to accept the notice of meeting?**
Second? Voice vote
3. **Do I have a motion to approve the Minutes of the January 6, 2015, meeting?**
Second? Voice vote
4. **Do I have a motion to approve the Minutes of the July 7, 2015, meeting?**
Second? Voice vote
5. **There are no reports of officers or committees.**
6. **Election of Directors for the 3 year term:** Do I have a motion to re-elect the Directors currently serving:
Second? Voice vote.
7. **Election of Officers for the 3 year term:** Do I have a motion to re-elect the officers currently serving:
Allen Green, President; Scott Stiltner, Vice President; Bill Rice, Secretary/Treasurer
Second? Voice vote.
8. **Appointment of Registered Agent:** Do I have a motion to appoint Tracey Riehm as Registered Agent and to update the annual report accordingly?
Second? Voice vote
9. **Is there any unfinished business?**
10. **Is there any new business?**
 1. Resolution No. 2016-1 Annual Budget and Assessments Adoption
11. **Is there any further business? There being none, this meeting is adjourned.**

**RESIGNATION OF REGISTERED AGENT FOR
PORT ORANGE BUSINESS PARK PROPERTY OWNERS ASSOCIATION, INC.**

The undersigned, MARGARET T. ROBERTS, hereby resigns as the Registered Agent for the Port Orange Business Park Property Owners Association, Inc. located in Port Orange, Volusia County, Florida.

The effective date of this resignation shall be January 5, 2016.



Margaret T. Roberts

Date: 12-30-15

**ACCEPTANCE OF APPOINTMENT AS REGISTERED AGENT FOR
PORT ORANGE BUSINESS PARK PROPERTY OWNERS ASSOCIATION, INC.**

The undersigned, TRACEY RIEHM, hereby accepts her appointment as the Registered Agent for the Port Orange Business Park Property Owners Association, Inc. located in Port Orange, Volusia County, Florida; and states that she is familiar with and accepts the obligations of the registered agent as required by law.

The effective date of this acceptance of appointment shall be January 5, 2016.

Tracey Riehm

Date: _____

PORT ORANGE BUSINESS PARK PROPERTY OWNERS ASSOCIATION, INC.
RESOLUTION NO. 2016-1

A RESOLUTION OF THE PORT ORANGE BUSINESS PARK PROPERTY OWNERS ASSOCIATION, INC., ADOPTING THE 2016 BUDGET AND ASSESSMENT; SUPERSEDING PRIOR RESOLUTIONS; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Port Orange Business Park Property Owners Association, Inc. is a Florida not for profit corporation duly organized and existing under the laws of the State of Florida; and

WHEREAS, the Board of Directors is required to establish the annual budget and establish the amount of the annual assessment;

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE PORT ORANGE BUSINESS PARK PROPERTY OWNERS ASSOCIATION, INC. VOLUSIA COUNTY, FLORIDA, as follows:

Section 1. The Budget and Assessment attached hereto as Attachment 1 is adopted.

Section 2. The resolution shall become effective and made part of the minutes of the Port Orange Business Park Property Owners Association, Inc. immediately upon adoption.

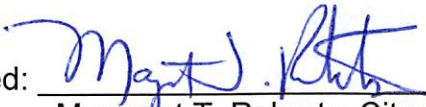
President, Allen Green

Secretary/Treasurer, Bill Rice

Adopted this _____ day of _____, 2016.

ATTEST:

Reviewed and Approved: _____


Margaret T. Roberts, City Attorney

**PORT ORANGE BUSINESS PARK PROPERTY OWNERS ASSOCIATION PROPOSED CALENDAR
YEAR 2016 BUDGET
(Jan. 1, 2016 - Dec. 31, 2016)**

Three Year Budget History

Revenue	2014 Actual	2015 Forecast	2016 Proposed
V&P Property Group, LLC	8,168.00	10,242.22	8,890.00
City of Port Orange	9,027.13	9,242.21	7,890.00
Total Revenue	17,195.13	19,484.43	16,780.00
Expenditures	2014 Actual	2015 Forecast	2016 Proposed
Administrative Services	1,000.00	1,000.00	1,000.00
Liability Insurance	835.83	825.62	830.00
Hockney Ct. Mowing/Maintenance	13,715.00	13,428.34	13,640.00
Irrigation	760.05	1,136.04	1,240.00
Other Charges / Taxes, Licenses, And Fees	131.25	70.00	70.00
Prior Year Deficits	-	3,024.43	-
Total Expenditures	16,442.13	19,484.43	16,780.00

Proposed 2016 Expenditure Breakdown

Item	V&P Assessment	City Contribution	Total Expenditures
Administrative Services	1,000.00	-	1,000.00
Liability Insurance	415.00	415.00	830.00
Hockney Ct. Mowing / Maintenance	6,820.00	6,820.00	13,640.00
Irrigation	620.00	620.00	1,240.00
Other Charges / Taxes, Licenses, And Fees	35.00	35.00	70.00
Total Expenditures	8,890.00	7,890.00	16,780.00

Proposed 2016 Payment Schedule

Date	V&P	City
Due January 1, 2016	2,222.50	1,972.50
Due April 1, 2016	2,222.50	1,972.50
Due July 1, 2016	2,222.50	1,972.50
Due October 1, 2016	2,222.50	1,972.50

Notes:

The City of Port Orange is exempt from assessments but has agreed to share in the prorated cost of liability insurance and landscape maintenance along Hockney Court until such time as the City's property is sold to another party.

V&P Property Group, LLC shall maintain, through its resources and/or staff, the common area mowing in a normal and customary manner and in accordance with Declaration of Covenants, Conditions, Restrictions, Reservations and Easements.

Some 2013 revenue was recorded in 2014.

Calendar year 2015 budget was amended by about \$3,000 to cover a multi-year deficit.

Utility rates increased mid-2015 and are expected to contribute to a 63% increase in irrigation over 2014 actual amounts.



CITY COUNCIL AGENDA ITEM

REQUESTED COUNCIL MEETING DATE 01/05/2016

Consent item: Yes

SUBJECT: Reports from Kemper Sports Management regarding Cypress Head Golf Course

DEPARTMENT: City Clerk

GOAL:

OBJECTIVE:

RECOMMENDED MOTION:

SUMMARY: The Golf Board meeting schedule changed to quarterly; however, the reports from KemperSports are attached for Council's review.

Project	Funding Account
No.:	No.:

ATTACHMENTS:

1.	Financial reports	Financials.pdf
2.	Client Report	Client Report.pdf

Fenwick, Robin

Created/Initiated - 12/30/2015

[illegible]

**The Golf Club at Cypress Head
Course Cash Flow Report
November 30, 2015**

	<u>November</u>	<u>YTD</u>
EBITDA	\$11,091.39	(\$94,020.31)
Management Fee Expense	(5,712.85)	(13,082.45)
Depreciation & Amortization	(381.00)	(762.00)
Net Income	4,997.54	(107,864.76)
Working Capital Changes		
Inventory	1,909.81	(3,451.33)
Receivables	18,846.03	152,551.76
Payables	(25,367.66)	8,755.91
Due to from the City	10,018.00	20,036.00
Prepays	6,243.47	6,533.29
Accrued Liabilities	(21,210.19)	(17,018.14)
Other Liabilities	(15,135.74)	39,581.48
Depreciation & Amortization	381.00	762.00
Operating Cash Flow	(19,317.74)	99,886.21
Investing Cash Flows	<u> </u>	<u> </u>
Financing Cash Flow	<u> </u>	<u> </u>
Net Cash Flows	<u>(19,317.74)</u>	<u>99,886.21</u>
Beginning Cash	169,318.00	50,114.05
Net Cash Flows	<u>(19,317.74)</u>	<u>99,886.21</u>
Ending Cash	<u>150,000.26</u>	<u>150,000.26</u>

The Golf Club at Cypress Head
Summary of All Units
For the Two Months Ending November 30, 2015

MTD Actual	MTD Budget	% of Budget	MTD Prior Year	% of PY		YTD Actual	YTD Budget	% of Budget	YTD Prior Year	% of PY	Annual Budget	
REVENUES												
63,197	50,240	126%	50,235	126%	Green Fees	66,823	50,240	133%	86,719	77%	604,248	406,257
46,012	36,930	125%	36,206	127%	Cart Fee	47,413	36,930	128%	64,397	74%	419,178	271,731
(250)	0	0%	0	0%	Initiation Fees	0	0	0%	0	0%	0	750
60	20	300%	20	300%	Handicap Fee	80	20	400%	40	200%	4,516	4,432
210	376	56%	125	168%	Lessons	210	376	56%	255	82%	3,029	362
0	0	0%	0	0%	Other Pro Shop Revenue	0	0	0%	0	0%	0	3,543
237	172	138%	170	139%	Rental Clubs	237	172	138%	418	57%	3,224	1,675
6,529	6,797	96%	6,631	98%	Retail	7,062	6,797	104%	11,131	63%	61,281	49,624
2,905	2,980	97%	1,941	150%	Range	3,056	2,980	103%	4,885	63%	35,044	15,056
0	0	0%	18,142	0%	Food & Beverage	0	0	0%	33,505	0%	0	70,545
0	0	0%	5,089	0%	Beer	0	0	0%	10,223	0%	0	34,339
0	0	0%	3,204	0%	Liquor	0	0	0%	6,948	0%	0	19,980
0	0	0%	1,326	0%	Wine	0	0	0%	2,854	0%	0	3,972
0	0	0%	0	0%	F&B Other	0	0	0%	350	0%	0	250
3,715	2,089	178%	3,028	123%	City Surcharge R & R	3,911	2,089	187%	5,555	70%	35,106	23,257
122,615	99,604	123%	126,118	97%	Total Revenues	128,792	99,604	129%	227,281	57%	1,165,626	905,773
COST OF GOODS SOLD												
5,762	3,735	154%	4,640	124%	COGS - Merchandise	6,077	3,735	163%	8,259	74%	33,672	42,361
0	0	0%	9,084	0%	COGS - Food & Beverage	0	0	0%	17,914	0%	0	29,155
0	0	0%	1,973	0%	COGS - Beer	0	0	0%	3,980	0%	0	12,898
0	0	0%	358	0%	COGS - Liquor	0	0	0%	1,324	0%	0	4,334
0	0	0%	586	0%	COGS - Wine	0	0	0%	1,552	0%	0	1,434
5,762	3,735	154%	16,640	35%	Total COGS	6,077	3,735	163%	33,029	18%	33,672	90,182
116,853	95,869	122%	109,477	107%	GROSS MARGIN	122,715	95,869	128%	194,252	63%	1,131,954	815,591
88.26%	54.95%	160.61%	69.98%	126.11%	COGS - Merchandise %	86.06%	54.95%	156.61%	74.20%	115.98%	54.95%	1280.70%
0.00%	0.00%	0.00%	50.07%	0.00%	COGS - Food & Beverage %	0.00%	0.00%	0.00%	53.47%	0.00%	0.00%	214.66%
0.00%	0.00%	0.00%	38.76%	0.00%	COGS - Beer %	0.00%	0.00%	0.00%	38.93%	0.00%	0.00%	189.47%
0.00%	0.00%	0.00%	11.16%	0.00%	COGS - Liquor %	0.00%	0.00%	0.00%	19.06%	0.00%	0.00%	110.21%
0.00%	0.00%	0.00%	44.20%	0.00%	COGS - Wine %	0.00%	0.00%	0.00%	54.37%	0.00%	0.00%	163.44%
0.00%	0.00%	0.00%	43.23%	0.00%	COGS - All Food & Bev	0.00%	0.00%	0.00%	46.27%	0.00%	0.00%	8266.63%
PAYROLL												
17,221	18,072	95%	19,765	87%	Gross Payroll - Salaried	35,939	36,144	99%	37,100	97%	216,864	218,404
0	0	0%	3,590	0%	Gross Kitchen Payroll - Salaried	0	0	0%	6,923	0%	0	17,575
28,926	22,114	131%	19,232	150%	Gross Payroll - Hourly	54,598	38,977	140%	38,896	140%	264,129	217,970
0	0	0%	9,476	0%	Gross Kitchen Payroll - Hourly	0	0	0%	17,141	0%	0	34,248
46,147	40,186	115%	52,063	89%	S/T Wages	90,537	75,121	121%	100,060	90%	480,993	488,198
3,370	3,074	110%	3,768	89%	Payroll Tax - FICA	6,707	5,746	117%	7,848	85%	36,789	37,148
647	247	262%	1,296	50%	Payroll Tax - UC	931	383	243%	2,108	44%	6,837	9,242
919	808	114%	1,060	87%	Payroll Tax - WC	1,718	1,510	114%	2,086	82%	10,066	11,776
3,089	5,408	57%	4,650	66%	Benefits	8,395	10,816	78%	10,142	83%	67,882	70,228
8,025	9,537	84%	10,775	74%	S/T Adders	17,751	18,455	96%	22,185	80%	121,574	128,393
54,172	49,723	109%	62,838	86%	TOTAL PAYROLL	108,288	93,576	116%	122,245	89%	602,567	616,591
OPERATING EXPENSES												
0	0	0%	183	0%	Bar Supplies	0	0	0%	560	0%	0	1,604
428	81	528%	80	535%	Cart Supplies	736	473	156%	468	157%	590	790
135	1,727	8%	1,710	8%	Course Accessories	732	2,236	33%	2,214	33%	4,676	2,777
0	0	0%	0	0%	Dining Room Supplies	0	0	0%	92	0%	0	0
1,463	1,422	103%	1,408	104%	Fertilizer	7,029	2,227	316%	1,958	359%	10,531	31,970
0	0	0%	0	0%	Flowers/Decor	74	100	74%	0	0%	400	74
0	0	0%	0	0%	Fuel	1,125	1,646	68%	1,531	73%	13,010	10,271
968	200	484%	0	0%	Fungicides	1,273	400	318%	0	0%	2,461	3,806
60	174	34%	172	35%	Herbicides	2,590	1,170	221%	1,159	224%	12,141	18,566
289	443	65%	439	66%	Insecticides	1,219	2,033	60%	2,013	61%	14,046	14,023
131	(17)	-769%	(17)	-760%	Janitorial Supplies	255	980	26%	980	26%	4,739	3,611
0	0	0%	689	0%	Kitchen Supplies	0	0	0%	2,495	0%	0	1,321
0	0	0%	771	0%	Laundry/Linens	0	0	0%	1,398	0%	0	2,374
0	363	0%	1,863	0%	Laundry/Uniforms	0	2,338	0%	2,038	0%	2,651	0
771	387	199%	443	174%	Office Supplies	1,106	1,056	105%	962	115%	4,186	2,689
0	0	0%	0	0%	Printing	0	100	0%	0	0%	100	72
0	3,712	0%	3,675	0%	Range Balls	1,530	3,712	41%	3,675	42%	3,712	1,530
0	200	0%	0	0%	Range Equipment	22	400	6%	0	0%	724	195
0	127	0%	125	0%	Range Expenses	10	377	3%	125	8%	938	348
846	145	583%	144	588%	Sand/Topdress	3,964	762	520%	755	525%	2,640	8,843
0	0	0%	0	0%	Seeds/Trees	5,909	16,286	36%	16,125	37%	16,286	5,909
0	0	0%	0	0%	Small Tools	0	67	0%	67	0%	211	119
0	286	0%	283	0%	Staff/Volunteer Uniforms	0	686	0%	283	0%	1,419	0
0	1,778	0%	1,761	0%	Supplies	0	1,778	0%	1,761	0%	4,085	384
574	0	0%	0	0%	Tournament Expense	574	51	1125%	50	1145%	701	3,071

The Golf Club at Cypress Head
Summary of All Units
For the Two Months Ending November 30, 2015

MTD	MTD	% of	MTD	% of		YTD	YTD	% of	YTD	% of	Annual	
Actual	Budget	Budget	Prior Year	PY		Actual	Budget	Budget	Prior Year	PY	Budget	
91	91	99%	91	100%	Alarm System	181	682	27%	181	100%	2,159	1,518
0	0	0%	0	0%	Carpet Cleaning	0	0	0%	0	0%	1,190	300
0	200	0%	18	0%	Cart Repairs	0	400	0%	38	0%	2,400	24,798
165	259	64%	259	64%	Computer Service	275	518	53%	517	53%	3,526	2,711
0	0	0%	549	0%	Contract Cleaning	130	0	0%	1,098	12%	500	3,291
25	0	0%	0	0%	Guest Relations	25	0	0%	0	0%	0	25
0	0	0%	0	0%	Handicap Expense	0	0	0%	0	0%	4,495	4,662
0	100	0%	0	0%	Indoor Plant Maint	0	100	0%	0	0%	200	0
4	451	1%	446	1%	Irrigation	481	1,266	38%	1,253	38%	6,794	6,555
0	148	0%	146	0%	Lesson Expense	0	148	0%	146	0%	524	173
0	115	0%	115	0%	Pest Control	0	230	0%	230	0%	1,495	690
1,506	1,809	83%	2,866	53%	Repair & Maint - Equipment	3,945	3,704	107%	5,439	73%	22,374	26,901
494	169	292%	169	293%	Repair & Maint - Building	648	728	89%	228	284%	5,372	3,496
0	0	0%	0	0%	Repair & Maint - Other	0	0	0%	0	0%	0	907
0	0	0%	0	0%	Security	0	600	0%	0	0%	600	0
5,356	5,356	100%	6,032	89%	Cart Lease	10,712	10,712	100%	12,064	89%	64,266	71,034
4,512	4,511	100%	4,620	98%	Equipment Lease	9,024	9,023	100%	9,240	98%	54,144	54,574
168	157	107%	157	107%	Off-Site Storage	336	314	107%	314	107%	1,727	2,094
1,152	1,221	94%	1,209	95%	Utilities - Electric	2,030	2,972	68%	2,942	69%	15,256	12,466
0	0	0%	1,363	0%	Utilities - Gas	0	0	0%	1,704	0%	0	4,322
3,935	3,716	106%	3,698	106%	Utilities - Other	5,939	6,826	87%	6,799	87%	41,992	38,397
263	243	108%	242	109%	Utilities - Telephone/Fax	505	486	104%	484	104%	2,914	2,836
370	198	187%	196	189%	Utilities - Water	692	380	182%	376	184%	2,409	3,011
4,008	2,051	195%	1,536	261%	Advertising & Promotion	2,259	12,539	18%	4,494	50%	23,866	25,019
151	17	887%	17	863%	Bank Charges	315	34	927%	35	906%	746	998
138	0	0%	(349)	-40%	Cash Short/(Over)	84	0	0%	(43)	-196%	0	121
125	175	71%	175	71%	Cell Phone	400	350	114%	350	114%	2,100	1,700
3,715	2,089	178%	3,028	123%	City Surcharge R & R	3,911	2,089	187%	5,555	70%	35,106	23,257
35	95	37%	95	37%	Copier/Photocopies	35	305	12%	306	11%	1,291	685
4,337	2,160	201%	2,160	201%	Credit Card Discounts	5,718	2,360	242%	3,575	160%	25,500	23,356
0	0	0%	0	0%	Donations	0	0	0%	0	0%	0	1,989
0	0	0%	0	0%	Dues & Subscriptions	150	150	100%	150	100%	1,125	1,193
0	0	0%	0	0%	Education & Training	0	0	0%	0	0%	410	535
0	0	0%	0	0%	Employee Relations	513	284	181%	284	181%	2,050	2,045
0	0	0%	0	0%	Employee Testing	102	0	0%	0	0%	113	247
3,796	3,665	104%	3,665	104%	Insurance Expense	7,592	7,330	104%	7,329	104%	45,074	46,335
0	0	0%	0	0%	Member Relations	131	0	0%	0	0%	659	414
0	76	0%	76	0%	Messenger Service - Fedex	83	174	48%	173	48%	447	259
3,498	8,000	44%	0	0%	Miscellaneous	12,622	10,000	126%	0	0%	10,000	12,663
4,600	4,600	100%	4,600	100%	O/S - Accounting	6,200	6,200	100%	6,200	100%	13,200	12,000
0	80	0%	80	0%	O/S - Legal	0	80	0%	80	0%	160	2,568
0	0	0%	0	0%	O/S - Other	325	3,991	8%	3,952	8%	7,627	325
197	238	83%	238	83%	Payroll Processing Fee	424	484	88%	484	88%	4,009	3,719
0	39	0%	39	0%	Postage/Shipping	39	53	74%	53	74%	560	445
0	0	0%	0	0%	Professional Dues	0	0	0%	0	0%	0	565
(30)	(30)	100%	(30)	100%	Tax/Licenses/Fees	(30)	(60)	50%	(90)	33%	(130)	1,917
0	0	0%	497	0%	Theft Loss	106	0	0%	888	12%	0	5,328
33	0	0%	0	0%	Travel - Meals	61	0	0%	0	0%	0	115
2,382	1,218	196%	868	275%	Travel - Other	3,434	2,058	167%	1,655	208%	13,128	16,911
900	0	0%	0	0%	Website Expenses	900	1,000	90%	0	0%	5,000	3,000
0	0	0%	0	0%	Employee Meals	0	0	0%	0	0%	2,396	1,444
51,589	54,245	95%	52,599	98%	TOTAL OPERATING EXPENSES	108,447	127,388	85%	119,189	91%	529,021	568,262
11,091	(8,099)	-137%	(5,960)	-186%	EBITDA	(94,020)	(125,095)	75%	(47,182)	199%	366	(369,262)
5,713	5,601	102%	7,370	78%	Management Fee	13,082	9,286	141%	14,739	89%	65,296	64,569
5,713	5,601	102%	7,370	78%	Management Fees	13,082	9,286	141%	14,739	89%	65,296	64,569
0	154	0%	154	0%	Deprec - Office F.F&E	0	308	0%	308	0%	1,848	(308)
98	98	100%	98	100%	Deprec - Mach & Equip	195	195	100%	195	100%	1,171	1,171
283	283	100%	283	100%	Deprec - Buildings	567	567	100%	567	100%	3,401	3,401
381	535	71%	535	71%	S/T DEPR. & AMORT	762	1,070	71%	1,070	71%	6,420	4,264
4,998	(14,235)	-35%	(13,864)	-36%	NET INCOME	(107,865)	(135,451)	80%	(62,991)	171%	(71,350)	(438,095)

The Golf Club at Cypress Head
Course & Grounds
For the Two Months Ending November 30, 2015

MTD Actual	MTD Budget	% of Budget	MTD Prior Year	% of PY		YTD Actual	YTD Budget	% of Budget	YTD Prior Year	% of PY	Annual Budget	
REVENUES												
63,197	50,240	126%	50,235	126%	Green Fees	66,823	50,240	133%	86,719	77%	604,248	406,257
3,715	2,089	178%	3,028	123%	City Surcharge R & R	3,911	2,089	187%	5,555	70%	35,106	23,257
66,912	52,329	128%	53,264	126%	Total Revenues	70,734	52,329	135%	92,275	77%	639,354	429,514
66,912	52,329	128%	53,264	126%	GROSS MARGIN	70,734	52,329	135%	92,275	77%	639,354	429,514
PAYROLL												
6,550	6,679	98%	6,258	105%	Gross Payroll - Salaried	13,675	13,358	102%	10,190	134%	80,148	81,341
15,472	12,813	121%	13,022	119%	Gross Payroll - Hourly	36,363	26,053	140%	27,035	135%	155,890	158,553
22,022	19,492	113%	19,280	114%	S/T Wages	50,038	39,411	127%	37,225	134%	236,038	239,894
1,486	1,491	100%	1,326	112%	Payroll Tax - FICA	3,502	3,015	116%	2,828	124%	18,058	16,749
234	33	710%	276	85%	Payroll Tax - UC	463	79	585%	539	86%	2,899	3,728
459	392	117%	393	117%	Payroll Tax - WC	964	792	122%	768	125%	4,936	5,373
1,891	3,204	59%	1,959	97%	Benefits	5,181	6,408	81%	4,482	116%	40,294	39,842
4,070	5,120	79%	3,953	103%	S/T Adders	10,110	10,294	98%	8,617	117%	66,187	65,692
26,092	24,612	106%	23,233	112%	TOTAL PAYROLL	60,148	49,705	121%	45,842	131%	302,225	305,586
OPERATING EXPENSES												
135	1,727	8%	1,710	8%	Course Accessories	732	2,236	33%	2,214	33%	4,676	2,777
1,463	1,422	103%	1,408	104%	Fertilizer	7,029	2,227	316%	1,958	359%	10,531	31,970
0	0	0%	0	0%	Flowers/Decor	74	100	74%	0	0%	400	74
0	0	0%	0	0%	Fuel	1,125	1,646	68%	1,531	73%	13,010	10,271
968	200	484%	0	0%	Fungicides	1,273	400	318%	0	0%	2,461	3,806
60	174	34%	172	35%	Herbicides	2,590	1,170	221%	1,159	224%	12,141	18,566
289	443	65%	439	66%	Insecticides	1,219	2,033	60%	2,013	61%	14,046	14,023
846	145	583%	144	588%	Sand/Topdress	3,964	762	520%	755	525%	2,640	8,843
0	0	0%	0	0%	Seeds/Trees	5,909	16,286	36%	16,125	37%	16,286	5,909
0	0	0%	0	0%	Small Tools	0	67	0%	67	0%	211	119
0	286	0%	283	0%	Staff/Volunteer Uniforms	0	686	0%	283	0%	1,419	0
4	451	1%	446	1%	Irrigation	481	1,266	38%	1,253	38%	6,794	6,555
1,181	1,557	76%	1,542	77%	Repair & Maint - Equipment	3,432	3,452	99%	3,418	100%	19,876	21,410
0	0	0%	0	0%	Repair & Maint - Building	0	0	0%	0	0%	1,026	662
4,512	4,511	100%	4,495	100%	Equipment Lease	9,024	9,023	100%	8,990	100%	54,144	53,973
255	259	98%	256	99%	Utilities - Electric	536	1,181	45%	1,170	46%	3,343	2,536
2,082	1,717	121%	1,700	123%	Utilities - Other	3,139	2,733	115%	2,705	116%	16,807	19,373
113	93	122%	92	124%	Utilities - Telephone/Fax	205	186	110%	184	112%	1,036	1,139
370	198	187%	196	189%	Utilities - Water	692	380	182%	376	184%	2,409	3,011
0	0	0%	0	0%	Education & Training	0	0	0%	0	0%	0	230
0	0	0%	0	0%	Employee Relations	0	0	0%	0	0%	92	145
0	0	0%	0	0%	Employee Testing	102	0	0%	0	0%	113	247
0	0	0%	0	0%	O/S - Other	325	3,914	8%	3,875	8%	7,550	325
0	0	0%	0	0%	Professional Dues	0	0	0%	0	0%	0	565
600	300	200%	0	0%	Travel - Other	600	603	100%	300	200%	3,621	1,500
12,877	13,483	96%	12,882	100%	TOTAL OPERATING EXPENSES	42,450	50,351	84%	48,374	88%	194,632	208,029
27,943	14,234	196%	17,148	163%	EBITDA	(31,864)	(47,727)	67%	(1,941)	1641%	142,497	(84,102)
27,943	14,234	196%	17,148	163%	NET INCOME	(31,864)	(47,727)	67%	(1,941)	1641%	142,497	(84,102)

The Golf Club at Cypress Head
Carts
For the Two Months Ending November 30, 2015

MTD Actual	MTD Budget	% of Budget	MTD Prior Year	% of PY		YTD Actual	YTD Budget	% of Budget	YTD Prior Year	% of PY	Annual Budget	
46,012	36,930	125%	36,206	127%	REVENUES	47,413	36,930	128%	64,397	74%	419,178	271,731
46,012	36,930	125%	36,206	127%	Cart Fee	47,413	36,930	128%	64,397	74%	419,178	271,731
46,012	36,930	125%	36,206	127%	Total Revenues	47,413	36,930	128%	64,397	74%	419,178	271,731
					GROSS MARGIN	47,413	36,930	128%	64,397	74%	419,178	271,731
7,514	5,555	135%	4,466	168%	PAYROLL	8,923	7,694	116%	8,363	107%	65,049	35,351
7,514	5,555	135%	4,466	168%	Gross Payroll - Hourly	8,923	7,694	116%	8,363	107%	65,049	35,351
608	425	143%	281	217%	S/T Wages	718	589	122%	619	116%	4,975	2,736
284	167	170%	269	100%	Payroll Tax - FICA	309	237	130%	458	67%	2,081	1,384
109	112	98%	73	150%	Payroll Tax - UC	124	155	80%	150	83%	1,364	694
(33)	0	0%	(17)	194%	Payroll Tax - WC	(26)	0	0%	(8)	343%	0	44
969	704	138%	605	160%	Benefits	1,125	981	115%	1,218	92%	8,420	4,857
8,483	6,259	136%	5,071	167%	S/T Adders	10,048	8,675	116%	9,581	105%	73,469	40,208
428	81	528%	80	535%	TOTAL PAYROLL	736	473	156%	468	157%	590	790
0	200	0%	18	0%	OPERATING EXPENSES	0	400	0%	38	0%	2,400	24,798
5,356	5,356	100%	6,032	89%	Cart Supplies	10,712	10,712	100%	12,064	89%	64,266	71,034
897	962	93%	952	94%	Cart Repairs	1,494	1,791	83%	1,773	84%	11,913	9,930
6,681	6,599	101%	7,083	94%	Cart Lease	12,942	13,376	97%	14,343	90%	79,169	106,551
30,848	24,072	128%	24,052	128%	Utilities - Electric	24,423	14,879	164%	40,474	60%	266,540	124,973
30,848	24,072	128%	24,052	128%	TOTAL OPERATING EXPENSES	24,423	14,879	164%	40,474	60%	266,540	124,973
					EBITDA	24,423	14,879	164%	40,474	60%	266,540	124,973
					NET INCOME	24,423	14,879	164%	40,474	60%	266,540	124,973

The Golf Club at Cypress Head
Range
For the Two Months Ending November 30, 2015

MTD Actual	MTD Budget	% of Budget	MTD Prior Year	% of PY		YTD Actual	YTD Budget	% of Budget	YTD Prior Year	% of PY	Annual Budget	
2,905	2,980	97%	1,941	150%	REVENUES							
2,905	2,980	97%	1,941	150%	Range	3,056	2,980	103%	4,885	63%	35,044	15,056
2,905	2,980	97%	1,941	150%	Total Revenues	3,056	2,980	103%	4,885	63%	35,044	15,056
2,905	2,980	97%	1,941	150%	GROSS MARGIN	3,056	2,980	103%	4,885	63%	35,044	15,056
0	3,712	0%	3,675	0%	OPERATING EXPENSES							
0	200	0%	0	0%	Range Balls	1,530	3,712	41%	3,675	42%	3,712	1,530
0	127	0%	125	0%	Range Equipment	22	400	6%	0	0%	724	195
0	13	0%	13	0%	Range Expenses	10	377	3%	125	8%	938	348
0	4,052	0%	3,813	0%	Repair & Maint - Equipment	0	13	0%	13	0%	1,288	1,090
					TOTAL OPERATING EXPENSES	1,562	4,502	35%	3,813	41%	6,662	3,163
2,905	(1,072)	-271%	(1,871)	-155%	EBITDA	1,494	(1,522)	-98%	1,072	139%	28,382	11,893
2,905	(1,072)	-271%	(1,871)	-155%	NET INCOME	1,494	(1,522)	-98%	1,072	139%	28,382	11,893

The Golf Club at Cypress Head
F & B Cafe
For the Two Months Ending November 30, 2015

MTD Actual	MTD Budget	% of Budget	MTD Prior Year	% of PY		YTD Actual	YTD Budget	% of Budget	YTD Prior Year	% of PY	Annual Budget	
REVENUES												
0	0	0%	18,142	0%	Food & Beverage	0	0	0%	33,505	0%	0	70,545
0	0	0%	5,089	0%	Beer	0	0	0%	10,223	0%	0	34,339
0	0	0%	3,204	0%	Liquor	0	0	0%	6,948	0%	0	19,980
0	0	0%	1,326	0%	Wine	0	0	0%	2,854	0%	0	3,972
0	0	0%	0	0%	F&B Other	0	0	0%	350	0%	0	250
0	0	0%	27,761	0%	Total Revenues	0	0	0%	53,880	0%	0	129,087
COST OF GOODS SOLD												
0	0	0%	9,084	0%	COGS - Food & Beverage	0	0	0%	17,914	0%	0	29,155
0	0	0%	1,973	0%	COGS - Beer	0	0	0%	3,980	0%	0	12,898
0	0	0%	358	0%	COGS - Liquor	0	0	0%	1,324	0%	0	4,334
0	0	0%	586	0%	COGS - Wine	0	0	0%	1,552	0%	0	1,434
0	0	0%	12,000	0%	Total COGS	0	0	0%	24,770	0%	0	47,821
0	0	0%	15,761	0%	GROSS MARGIN	0	0	0%	29,110	0%	0	81,265
0.00%	0.00%	0.00%	50.07%	0.00%	COGS - Food & Beverage %	0.00%	0.00%	0.00%	53.47%	0.00%	0.00%	214.66%
0.00%	0.00%	0.00%	38.76%	0.00%	COGS - Beer %	0.00%	0.00%	0.00%	38.93%	0.00%	0.00%	189.47%
0.00%	0.00%	0.00%	11.16%	0.00%	COGS - Liquor %	0.00%	0.00%	0.00%	19.06%	0.00%	0.00%	110.21%
0.00%	0.00%	0.00%	44.20%	0.00%	COGS - Wine %	0.00%	0.00%	0.00%	54.37%	0.00%	0.00%	163.44%
0.00%	0.00%	0.00%	43.23%	0.00%	COGS - All Food & Bev	0.00%	0.00%	0.00%	46.27%	0.00%	0.00%	8266.63%
PAYROLL												
0	0	0%	3,590	0%	Gross Kitchen Payroll - Salaried	0	0	0%	6,923	0%	0	17,575
0	0	0%	9,476	0%	Gross Kitchen Payroll - Hourly	0	0	0%	17,141	0%	0	34,248
0	0	0%	13,066	0%	S/T Wages	0	0	0%	24,064	0%	0	51,824
0	0	0%	1,092	0%	Payroll Tax - FICA	0	0	0%	2,100	0%	0	4,358
0	0	0%	734	0%	Payroll Tax - UC	0	0	0%	1,085	0%	0	2,056
0	0	0%	282	0%	Payroll Tax - WC	0	0	0%	481	0%	0	1,558
0	0	0%	979	0%	Benefits	0	0	0%	1,400	0%	0	5,318
0	0	0%	3,086	0%	S/T Adders	0	0	0%	5,067	0%	0	13,291
0	0	0%	16,152	0%	TOTAL PAYROLL	0	0	0%	29,131	0%	0	65,114
OPERATING EXPENSES												
0	0	0%	183	0%	Bar Supplies	0	0	0%	560	0%	0	1,604
0	0	0%	0	0%	Dining Room Supplies	0	0	0%	92	0%	0	0
0	0	0%	689	0%	Kitchen Supplies	0	0	0%	2,495	0%	0	1,321
0	0	0%	771	0%	Laundry/Linens	0	0	0%	1,398	0%	0	2,374
0	0	0%	57	0%	Office Supplies	0	0	0%	57	0%	0	0
0	0	0%	1,073	0%	Repair & Maint - Equipment	79	0	0%	1,770	4%	0	3,207
0	0	0%	125	0%	Equipment Lease	0	0	0%	250	0%	0	601
0	0	0%	1,363	0%	Utilities - Gas	0	0	0%	1,704	0%	0	4,322
0	0	0%	0	0%	Tax/Licenses/Fees	0	0	0%	0	0%	0	2,343
0	0	0%	497	0%	Theft Loss	106	0	0%	888	12%	0	5,328
0	0	0%	4,758	0%	TOTAL OPERATING EXPENSES	185	0	0%	9,213	2%	0	21,100
0	0	0%	(5,150)	0%	EBITDA	(185)	0	0%	(9,233)	2%	0	(4,949)
0	0	0%	(5,150)	0%	NET INCOME	(185)	0	0%	(9,233)	2%	0	(4,949)

The Golf Club at Cypress Head
Golf Shop
For the Two Months Ending November 30, 2015

MTD Actual	MTD Budget	% of Budget	MTD Prior Year	% of PY		YTD Actual	YTD Budget	% of Budget	YTD Prior Year	% of PY	Annual Budget	
REVENUES												
60	20	300%	20	300%	Handicap Fee	80	20	400%	40	200%	4,516	4,432
210	376	56%	125	168%	Lessons	210	376	56%	255	82%	3,029	362
0	0	0%	0	0%	Other Pro Shop Revenue	0	0	0%	0	0%	0	3,543
237	172	138%	170	139%	Rental Clubs	237	172	138%	418	57%	3,224	1,675
6,529	6,797	96%	6,631	98%	Retail	7,062	6,797	104%	11,131	63%	61,281	49,624
7,036	7,365	96%	6,946	101%	Total Revenues	7,588	7,365	103%	11,844	64%	72,050	59,636
COST OF GOODS SOLD												
5,762	3,735	154%	4,640	124%	COGS - Merchandise	6,077	3,735	163%	8,259	74%	33,672	42,361
5,762	3,735	154%	4,640	124%	Total COGS	6,077	3,735	163%	8,259	74%	33,672	42,361
1,273	3,630	35%	2,305	55%	GROSS MARGIN	1,511	3,630	42%	3,585	42%	38,378	17,275
88.26%	54.95%	160.61%	69.98%	126.11%	COGS - Merchandise %	86.06%	54.95%	156.61%	74.20%	115.98%	54.95%	1280.70%
PAYROLL												
0	0	0%	2,408	0%	Gross Payroll - Salaried	0	0	0%	4,250	0%	0	9,067
5,940	3,746	159%	1,744	341%	Gross Payroll - Hourly	9,312	5,230	178%	3,498	266%	43,190	19,606
5,940	3,746	159%	4,152	143%	S/T Wages	9,312	5,230	178%	7,748	120%	43,190	28,673
468	287	163%	251	186%	Payroll Tax - FICA	731	400	183%	545	134%	3,304	2,166
128	47	272%	18	721%	Payroll Tax - UC	160	67	238%	26	623%	1,067	813
108	75	144%	72	151%	Payroll Tax - WC	144	105	138%	209	69%	906	571
0	408	0%	371	0%	Benefits	0	816	0%	756	0%	5,041	2,406
704	817	86%	712	99%	S/T Adders	1,035	1,388	75%	1,536	67%	10,318	5,956
6,644	4,563	146%	4,864	137%	TOTAL PAYROLL	10,347	6,618	156%	9,284	111%	53,508	34,629
OPERATING EXPENSES												
0	74	0%	74	0%	Office Supplies	0	224	0%	74	0%	584	104
0	0	0%	0	0%	Printing	0	100	0%	0	0%	100	72
0	1,778	0%	1,761	0%	Supplies	0	1,778	0%	1,761	0%	4,085	384
574	0	0%	0	0%	Tournament Expense	574	51	1125%	50	1145%	701	3,071
0	0	0%	0	0%	Handicap Expense	0	0	0%	0	0%	4,495	4,662
0	148	0%	146	0%	Lesson Expense	0	148	0%	146	0%	524	173
0	0	0%	0	0%	Repair & Maint - Building	0	500	0%	0	0%	666	164
574	2,000	29%	1,981	29%	TOTAL OPERATING EXPENSES	574	2,801	20%	2,031	28%	11,155	8,629
(5,944)	(2,933)	203%	(4,539)	131%	EBITDA	(9,410)	(5,789)	163%	(7,730)	122%	(26,285)	(25,983)
(5,944)	(2,933)	203%	(4,539)	131%	NET INCOME	(9,410)	(5,789)	163%	(7,730)	122%	(26,285)	(25,983)

The Golf Club at Cypress Head
G & A
For the Two Months Ending November 30, 2015

MTD Actual	MTD Budget	% of Budget	MTD Prior Year	% of PY		YTD Actual	YTD Budget	% of Budget	YTD Prior Year	% of PY	Annual Budget	
REVENUES												
(250)	0	0%	0	0%	Initiation Fees	0	0	0%	0	0%	0	750
(250)	0	0%	0	0%	Total Revenues	0	0	0%	0	0%	0	750
(250)	0	0%	0	0%	GROSS MARGIN	0	0	0%	0	0%	0	750
PAYROLL												
7,645	8,333	92%	7,751	99%	Gross Payroll - Salaried	15,605	16,666	94%	15,502	101%	99,996	92,148
0	0	0%	0	0%	Gross Payroll - Hourly	0	0	0%	0	0%	0	4,461
7,645	8,333	92%	7,751	99%	S/T Wages	15,605	16,666	94%	15,502	101%	99,996	96,609
603	637	95%	583	104%	Payroll Tax - FICA	1,284	1,274	101%	1,239	104%	7,644	8,297
0	0	0%	0	0%	Payroll Tax - UC	0	0	0%	0	0%	527	921
184	167	110%	177	104%	Payroll Tax - WC	368	334	110%	351	105%	2,088	2,659
944	1,388	68%	1,041	91%	Benefits	2,542	2,776	92%	2,783	91%	17,506	18,050
1,732	2,192	79%	1,800	96%	S/T Adders	4,194	4,384	96%	4,373	96%	27,765	29,927
9,376	10,525	89%	9,551	98%	TOTAL PAYROLL	19,799	21,050	94%	19,875	100%	127,761	126,537
OPERATING EXPENSES												
131	(17)	-769%	(17)	-760%	Janitorial Supplies	255	980	26%	980	26%	4,739	3,611
0	363	0%	1,863	0%	Laundry/Uniforms	0	2,338	0%	2,038	0%	2,651	0
771	313	246%	313	247%	Office Supplies	1,106	832	133%	832	133%	3,602	2,585
91	91	99%	91	100%	Alarm System	181	682	27%	181	100%	2,159	1,518
0	0	0%	0	0%	Carpet Cleaning	0	0	0%	0	0%	1,190	300
165	259	64%	259	64%	Computer Service	275	518	53%	517	53%	3,526	2,711
0	0	0%	549	0%	Contract Cleaning	130	0	0%	1,098	12%	500	3,291
25	0	0%	0	0%	Guest Relations	25	0	0%	0	0%	0	25
0	100	0%	0	0%	Indoor Plant Maint	0	100	0%	0	0%	200	0
0	115	0%	115	0%	Pest Control	0	230	0%	230	0%	1,495	690
325	239	136%	239	136%	Repair & Maint - Equipment	434	239	182%	239	182%	1,210	1,194
494	169	292%	169	293%	Repair & Maint - Building	648	228	284%	228	284%	3,680	2,671
0	0	0%	0	0%	Repair & Maint - Other	0	0	0%	0	0%	0	907
0	0	0%	0	0%	Security	0	600	0%	0	0%	600	0
168	157	107%	157	107%	Off-Site Storage	336	314	107%	314	107%	1,727	2,094
1,853	1,999	93%	1,999	93%	Utilities - Other	2,600	4,093	68%	4,093	68%	25,185	19,024
150	150	100%	150	100%	Utilities - Telephone/Fax	300	300	100%	300	100%	1,878	1,897
151	17	887%	17	863%	Bank Charges	315	34	927%	35	906%	746	998
138	0	0%	(349)	-40%	Cash Short/(Over)	84	0	0%	(43)	-196%	0	121
125	175	71%	175	71%	Cell Phone	400	350	114%	350	114%	2,100	1,700
3,715	2,089	178%	3,028	123%	City Surcharge R & R	3,911	2,089	187%	5,555	70%	35,106	23,257
35	95	37%	95	37%	Copier/Photocopies	35	305	12%	306	11%	1,291	685
4,337	2,160	201%	2,160	201%	Credit Card Discounts	5,718	2,360	242%	3,575	160%	25,500	23,356
0	0	0%	0	0%	Donations	0	0	0%	0	0%	0	1,989
0	0	0%	0	0%	Dues & Subscriptions	150	150	100%	150	100%	1,125	1,193
0	0	0%	0	0%	Education & Training	0	0	0%	0	0%	410	305
0	0	0%	0	0%	Employee Relations	513	284	181%	284	181%	1,958	1,900
3,796	3,665	104%	3,665	104%	Insurance Expense	7,592	7,330	104%	7,329	104%	45,074	46,335
0	0	0%	0	0%	Member Relations	131	0	0%	0	0%	659	414
0	76	0%	76	0%	Messenger Service - Fedex	83	174	48%	173	48%	447	259
332	0	0%	0	0%	Miscellaneous	1,006	0	0%	0	0%	0	1,006
4,600	4,600	100%	4,600	100%	O/S - Accounting	6,200	6,200	100%	6,200	100%	13,200	12,000
0	80	0%	80	0%	O/S - Legal	0	80	0%	80	0%	160	2,568
0	0	0%	0	0%	O/S - Other	0	77	0%	77	0%	0	0
197	238	83%	238	83%	Payroll Processing Fee	424	484	88%	484	88%	4,009	3,719
0	39	0%	39	0%	Postage/Shipping	39	53	74%	53	74%	560	445
(30)	(30)	100%	(30)	100%	Tax/Licenses/Fees	(30)	(60)	50%	(90)	33%	(130)	(426)
33	0	0%	0	0%	Travel - Meals	61	0	0%	0	0%	0	115
1,666	868	192%	868	192%	Travel - Other	2,719	1,355	201%	1,355	201%	8,687	15,103
0	0	0%	0	0%	Employee Meals	0	0	0%	0	0%	2,396	1,444
23,268	18,010	129%	20,547	113%	TOTAL OPERATING EXPENSES	35,843	32,719	110%	36,922	97%	197,717	180,805
(32,894)	(28,535)	115%	(30,098)	109%	EBITDA	(55,642)	(53,769)	103%	(56,797)	98%	(325,478)	(306,592)
5,713	5,601	102%	7,370	78%	Management Fee	13,082	9,286	141%	14,739	89%	65,296	64,569
5,713	5,601	102%	7,370	78%	Management Fees	13,082	9,286	141%	14,739	89%	65,296	64,569
0	154	0%	154	0%	Deprec - Office F.F&E	0	308	0%	308	0%	1,848	(308)
98	98	100%	98	100%	Deprec - Mach & Equip	195	195	100%	195	100%	1,171	1,171
283	283	100%	283	100%	Deprec - Buildings	567	567	100%	567	100%	3,401	3,401
381	535	71%	535	71%	S/T DEPR. & AMORT	762	1,070	71%	1,070	71%	6,420	4,264

The Golf Club at Cypress Head
G & A
For the Two Months Ending November 30, 2015

MTD	MTD	% of	MTD	% of		YTD	YTD	% of	YTD	% of	Annual
Actual	Budget	Budget	Prior Year	PY		Actual	Budget	Budget	Prior Year	PY	Budget
(38,988)	(34,671)	112%	(38,003)	103%	NET INCOME	(69,487)	(64,125)	108%	(72,606)	96%	(397,194)
											(375,425)

The Golf Club at Cypress Head
Marketing
For the Two Months Ending November 30, 2015

MTD Actual	MTD Budget	% of Budget	MTD Prior Year	% of PY		YTD Actual	YTD Budget	% of Budget	YTD Prior Year	% of PY	Annual Budget	
					PAYROLL							
3,026	3,060	99%	3,348	90%	Gross Payroll - Salaried	6,658	6,120	109%	7,158	93%	36,720	35,847
3,026	3,060	99%	3,348	90%	S/T Wages	6,658	6,120	109%	7,158	93%	36,720	35,847
206	234	88%	236	87%	Payroll Tax - FICA	472	468	101%	518	91%	2,808	2,841
0	0	0%	0	0%	Payroll Tax - UC	0	0	0%	0	0%	263	339
59	62	95%	64	91%	Payroll Tax - WC	118	124	95%	126	93%	772	922
287	408	70%	318	90%	Benefits	698	816	86%	729	96%	5,041	4,568
551	704	78%	618	89%	S/T Adders	1,288	1,408	91%	1,374	94%	8,884	8,670
3,577	3,764	95%	3,966	90%	TOTAL PAYROLL	7,946	7,528	106%	8,532	93%	45,604	44,517
					OPERATING EXPENSES							
4,008	2,051	195%	1,536	261%	Advertising & Promotion	2,259	12,539	18%	4,494	50%	23,866	25,019
3,165	8,000	40%	0	0%	Miscellaneous	11,616	10,000	116%	0	0%	10,000	11,657
116	50	231%	0	0%	Travel - Other	116	100	116%	0	0%	820	308
900	0	0%	0	0%	Website Expenses	900	1,000	90%	0	0%	5,000	3,000
8,190	10,101	81%	1,536	533%	TOTAL OPERATING EXPENSES	14,891	23,639	63%	4,494	331%	39,686	39,984
(11,767)	(13,865)	85%	(5,501)	214%	EBITDA	(22,836)	(31,167)	73%	(13,026)	175%	(85,290)	(84,502)
(11,767)	(13,865)	85%	(5,501)	214%	NET INCOME	(22,836)	(31,167)	73%	(13,026)	175%	(85,290)	(84,502)

The Golf Club at Cypress Head
For the Two Months Ending November 30, 2015

MTD Actual	MTD Budget	% of Budget	MTD Prior Year	% of PY		YTD Actual	YTD Budget	% of Budget	YTD Prior Year	% of PY	Annual Budget	
REVENUES												
109,210	87,170	125%	86,442	126%	Green Fees & Cart Fees	114,236	87,170	131%	151,117	76%	1,023,426	677,988
6,529	6,797	96%	6,631	98%	Merchandise	7,062	6,797	104%	11,131	63%	61,281	49,624
507	568	89%	315	161%	Other Pro Shop	527	568	93%	713	74%	10,769	10,012
2,905	2,980	97%	1,941	150%	Range	3,056	2,980	103%	4,885	63%	35,044	15,056
0	0	0%	27,761	0%	Food and Beverage	0	0	0%	53,880	0%	0	129,087
(250)	0	0%	0	0%	Membership Initiation Fees	0	0	0%	0	0%	0	750
3,715	2,089	178%	3,028	123%	Other Operating Revenues	3,911	2,089	187%	5,555	70%	35,106	23,257
122,615	99,604	123%	126,118	97%	TOTAL REVENUE	128,792	99,604	129%	227,281	57%	1,165,626	905,773
COST OF SALES												
5,762	3,735	154%	4,640	124%	Merchandise	6,077	3,735	163%	8,259	74%	33,672	42,361
0	0	0%	12,000	0%	Food & Beverage	0	0	0%	24,770	0%	0	47,821
5,762	3,735	154%	16,640	35%	TOTAL COGS	6,077	3,735	163%	33,029	18%	33,672	90,182
88.3%	55.0%	160.6%	70.0%	126.1%	COGS - Merchandise %	86.1%	55.0%	156.6%	74.2%	116.0%	54.9%	1280.7%
0.0%	0.0%	0.0%	43.2%	0.0%	COGS - Food %	0.0%	0.0%	0.0%	46.3%	0.0%	0.0%	8266.6%
PAYROLL												
26,092	24,612	106%	23,233	112%	Course and Grounds	60,148	49,705	121%	45,842	131%	302,225	305,586
8,463	6,259	136%	5,071	167%	Carts, Range, Starters, Etc.	10,048	8,675	116%	9,581	105%	73,469	40,208
6,644	4,563	146%	4,864	137%	Pro Shop	10,347	6,618	156%	9,284	111%	53,508	34,629
0	0	0%	16,152	0%	Food and Beverage	0	0	0%	29,131	0%	0	65,114
9,376	10,525	89%	9,551	98%	General and Administrative	19,799	21,050	94%	19,875	100%	127,761	126,537
3,577	3,764	95%	3,966	90%	Marketing	7,946	7,528	106%	8,532	93%	45,604	44,517
54,172	49,723	109%	62,838	86%	TOTAL PAYROLL	108,288	93,576	116%	122,245	89%	602,567	616,591
OPERATING EXPENSES												
12,877	13,483	96%	12,882	100%	Course and Grounds	42,450	50,351	84%	48,374	88%	194,632	206,029
6,681	10,651	63%	10,895	61%	Carts, Range, Starters, Etc.	14,505	17,878	81%	18,155	80%	85,831	109,714
574	2,000	29%	1,981	29%	Pro Shop	574	2,801	20%	2,031	28%	11,155	8,629
0	0	0%	4,758	0%	Food and Beverage	185	0	0%	9,213	2%	0	21,100
23,268	18,010	129%	20,547	113%	General and Administrative	35,843	32,719	110%	36,922	97%	197,717	180,805
8,190	10,101	81%	1,536	533%	Marketing	14,891	23,639	63%	4,494	331%	39,686	39,984
51,589	54,245	95%	52,599	98%	TOTAL OPERATING EXPENSES	108,447	127,388	85%	119,189	91%	529,021	568,262
111,524	107,703	104%	132,078	84%	TOTAL EXPENSES	222,813	224,699	99%	274,463	81%	1,165,260	1,275,035
11,091	(8,099)	-137%	(5,960)	-186%	EBITDA	(94,020)	(125,095)	75%	(47,182)	199%	366	(369,262)

The Golf Club at Cypress Head
For the Two Months Ending November 30, 2015

MTD Actual	MTD Budget	% of Budget	MTD Prior Year	% of PY		YTD Actual	YTD Budget	% of Budget	YTD Prior Year	% of PY	Annual Budget	
11,091	(8,099)	-137%	(5,960)	-186%	EBITDA	(94,020)	(125,095)	75%	(47,182)	199%	366	(369,262)
(5,713)	(5,601)	102%	(7,370)	78%	MANAGEMENT FEES	(13,082)	(9,286)	141%	(14,739)	89%	(65,296)	(64,569)
(381)	(535)	71%	(535)	71%	OTHER INCOME (EXPENSE)	(762)	(1,070)	71%	(1,070)	71%	(6,420)	(4,264)
(381)	(535)	71%	(535)	71%	Depreciation & Amortization	(762)	(1,070)	71%	(1,070)	71%	(6,420)	(4,264)
					TOTAL OTHER INCOME (EXPENSE)	(762)	(1,070)	71%	(1,070)	71%	(6,420)	(4,264)
4,998	(14,235)	-35%	(13,864)	-36%	NET INCOME	(107,865)	(135,451)	80%	(62,991)	171%	(71,350)	(438,095)
3,456	3,320	104%	3,188	108%	Paid Rounds	3,703	3,320	112%	6,050	61%	38,507	23,562
820	414	198%	370	222%	Annual Pass Rounds	842	414	203%	772	109%	4,295	3,040
215	199	108%	197	109%	Other Rounds	216	199	109%	434	50%	2,819	1,554
4,491	3,933	114%	3,755	120%	Total Rounds	4,761	3,933	121%	7,256	66%	45,621	28,156
35	30	118%	40	90%	Revenue/Paid Rounds	35	30	116%	38	93%	30	254
27	25	108%	34	81%	Revenue/Total Rounds	27	25	107%	31	86%	26	214

The Golf Club at Cypress Head
For the Two Months Ending November 30, 2015

	<u>11/30/15</u>	<u>09/30/15</u>	<u>11/30/14</u>
ASSETS			
CURRENT ASSETS:			
Cash			
Cash - Operating	171,618	49,118	32,794
Cash - Manual Checks	850	750	750
Cash - Housebank & Other	<u>(22,467)</u>	<u>246</u>	<u>(22,826)</u>
Total Cash	<u>150,000</u>	<u>50,114</u>	<u>10,717</u>
Accounts Receivable			
A/R Member	<u>9,055</u>	<u>161,607</u>	<u>6,291</u>
Total Accounts Receivable	<u>9,055</u>	<u>161,607</u>	<u>6,291</u>
Other Current Assets			
Inventory - Merchandise	18,622	11,682	39,817
Inventory - Food & Beverage	0	3,488	11,446
Prepaid Insurance	10,516	18,108	10,880
Prepaid Exp - Other	<u>14,986</u>	<u>11,428</u>	<u>14,182</u>
Total Other Current Assets	<u>44,124</u>	<u>44,706</u>	<u>76,325</u>
TOTAL CURRENT ASSETS	<u>203,179</u>	<u>256,426</u>	<u>93,334</u>
PROPERTY, PLANT AND EQUIPMENT:			
Land	64,835	64,835	64,835
Furniture and Fixtures	26,625	26,625	26,625
Machinery & Equipment	<u>17,712</u>	<u>17,712</u>	<u>17,712</u>
Property Plant and Equipment	109,171	109,171	109,171
Accumulated Depreciation	<u>(82,042)</u>	<u>(81,280)</u>	<u>(77,778)</u>
TOTAL PROPERTY, PLANT AND EQUIPMENT	<u>27,129</u>	<u>27,891</u>	<u>31,393</u>
OTHER ASSETS:			
Deposits (in ST section of chart)	<u>2,500</u>	<u>5,000</u>	<u>5,000</u>
TOTAL OTHER ASSETS	<u>2,500</u>	<u>5,000</u>	<u>5,000</u>
TOTAL ASSETS	<u><u>232,808</u></u>	<u><u>289,318</u></u>	<u><u>129,727</u></u>

The Golf Club at Cypress Head
For the Two Months Ending November 30, 2015

	<u>11/30/15</u>	<u>09/30/15</u>	<u>11/30/14</u>
LIABILITIES AND STOCKHOLDERS' EQUITY			
CURRENT LIABILITIES:			
Accts Pay - Trade	26,563	17,808	19,799
Accts Pay - Other	432,547	412,511	43,692
Accrued Expenses	0	8,200	0
Accrued Payroll	11,114	20,979	8,036
Accrued Taxes	12,291	47	0
Accrued Interest	0	11,197	0
Deferred Revenue	251,379	211,797	121,190
TOTAL CURRENT LIABILITIES	<u>733,894</u>	<u>682,539</u>	<u>192,718</u>
 TOTAL LIABILITIES	 <u>733,894</u>	 <u>682,539</u>	 <u>192,718</u>
STOCKHOLDER'S EQUITY			
Retained Earnings	(501,086)	(393,221)	(62,991)
Net Retained Earnings	(501,086)	(393,221)	(62,991)
Stockholders Equity	(501,086)	(393,221)	(62,991)
TOTAL STOCKHOLDER'S EQUITY	<u>(501,086)</u>	<u>(393,221)</u>	<u>(62,991)</u>
 TOTAL LIABILITIES AND STOCKHOLDER'S EQUITY	 <u>232,808</u>	 <u>289,318</u>	 <u>129,727</u>

TRIAL BALANCE SUMMARY FOR 2015

The Golf Club at Cypress Head

Inactive	Account	Description	Beginning Balance	Debit	Credit	Net Change	Ending Balance
	71010-5950-100	Payroll Tax - UC	\$228.21	\$234.32	\$0.00	\$234.32	\$462.53
	71010-5950-200	Payroll Tax - UC	\$24.47	\$284.32	\$0.00	\$284.32	\$308.79
	71010-5950-600	Payroll Tax - UC	\$31.55	\$128.01	\$0.00	\$128.01	\$159.56
	71020-5950-100	Payroll Tax - WC	\$504.96	\$459.06	\$0.00	\$459.06	\$964.02
	71020-5950-200	Payroll Tax - WC	\$15.16	\$109.25	\$0.00	\$109.25	\$124.41
	71020-5950-600	Payroll Tax - WC	\$36.36	\$108.12	\$0.00	\$108.12	\$144.48
	71020-5950-900	Payroll Tax - WC	\$184.00	\$184.00	\$0.00	\$184.00	\$368.00
	71020-5950-950	Payroll Tax - WC	\$58.76	\$58.76	\$0.00	\$58.76	\$117.52
	71030-5950-100	Benefits	\$3,290.63	\$5,079.87	\$3,189.13	\$1,890.74	\$5,181.37
	71030-5950-200	Benefits	\$6.23	\$36.43	\$69.03	(\$32.60)	(\$26.37)
	71030-5950-900	Benefits	\$1,597.69	\$3,019.80	\$2,075.51	\$944.29	\$2,541.98
	71030-5950-950	Benefits	\$411.83	\$569.57	\$283.02	\$286.55	\$698.38
	80110-5950-200	Cart Supplies	\$308.32	\$428.07	\$0.00	\$428.07	\$736.39
	80170-5950-100	Course Accessories	\$597.18	\$134.76	\$0.00	\$134.76	\$731.94
	80230-5950-100	Fertilizer	\$5,565.95	\$1,462.60	\$0.00	\$1,462.60	\$7,028.55
	80250-5950-100	Flowers/Decor	\$73.96	\$0.00	\$0.00	\$0.00	\$73.96
	80270-5950-100	Fuel	\$1,124.81	\$0.00	\$0.00	\$0.00	\$1,124.81
	80280-5950-100	Fungicides	\$305.53	\$967.91	\$0.00	\$967.91	\$1,273.44
	80320-5950-100	Herbicides	\$2,530.41	\$59.60	\$0.00	\$59.60	\$2,590.01
	80370-5950-100	Insecticides	\$930.02	\$288.98	\$0.00	\$288.98	\$1,219.00
	80380-5950-900	Janitorial Supplies	\$124.55	\$130.70	\$0.00	\$130.70	\$255.25
	80520-5950-900	Office Supplies	\$335.16	\$771.30	\$0.00	\$771.30	\$1,106.46
	80610-5950-220	Range Balls	\$1,530.00	\$0.00	\$0.00	\$0.00	\$1,530.00
	80620-5950-220	Range Equipment	\$22.37	\$0.00	\$0.00	\$0.00	\$22.37
	80630-5950-220	Range Expenses	\$9.90	\$0.00	\$0.00	\$0.00	\$9.90
	80690-5950-100	Sand/Topdress	\$3,117.65	\$846.00	\$0.00	\$846.00	\$3,963.65
	80710-5950-100	Seeds/Trees	\$5,908.51	\$0.00	\$0.00	\$0.00	\$5,908.51
	80810-5950-600	Tournament Expense	\$0.00	\$4,066.62	\$3,492.99	\$573.63	\$573.63
	81010-5950-900	Alarm System	\$90.50	\$90.50	\$0.00	\$90.50	\$181.00
	81130-5950-900	Computer Service	\$109.80	\$165.35	\$0.00	\$165.35	\$275.15
	81140-5950-900	Contract Cleaning	\$130.00	\$0.00	\$0.00	\$0.00	\$130.00
	81200-5950-900	Guest Relations	\$0.00	\$25.00	\$0.00	\$25.00	\$25.00
	81250-5950-100	Irrigation	\$477.30	\$4.00	\$0.00	\$4.00	\$481.30
	81350-5950-100	Repair & Maint - Equipment	\$2,251.08	\$1,180.96	\$0.00	\$1,180.96	\$3,432.04
	81350-5950-540	Repair & Maint - Equipment	\$78.90	\$0.00	\$0.00	\$0.00	\$78.90
	81350-5950-900	Repair & Maint - Equipment	\$109.45	\$325.00	\$0.00	\$325.00	\$434.45
	81360-5950-900	Repair & Maint - Building	\$153.55	\$494.00	\$0.00	\$494.00	\$647.55
	82000-5950-200	Cart Lease	\$5,356.00	\$5,356.00	\$0.00	\$5,356.00	\$10,712.00
	82020-5950-100	Equipment Lease	\$4,512.00	\$4,512.00	\$0.00	\$4,512.00	\$9,024.00
	82060-5950-900	Off-Site Storage	\$168.00	\$168.00	\$0.00	\$168.00	\$336.00
	83000-5950-100	Utilities - Electric	\$280.90	\$254.70	\$0.00	\$254.70	\$535.60
	83000-5950-200	Utilities - Electric	\$597.09	\$896.99	\$0.00	\$896.99	\$1,494.08
	83020-5950-100	Utilities - Other	\$1,056.61	\$2,082.45	\$0.00	\$2,082.45	\$3,139.06
	83020-5950-900	Utilities - Other	\$946.95	\$1,852.68	\$0.00	\$1,852.68	\$2,799.63
	83030-5950-100	Utilities - Telephone/Fax	\$91.93	\$113.45	\$0.00	\$113.45	\$205.38
	83030-5950-900	Utilities - Telephone/Fax	\$150.00	\$150.00	\$0.00	\$150.00	\$300.00
	83050-5950-100	Utilities - Water	\$322.58	\$369.86	\$0.00	\$369.86	\$692.44
	84030-5950-950	Adv/Promo - Local/Regional Print	\$1,272.00	\$50.00	\$0.00	\$50.00	\$1,322.00
	84040-5950-950	Adv/Promo - Mktg/Bus Dev	(\$3,021.69)	\$3,958.43	\$0.00	\$3,958.43	\$936.74
	85020-5950-900	Bank Charges	\$164.52	\$150.72	\$0.00	\$150.72	\$315.24
	85050-5950-900	Cash Short/(Over)	(\$53.48)	\$390.06	\$252.10	\$137.96	\$84.48
	85060-5950-900	Cell Phone	\$275.00	\$125.00	\$0.00	\$125.00	\$400.00
	85070-5950-900	City Surcharge R & R	\$196.46	\$3,714.88	\$0.00	\$3,714.88	\$3,911.34
	85110-5950-900	Copier/Photocopies	\$0.00	\$35.12	\$0.00	\$35.12	\$35.12
	85120-5950-900	Credit Card Discounts	\$1,380.76	\$4,337.12	\$0.00	\$4,337.12	\$5,717.88
	85150-5950-900	Dues & Subscriptions	\$150.00	\$0.00	\$0.00	\$0.00	\$150.00
	85190-5950-900	Employee Relations	\$512.86	\$0.00	\$0.00	\$0.00	\$512.86
	85200-5950-100	Employee Testing	\$101.75	\$0.00	\$0.00	\$0.00	\$101.75
	85280-5950-900	Insurance Expense	\$3,795.92	\$3,795.92	\$0.00	\$3,795.92	\$7,591.84
	85320-5950-900	Member Relations	\$131.18	\$0.00	\$0.00	\$0.00	\$131.18
	85330-5950-900	Messenger Service - Fedex	\$83.24	\$0.00	\$0.00	\$0.00	\$83.24
	85340-5950-900	Miscellaneous	\$673.52	\$332.40	\$0.00	\$332.40	\$1,005.92
	85340-5950-950	Miscellaneous	\$8,450.66	\$3,165.46	\$0.00	\$3,165.46	\$11,616.12

The Golf Club at Cypress Head

Inactive	Account	Description	Beginning Balance	Debit	Credit	Net Change	Ending Balance
	85390-5950-900	O/S - Accounting	\$1,600.00	\$4,600.00	\$0.00	\$4,600.00	\$6,200.00
	85430-5950-100	O/S - Other	\$325.00	\$0.00	\$0.00	\$0.00	\$325.00
	85480-5950-900	Payroll Processing Fee	\$227.50	\$196.93	\$0.00	\$196.93	\$424.43
	85490-5950-900	Postage/Shipping	\$39.20	\$0.00	\$0.00	\$0.00	\$39.20
	85610-5950-900	Tax/Licenses/Fees	\$0.00	\$0.00	\$30.00	(\$30.00)	(\$30.00)
	85660-5950-540	Loss/Theft	\$105.82	\$0.00	\$0.00	\$0.00	\$105.82
	85710-5950-900	Travel - Meals	\$28.78	\$32.69	\$0.00	\$32.69	\$61.47
	85720-5950-100	Travel - Other	\$0.00	\$600.00	\$0.00	\$600.00	\$600.00
	85720-5950-900	Travel - Other	\$1,052.43	\$1,666.29	\$0.00	\$1,666.29	\$2,718.72
	85720-5950-950	Travel - Other	\$0.00	\$115.67	\$0.00	\$115.67	\$115.67
	85730-5950-950	Website Expenses	\$0.00	\$900.00	\$0.00	\$900.00	\$900.00
	90000-5950-900	Management Fee	\$7,369.60	\$5,712.85	\$0.00	\$5,712.85	\$13,082.45
	98020-5950-900	Deprec - Mach & Equip	\$97.55	\$97.55	\$0.00	\$97.55	\$195.10
	98040-5950-900	Deprec - Buildings	\$283.45	\$283.45	\$0.00	\$283.45	\$566.90
	RCMWD-5950-100	Rounds - Complimentary - Weekday	8,841.00	0.00	0.00	0.00	8,841.00
	REMWD-5950-100	Rounds - Employee - Weekday	15,429.00	0.00	0.00	0.00	15,429.00
	RMBWD-5950-100	Rounds - Member - Weekday	48,069.00	0.00	0.00	0.00	48,069.00
	RPKWD-5950-100	Rounds - Peak - Weekday	267,510.00	0.00	0.00	0.00	267,510.00
	RPKWE-5950-100	Rounds - Peak - Weekend	5,071.00	0.00	0.00	0.00	5,071.00
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The Golf Club at Cypress Head
Comparative Income Statement
For the Two Months Ending November 30, 2015

	MTD Prior Year	YTD Prior Year	Audited Prior Year	Percent of Total	MTD Actual	YTD Actual	Annual Budget	Percent of Total
REVENUES								
Green Fees & Cart Fees	86,442	151,117	714,869	21%	109,210	114,236	1,023,426	11%
Merchandise	6,631	11,131	53,694	21%	6,529	7,062	61,281	12%
Other Pro Shop	315	713	10,198	7%	507	527	10,769	5%
Range	1,941	4,885	16,885	29%	2,905	3,056	35,044	9%
Food and Beverage	27,761	53,880	182,967	29%	0	0	0	
Membership Initiation Fees	0	0	750		(250)	0	0	
Other Operating Revenues	3,028	5,555	24,901	22%	3,715	3,911	35,106	11%
TOTAL REVENUE	126,118	227,281	1,004,262	23%	122,615	128,792	1,165,626	11%
COST OF SALES								
Merchandise	4,640	8,259	44,543	19%	5,762	6,077	33,672	18%
Food & Beverage	12,000	24,770	72,592	34%	0	0	0	
TOTAL COGS	16,640	33,029	117,135	28%	5,762	6,077	33,672	18%
COGS - Merchandise %	70.0%	74.2%	83.0%	89.4%	88.3%	86.1%	54.9%	156.6%
COGS - Food %	43.2%	46.3%	39.8%	116.2%				
PAYROLL								
Course and Grounds	23,233	45,842	291,280	16%	26,092	60,148	302,225	20%
Carts, Range, Starters, Etc.	5,071	9,581	39,741	24%	8,483	10,048	73,469	14%
Pro Shop	4,864	9,284	33,566	28%	6,644	10,347	53,508	19%
Food and Beverage	16,152	29,131	94,245	31%	0	0	0	
General and Administrative	9,551	19,875	126,613	16%	9,376	19,799	127,761	15%
Marketing	3,966	8,532	45,103	19%	3,577	7,946	45,604	17%
TOTAL PAYROLL	62,838	122,245	630,548	19%	54,172	108,288	602,567	18%
OPERATING EXPENSES								
Course and Grounds	12,882	48,374	213,953	23%	12,877	42,450	194,632	22%
Carts, Range, Starters, Etc.	10,895	18,155	113,365	16%	6,681	14,505	85,831	17%
Pro Shop	1,981	2,031	10,087	20%	574	574	11,155	5%
Food and Beverage	4,758	9,213	30,128	31%	0	185	0	
General and Administrative	20,547	36,922	181,883	20%	23,268	35,843	197,717	18%
Marketing	1,536	4,494	29,588	15%	8,190	14,891	39,686	38%
TOTAL OPERATING EXPENSES	52,599	119,189	579,003	21%	51,589	108,447	529,021	20%
TOTAL EXPENSES	132,078	274,463	1,326,685	21%	111,524	222,813	1,165,260	19%
OTHER INCOME (EXPENSE)								
MANAGEMENT FEES	(7,370)	(14,739)	(66,226)	22%	(5,713)	(13,082)	(65,296)	20%
Depreciation & Amortization	(535)	(1,070)	(4,572)	23%	(381)	(762)	(6,420)	12%
TOTAL OTHER INCOME (EXPENSE)	(7,904)	(15,809)	(70,798)	22%	(6,094)	(13,844)	(71,716)	19%
NET INCOME	(13,864)	(62,991)	(393,221)	16%	4,998	(107,865)	(71,350)	151%
Paid Rounds								
Paid Rounds	3,188	6,050	25,909	23%	3,456	3,703	38,507	10%
Annual Pass Rounds	370	772	2,970	26%	820	842	4,295	20%
Other Rounds	197	434	1,772	24%	215	216	2,819	8%
Total Rounds	3,755	7,256	30,651	24%	4,491	4,761	45,621	10%
Revenue/Paid Rounds	40	38	39	97%	35	35	30	115%
Revenue/Total Rounds	34	31	33	96%	27	27	26	106%



December 20th, 2015

Theresa Gutierrez
City of Port Orange
100 City Center Circle
Port Orange, FL 32129

Dear Theresa,

The following is the financial and operational summary report for November 2015 at TGC at Cypress Head.

FINANCIAL SUMMARY FOR MONTH ENDING November 2015									
Revenue	Current				Year to Date				
	Actual	Budget	Variance vs. Budget		Actual	Budget	Prior Year	Variance vs. Budget	
Green Fees	\$ 63,197	\$ 50,240	\$ 12,957	88%	\$ 66,823	\$ 50,240	\$ 86,719	\$ 16,583	86%
Cart Fees	\$ 46,012	\$ 36,930	\$ 9,082		\$ 47,413	\$ 36,930	\$ 64,397	\$ 10,483	
Range	\$ 2,905	\$ 2,980	\$ (75)		\$ 3,056	\$ 2,980	\$ 4,885	\$ 76	
Pro- Shop Revenues	\$ 6,976	\$ 7,345	\$ (369)		\$ 7,509	\$ 7,345	\$ 11,804	\$ 164	
City Surcharge R/R	\$ 3,715	\$ 2,089	\$ 1,626		\$ 3,911	\$ 2,089	\$ 5,555	\$ 1,822	
Total Revenue	\$ 122,805	\$ 99,584	\$ 23,221		\$ 128,712	\$ 99,584	\$ 173,360	\$ 29,128	
Cost of Sales	\$ 5,762	\$ 3,735	\$ 2,027		\$ 6,077	\$ 3,735	\$ 8,259	\$ 2,342	
Merchandise	\$ 5,762	\$ 3,735	\$ 2,027		\$ 6,077	\$ 3,735	\$ 8,259	\$ 2,342	
Gross Margin	\$ 117,043	\$ 95,849	\$ 21,194		\$ 122,635	\$ 95,849	\$ 165,101	\$ 26,786	
Total Payroll	\$ 54,172	\$ 49,723	\$ 4,449		\$ 108,288	\$ 93,156	\$ 93,114	\$ 15,132	
Total Operating Expenses	\$ 51,589	\$ 54,245	\$ (2,656)	\$ 108,447	\$ 127,388	\$ 109,976	\$ (18,941)		
Net Operating Income	\$ 11,282	\$ (8,119)	\$ 19,401	\$ (94,100)	\$ (124,695)	\$ (37,989)	\$ 30,595		
Other Expenses	\$ 6,094	\$ 6,136	\$ (42)	\$ 13,844	\$ 10,336	\$ 15,809	\$ 3,508		
Management Fee	\$ 5,713	\$ 5,601	\$ 112	\$ 13,082	\$ 9,266	\$ 14,739	\$ 3,816		
Interest Expense	\$ -		\$ -				\$ -		
Depreciation	\$ 381	\$ 535	\$ 545	\$ 762	\$ 1,070	\$ 1,070	\$ (308)		
Net Cash From Ops	\$ 5,188	\$ (14,255)	\$ 19,443	\$ (107,944)	\$ (135,031)	\$ (53,798)	\$ 27,087		
Rounds									
Total Rounds	4,491	3,320	1,171	4,761	3,933	7,256	828		
Avg. Green Fee/Cart Fee	\$24.32	\$26.26	\$ (1.94)	\$23.99	\$22.16	\$20.83	\$ 1.83		
Avg. Merchandise/round	\$1.55	\$2.21	\$ (0.66)	\$1.58	\$1.87	\$1.63	\$ (0.29)		

*** Food & Beverage totals have been removed from 14/15 Actuals in Total Revenues and Payroll expenses to properly reflect comparisons to fiscal year 2015/2016. ***



Overview:

The month of November has been an extremely busy and exciting month. This was the beginning of our first full month of operations for the fiscal year of 2015-2016 and the results were better than expected as we exceeded the total revenue budget by over \$23,000. Some of the highlights for the month have included the hosting of multiple events, outings and tournaments on a brand new updated and renovated golf course. We have welcomed new Cypress Pass Members, our Annual & Legacy Pass members and of course many of the regular golfers from the city of Port Orange and Volusia County who were anxious to return to a place they love to play.

Our new staff was instrumental in registering golfers from all areas of the city, county and country with their player profiles and we **added over 2,267 email addresses** over the past 60 days. This will enable us to reach out to a larger segment of golfers while promoting Cypress Head Golf Course and all the events, tournaments, golf lessons, junior classes as well as the benefits of playing at one of the premiere golf courses in Volusia County.

November saw a large number of groups and organizations playing Cypress Head to experience a first class renovated golf course with outstanding customer service. We had over 4491 rounds played during the month which included players from the Chamber of Commerce, EWGA, Gearst group, Daytona Travelers, Hall group, Daytona Swing group, Cypress and Annual Pass holders, and of course our very loyal Port Orange residents. Our Mindshare surveys returned a rating of 9.0 for the month with a majority of the comments related to how much they enjoyed the course conditions, the friendliness of the staff and the improved customer service.

Key Performance Highlights:

- Total revenues for the month of November exceeded the budgeted amount by over \$23,000 dollars which was accomplished by hosting over 4400 rounds for the month. Cypress Head Golf Course was host to the Chamber of Commerce golf event which brought over 144 golfers for the main tournament as well as a large amount of volunteers who all experienced a wonderful time. The tournament included a complete lunch buffet with prizes and trophies presented to all the contest winners. A tournament gift package was presented to all participants and fun was had by all who attended.
- Cypress Head Golf Course also was the site for multiple groups including the Daytona Swing with over 130 players. There were also smaller groups such as the Alexander group, EWGA, Benny James, Daytona Travelers, International Space Coast group, and many others. Our entire team led by Ms. Reggie Hunter, our Director of Sales & Marketing, showcased to every group that the place to host their event was at Cypress Head. The positive publicity and excitement from the opening of the totally renovated bar, restaurant, dining room and the outside decks was exciting for all who have played. The renovation of the clubhouse and golf course is a tremendous benefit for all who live in Cypress Head as well as for the entire city of Port Orange.



Recognition and Awards:

- Ms. Reggie Hunter, our Director of Sales & Marketing, representing Cypress Head Golf Course participated in an eight week program for the Port Orange Leadership Class. She was chosen to give the graduation speech for the group to the Port Orange Chamber of Commerce describing the value of the entire process and the knowledge that each participant learned from the program.

R&R Projects pending:

- No R & R projects were identified during the month of November.
- A request has been made to purchase a John Deere spiker and roller for the maintenance staff to allow them to properly maintain and continue to improve the condition of the greens.

Tee Sheet Activity:

- We had over 3456 paid rounds for the month as well as 820 Annual and Cypress Pass member rounds. We hosted the Daytona swing group with 132 players as well as the Port Orange South Daytona Chamber of Commerce with a full field of 144 players.
- The Golf staff continues to monitor daily tee sheet activity and is trained to recognize underutilization of the tee sheet and offer promotional prices to increase the number of potential players.

November 2015 and YTD rounds mix:

Type	Actual	Budget	Month- P.Y.	Y.T.D	P.Y-Y.T.D
Paid	3456	3320	3188	3703	6050
Annual	820	414	370	842	772
Other rounds	215	199	197	216	434
Total Rounds	4491	3933	3755	4761	7256



Departmental Summaries:

Course & Grounds/Range

- The maintenance team has done a remarkable job in maintaining the golf course during the month of November even though we experienced several days of cart path only conditions due to over 2.5 inches in one day. Dennis and his team have been working diligently in preparing the course for all the players and events that were held in November. The lighted range has also given Cypress Head an advantage over other local courses since we have the range operational during several evenings.

Food and Beverage

- No Food and Beverage sales for the month of November. The management team of the Tavern has been working extremely well together with Ms. Hunter and me by coordinating all the details involved for the variety of events that were scheduled for November as well as the large number of Christmas parties planned for December. Both teams are very committed to offering the best in class service to all tournament groups, individual golfers and non-golfers alike.

Golf Shop/Carts

- New merchandise for the golf shop has been received and displayed properly to enhance the professional nature of the golf shop and increase merchandise sales. Vendors include Footjoy, Titleist, Callaway, Bridgestone, Monterey, Nancy Lopez, Bermuda Sands, Ahead headwear and St Andrews products. We have held special promotions for merchandise in conjunction with Black Friday and Cyber Monday sales which were well received. We had over \$1,100 dollars in gift card sales for the month as well as over \$6,470 in merchandise sales.
- Regular maintenance procedures have been initiated regarding the cart fleet which includes registering monthly totals for battery amperage and mileage as well as proper watering of all batteries to protect all warranties associated with the new fleet. In addition to the monthly process our carts are inspected daily for any damage which may have occurred during normal play. We are committed to providing quality carts for the enjoyment of all our players. The beverage cart has been in operations on a daily basis and has been well received by the golfers. The range picker is operating properly with no concerns.



- Our team has also been involved with a new national program called GLF which stands for Giant Leap Forward. This program is designed to help promote the game of golf to young golfers throughout the school system beginning in the elementary level all the way to high school. We are excited about promoting this program to all skill levels of junior golfers and this is a tremendous benefit for the City of Port Orange.

Marketing and Sales:

- There has been a lot of interest by many individuals and groups regarding joining the new Cypress Pass membership. Currently we have sold 12 Cypress Pass Single memberships, 16 Cypress Pass double memberships and 2 Cypress Pass Non Resident memberships. We will be offering promotions during the month of December highlighting the benefits of joining the membership program with reduced rates. I am expecting more memberships to be purchased as we see our friends arriving from the north taking advantage of this great opportunity.
- The Sales & Marketing director has been very busy responding to all guest inquiries and she has booked multiple events for the month of December as well as into 2016. She continues her involvement with the POSD Chamber, POSD Ambassadors program, Daytona Beach Chamber, SEV Chamber and the POSD Rotary club promoting the course as well as keeping Cypress Head "Top of Mind" in the local community.
- We are continuing our involvement with Daytona CVB, Golf Pac, and Tee-Times USA along with other National wholesaler and Golf Now to maximize utilization of our tee sheet.
- We have increased our database of emails by over 2267 addresses which was accomplished by the golf team by properly registering player profiles including residency, phone numbers and proper classifications of all players. This process will allow better understanding of who our players are and where they come from.
- The team is very active on social media including Facebook, Twitter, and Instagram as well as email blasts promoting all the events and programs offered at Cypress Head.
- The city of Port Orange is also involved with promoting the golf course through the POG channel and the Parks & Recreation department has been helpful in posting golf clinics at their facilities.

Mindshare Reviews and Comments:

Report run: 12/14/2015 1:08 PM MST
Data current as of: 12/14/2015 12:28 PM MST

REPORT CRITERIA

Date of Survey	11/1/15 - 11/30/15
Course	Cypress Head

Number of Surveys: 41

#	Zip Code	Date Golfer	Date of Survey	Tee Time	Overall Rating	Service Rating	Course Rating	Food Rating	Recommend Rating	NPS	Overall Rating w/o F&B	Comments	
Totals					8.9	9.0	8.8	8.4	9.2	78.0	9.0		
Cypress Head					8.9	9.0	8.8	8.4	9.2	78.0	9.0		
Golf					8.9	9.0	8.8	8.4	9.2	78.0	9.0		

- There were over 1,012 questionnaires mailed out to players during the month with an overall rating for the golf course receiving a 9.0 rating. Many of the comments were related to the improved condition of the course as well the friendliness of the golf staff. There were some reviews that had constructive ideas to help us improve in some areas which we will evaluate as a team. The comments returned by the players in this avenue are useful tools in helping our maintenance and golf staff team improve. We also review all negative comments and they are discussed by our team and if required we will contact the individual to help us better understand their concerns.

Corporate Support:

- Kemper Sports Center for Excellence – Ongoing resource.

Summary:

- The entire team here at Cypress Head including all the managers, the maintenance workers and members of the golf staff have been very excited about welcoming all of our fellow golfers back to the renovated Golf Course. This is a great opportunity for us to showcase the investment made by the city for its residents and offer the best possible experience for all players and guests.



- Our plan for the month of December involves helping to promote the introduction of family golf clinics, junior golf programs and individual lessons to bring more Port Orange residents to the club to experience the benefits and services that we have to offer.
- We will also be promoting Holiday specials to drive sales in the golf shop as well as joining our Cypress Pass program to take advantage of incredible course conditions.
- We are looking forward to continuing the momentum we received from November as we head into the winter season.

Respectfully Submitted,

Bob Duquette, PGA

General Manager
The Golf Club at Cypress Head.



CITY COUNCIL AGENDA ITEM

REQUESTED COUNCIL MEETING DATE 01/05/2016

Consent item: No

SUBJECT: Fire Pension Plan Appointment

DEPARTMENT: City Clerk

GOAL:

OBJECTIVE:

RECOMMENDED MOTION: Move to re-appoint Jim Reardon to the Fire Pension Plan.

SUMMARY: Trustee Jim Reardon's term on the Fire Pension Plan will expire in February 2016. He has expressed an interest in continuing to serve the City in this capacity. The new term is for two (2) years and will expire on February 15, 2018.

Project	Funding Account
No.:	No.:

ATTACHMENTS:

1.	Reardon Volunteer Application	Reardon Volunteer Application - Fire.pdf
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Fenwick, Robin
Johansson, M. Jake

Created/Initiated - 12/16/2015
Final Approval - 12/30/2015

CITY OF PORT ORANGE ADVISORY BOARDS AND COMMISSIONS

VOLUNTEER APPLICATIONS

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

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

- | | |
|---|---|
| ☐ Environmental Advisory Board | ☐ Library Advisory Board |
| ☐ Construction Regulation Board* | ☐ Parks and Recreation Board |
| ☐ Code Enforcement Board* | ☐ Planning Commission* |
| ☐ Charter Review Board | |
| ☐ Civil Service Board | <u>Pension Boards*</u> |
| ☐ Districting Commission* | ☐ General Employees |
| | ☐ Police |
| ☐ SHIP Committee | ☒ Fire |
| ☐ Eastport Community Redevelopment Agency | |
| ☐ Town Center Community Redevelopment Agency | |

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

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

1. **PERSONAL**

Name JIM REARDON Date of Birth 4-7-1962

Address 1915 CREEKWATER BLVD

Home Telephone 386-235-5450

E-Mail Address jim.reardon@edwardjones.com

Business Telephone 386-767-1132

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

City Council District 2

How long have you been a resident of Port Orange? 9+ YEARS

Are you currently serving on a City Board? yes, FIRE

Have you ever served on a City Board? yes, FIRE

If yes, when and which Board? yes, SEPT 19, 2006 TO PRESENT, FIRE

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

ROBERT FORD, 4876 HALIFAX DR, 32127 386-756-8245
Name, address, and telephone number

MARY MARTIN, 12 WOODLAKE DR, 32129 386-756-0357
Name, address, and telephone number

BRAD TALLMAN, 2580 S. VOLUSIA AVE, 32763 386-775-7666
Name, address

3. **EDUCATION**

High School ROSARY HIGH SCHOOL Date Graduated 1980
UNIVERSITY OF MISSOURI 1985 BS-MECH ENGINEER
College WASHINGTON UNIVERSITY Date Graduated 1992 Degree MBA-BUS ADMIN

4. **WORK EXPERIENCE**

EDWARD JONES FEB 2002-PRESENT FINANCIAL ADVISOR
THE BOEING COMPANY SEP 1985-FEB 2002 ENGINEERING MANAGER

5. **INTERESTS/ACTIVITIES** TRAVEL, MARATHON RUNNING

6. **COMMUNITY INVOLVEMENT** PORT ORANGE/SOUTH DAYTONA
CHAMBER OF COMMERCE, DAYTONA BEACH TRACK CLUB
BOARD OF DIRECTORS, PORT ORANGE FIRE/RESCUE PENSION BOARD

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

I'D LIKE TO CONTRIBUTE MY FINANCIAL AND MANAGEMENT
EXPERTISE TO MAKE PORT ORANGE AN EVEN BETTER CITY TO
LIVE IN.

8. A resume or separate sheet with additional information may be included.

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

James P. Reardon JR
Signature

1-19-2012
Date

Note: If you have questions concerning the duties and responsibilities of any of the above Boards/Commissions, please contact the City Clerk's Office at 506-5563.
Return this form to: Robin Fenwick, Deputy City Clerk,
1000 City Center Circle, Port Orange, Florida 32129



CITY COUNCIL AGENDA ITEM

REQUESTED COUNCIL MEETING DATE 01/05/2016

Consent item: No

SUBJECT: Happy Wanderers- Elaine Brayton

DEPARTMENT: Parks & Recreation

GOAL:

OBJECTIVE:

RECOMMENDED MOTION:

SUMMARY: Elaine Brayton with the Happy Wanderers is requesting a fee waiver to use the Lakeside Community Center in February. Total cost of the waiver is \$426.00.

Project Funding Account
No.: No.:

ATTACHMENTS:

1.	Request Letter	Happy Wanderers Request Letter.pdf
2.	Invoice	Happywanderersinvoice.pdf
3.	Staff Report	HWstaffreport.pdf

Lovallo, Susan
Lovallo, Susan
Johansson, M. Jake

Created/Initiated - 12/22/2015
Approved - 12/22/2015
Final Approval - 12/29/2015

Elaine Brayton
3033 Oak Hammock Drive
Port Orange FL 32129

To the Mayor and City Council

Thank you for taking the time to hear about the Happy Wanderers Walking Club.

I am writing in behalf of the Club, having been a part of it almost since the very beginning.

We, as a Club, have been in Port Orange for over 20 years and have enjoyed walking and having many Events in the city. We are a Volksmarch group with 100 members. Some of you have belonged and walked with us.

A bit of background. Back in 2004, the Happy Wanderers donated \$1,000. towards the Lakeside Center. At that time, the donation was made to the Port Orange Community Trust. We've always been very happy to have had the opportunity to give back a little something to show our appreciation for all that we have received from the community. The City of Port Orange has always been extremely helpful to our club, our being here has been an honor. 2016 is a big year for the club, we will be celebrating our 25th Anniversary as a group. We are hoping to have an exciting Anniversary get together with the "old" and "new" walkers.

We would like to have our party at the Lakeside Center on February 28th.

We are planning a luncheon and a program for the attendees. Hopefully, we will see many of the originators of the group, which would be wonderful.

We are a frugal club, funds are not what we thrive on. We are hoping that you

would waive the costs of the facilities.

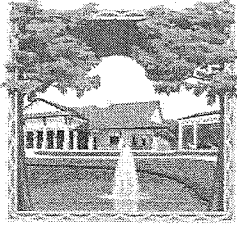
It would be very much appreciated, to say the least. It would also give the club the opportunity to see the beautiful plaque that is on the Wall of Honor.

Sincerely,

Elaine Brayton

Elaine Brayton

October 9, 2015



LAKE SIDE
community center
City of Port Orange

CITY OF PORT ORANGE

1999 City Center Circle, Port Orange, FL 32129

Lakeside Community Center Event Estimate

Renter: Happy Wanderers Club

Event: 25th Anniversary Party

Rental Date: 2/28/2016

Phone: 386-760-1410

Prepared: 10/12/2015

MAKE ALL CHECKS PAYABLE TO THE CITY OF PORT ORANGE

MAIL ALL CHECKS TO PARKS AND RECREATION ATTN: KRISTY BROWN
4655 CITY CENTER CIRCLE, PORT ORANGE, FLORIDA 32129

ITEM	TIMES	QTY	UNIT	RATES	TOTAL	TAX
Location: Lakeside Community Center						
Rental	1:00PM-5:00PM	4	Hours	\$ 100.00	\$ 400.00	\$ 26.00

Total Fees	\$ 400.00
Total Tax	\$ 26.00
Invoice Total	\$ 426.00

****Notice: This is an estimate of services and fees for the proposed special event. Any additional services and fees are subject to be billed or deducted as necessary.**



Staff Report

Request:	Fee waiver for the Lakeside Center
Applicant:	Elaine Brayton, Happy Wanderers
Staff Recommendation:	Deny Request
Staff Contact:	Susan L. Lovallo, Parks & Recreation Director
City Council Date:	January 5, 2015

Introduction: Groups and organizations will approach the city council to request fee waivers or fee reductions in order to provide a benefit to the community. The waivers are generally for use of city facilities and staff cost associated with the function. In return, the citizens get the opportunity to participate in the event, or the community is a destination for outside people to visit causing an economic impact to our community. Since fees, for Parks & Recreation Facilities and programs, are set by resolution by the authority of the City Council they can only be waived by the council. The only exception is when an organization provides the Parks & Recreation Department with equal value of service or monetary donation during the same year can fees be exchanged. The fees have been set to recover a percentage of the direct cost of the facility operation.

Discussion: The Happy Wanderers have submitted an application to rent the Lakeside Center for an anniversary celebration for the club. The request letter and application were received on October 9, 2015. The group is requesting a fee waiver due to past partnerships within the community. The event is scheduled to take place on Sunday February 28, 2016.

Direct costs for the event will include one part time staff to work 5 hours at a cost of \$60. Waiver will result in potential loss of \$400 in revenue.

Recommendation: Deny Request



CITY COUNCIL AGENDA ITEM

REQUESTED COUNCIL MEETING DATE 01/05/2016

Consent item: No

SUBJECT: Special Olympics Fee Waiver Request

DEPARTMENT: Parks & Recreation

GOAL:

OBJECTIVE:

RECOMMENDED MOTION:

SUMMARY: Sarah Harper with the Special Olympics would like to request a fee waiver for use of the Port Orange Gym. She is requesting the gym for a tournament to be held on January 9, 2016. Total fee waiver requested is \$1083.00.

Project	Funding Account
No.:	No.:

ATTACHMENTS:

1.	Special Olympics Request Letter	City Council Letter - Special Olympics Volusia.docx
2.	Invoice	Jan. 9th 2016 Basketball Tournament Invoice.pdf
3.	SO Staff Report	sostaffreport.pdf

Lovallo, Susan
Lovallo, Susan
Johansson, M. Jake

Created/Initiated - 12/22/2015
Approved - 12/22/2015
Final Approval - 12/29/2015



December 18, 2015

Dear Mayor Green and City Council,

Hello, my name is Sarah Harper and I am the Director of Volusia County Special Olympics. On January 9th Volusia County will host the Area 5 Regional Basketball Games at the Port Orange Recreational Facility. Our organization as you may know is a non-profit and as the only employee, I am 100% responsible to raise all of the funds to pay for all activities that take place for our organization. We do not receive government or state funding for any of our activities – it is all based on fundraising in our community.

That being said, since I have come on board as the first employee, Volusia County Special Olympics (SO) has grown significantly in the last 3 years – from less than 200 athletes in 2013 to over 500 competitors at the end of 2015. We've also brought on board 12 schools that are now competing with us in our Unified Sports Program, whereby Special Olympics Athletes and General Education Students form teams and promote inclusion and acceptance for all of their peers.

In addition to our growth – we've added 8 new sports in the last 3 years – from 7 in 2013 to 15 sports in 2015 – giving our athletes the benefit of choices and opportunity to grow in sports and friendships – creating a more independent and full lifestyle.

However, what many people don't know is that there aren't any fees to be a part of Special Olympics. Everything we do – facilities, uniforms, equipment, travel to Area and State Games, housing at State Games and of course food to eat – is all free to the athletes and their families. It is through the generosity of our donors who make this all possible.

So on behalf of our athletes we humbly request that you allow us to present our case to have the rental fees waived for our Regional Games on January 9th. We are happy to pay for employees to be on staff for our event.

We thank you for your consideration and wish you all very Happy Holidays!

Sincerely,

Sarah Harper
Director
386-631-4405

**Sarah Harper, Director, Volusia County
Special Olympics Florida**

P.O. Box 290507, Port Orange, FL 32129

Tel 386-631-4405 www.SpecialOlympicsVolusia.org

Created by the Joseph P. Kennedy Jr. Foundation for the benefit of persons with intellectual disabilities



CITY OF PORT ORANGE

1000 City Center Circle, Port Orange, FL 32129

Special Olympics Florida -Volusia (Sarah Harper)

Invoice created on 12/17/2015

**MAKE ALL CHECKS PAYABLE TO THE CITY OF PORT ORANGE
MAIL ALL CHECKS TO PARKS AND RECREATION ATTN: JOSH ANDERSON
4655 CITY CENTER CIRCLE, PORT ORANGE, FLORIDA 32129**

Invoice

ITEM / EVENT		DUE	PAID
Jan. 9th 2016			
Special Olympics Basketball Tournament			
Saturday, Jan 9th 2016			
Court 1	8am-5:00pm	\$300.00	
Court 2	8am-5:00pm	\$300.00	
Court 3	8am-5:00pm	\$300.00	
Tax (exempt)		\$0.00	
Part Time Staff (\$12 per hour)			
8:00am- 5:00pm	9 hrs.	\$108.00	
Full Time Staff (\$25 per hour)			
On call	3 hrs.	\$75.00	
Total		\$1,083.00	
Deposited		NA	
Amount Due		\$1,083.00	

PLEASE SUMMIT PAYMENT BY JANUARY 7th, 2016

TO HELP WITH BOOKKEEPING PLEASE ENCLOSE THIS INVOICE WITH PAYMENT
We will need a certificate of insurance policy with the City of Port Orange listed on it.
There could be additional fees due to increased services.
Parks staff will be on call.

INVOICED BY: Josh Anderson



Staff Report

Request:	Fee waiver for Port Orange Gym
Applicant:	Special Olympics, Sarah Harper
Staff Recommendation:	Deny Request
Staff Contact:	Susan L. Lovallo, Parks & Recreation Director
City Council Date:	January 5, 2016

Introduction: Groups and organizations will approach the city council to seek fee waivers or fee reductions in order to provide a benefit to the community. The waivers are generally for use of city facilities and staff cost associated with the function. In return the citizens get the opportunity to participate in the event or the community is a destination for outside people to visit causing an economic impact to our community. Since fees, for Parks & Recreation facilities and programs, are set by resolution by the authority of the City Council they can only be waived by the council. The only exception is when an organization provides the Parks & Recreation Department with equal value of service or monetary donation in the same year can fees be exchanged. The fees have been set to recover a percentage of the direct cost of the facility operation.

Discussion: The Special Olympics would like to use the gym on January 9, 2016 for their regional games. They will utilize three courts for nine hours. Direct cost associated with the use; one part time staff nine hours \$108, one parks employee on call \$75 and loss of potential revenue \$900. Ms. Harper has offered to pay the staff costs associated with the rental which would bring the total waiver to \$900.

Recommendation: Deny Request



CITY COUNCIL AGENDA ITEM

REQUESTED COUNCIL MEETING DATE 01/05/2016

Consent item: No

SUBJECT: Lauren Valle- Volleyball Co-Sponsor Request

DEPARTMENT: Parks & Recreation

GOAL:

OBJECTIVE:

RECOMMENDED MOTION:

SUMMARY: Lauren Valle would like to request that the city co-sponsor a competitive youth volleyball program. She appeared before the Parks & Recreation Advisory Board on December 8, 2015 and received a positive motion for support. She understands the fees and regulations associated with being affiliated with Port Orange Parks and Recreation and can meet all requirements.

Project	Funding Account
No.:	No.:

ATTACHMENTS:

1.	Request Letter	Volleyballrequestletter.pdf
2.	Staff Report	VB staff repport.pdf

Lovallo, Susan
Lovallo, Susan
Johansson, M. Jake

Created/Initiated - 12/22/2015
Approved - 12/22/2015
Final Approval - 12/29/2015

Lauren Valle
DBSC, Inc.
5633 Devon St.
Port Orange, FL 32127

November 5, 2015

Ms. Susan Lovallo
Director of Parks and Recreation
Port Orange, FL

Dear Ms. Lovallo,

My name is Lauren Valle, and I am a resident of Port Orange. I attended Spruce Creek High School for four years and was the Volusia and Flagler Counties Athlete of the Year in 2001. After playing collegiate volleyball, I began my coaching career. I have amassed 13 years of coaching experience and am a USAV Level 2 coach, which is a tremendous achievement and credential in the volleyball world. My volleyball teams have been nationally ranked, and have won numerous medals and trophies from all over the country.

I am writing to express my interest in growing the sport of volleyball in the Port Orange area. As the president of a local non-profit, Daytona Beach Sports Club, I would like to develop a partnership with the city of Port Orange to help increase the opportunities for the boys and girls in our town to play this wonderful and exciting sport. We have started a volleyball program and would like to call the Port Orange Recreation facility our home.

Volleyball has become one of the most popular sports in America, but it is not currently offered through the Port Orange Recreation department. With my passion for volleyball and professional coaching experience, our partnership will help grow the young athletes in our community both, on and off the court, through the sport of volleyball. Many valuable life lessons are learned through athletics, and volleyball is a great way to get our young boys and girls involved.

I can be reached at (407) 383-9954 to discuss a volleyball youth program in greater detail. I look forward to speaking with you and the members of the City Council. On behalf of my student-athletes and as a citizen of Port Orange, I appreciate your time and consideration.

Sincerely,

Lauren Valle

Lauren Valle, President
Daytona Beach Sports Club, Inc.





Staff Report

Request: Co-Sponsor Competitive Volleyball group

Applicant: Lauren Valle

Staff Recommendation: Approval

Staff Contact: Susan L. Lovallo, Parks & Recreation Director

City Council Date: January 5, 2016

Introduction: Sport groups and clubs can request to be affiliated with the Parks & Recreation Department as a co-sponsored group for the purpose to provide competitive sports programs for area youth. In accordance with section 50-33 section B of the code of ordinances reads:

(b)The recreation department will sponsor certain recreation organizations on the following considerations:

- (1)There is an existing need for the organization and its services.
- (2)Consideration will be given as to possible duplication of the organization's services with other services offered by other local organizations, and with similar activities conducted by the department.
- (3)The organization membership must be open to residents of the city.

(c)For clarification the department will provide the following services without charge to sponsored groups:

- (1)Provide facilities for activity on a first-priority use basis, other than when the facility is used by the department for its programs.
- (2)Provide leadership assistance and clerical service in photocopying announcements and material.
- (3)Assist in promoting and publicizing the club's program; this includes listing the activities in brochures, announcements, releases to the press, etc.

(4) Provide consultation and other aid as needed, insofar as possible.

(d) It is expected that the sponsored organization will adhere to the department's policies and procedures, as follows:

(1) Provide open membership to the public and give this membership priority to city residents.

(2) Promote the club and its services to the best interest of the club, the city, the department and the public.

(3) Seek advice and consultation of the department relative to preparation of the organization's constitution and bylaws, which must be given final approval by the department.

Discussion: Ms. Valle has presented before the Parks & Recreation Advisory board that there is a need for this program. The Board voted in support of the co-sponsorship. Staff has met with the applicant and discussed the annual fees and insurance requirements for co-sponsorship teams. Gym space will be reserved for Parks & Recreation programs first then co-sponsor programs. PAL will receive their dates first, followed by the volleyball club. Fifty percent of the club athletes must be Port Orange residents. Direct cost to department is existing staff time for scheduling the courts and keeping up with the required paperwork. This will be absorbed in the current budget. Any additional equipment required will be the responsibility of the applicant.

Recommendation: Approval

REGULAR CITY COUNCIL MEETING MINUTES
COUNCIL CHAMBERS – CITY HALL
1000 CITY CENTER CIRCLE
DECEMBER 8, 2015

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

Pledge of Allegiance

Invocation provided by Reverend Tom Olney

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

Rules of Procedure as approved by City Council on December 2, 2014, specifically page 3, portions of letter (e) and #9 (a-e) were read by Robin Fenwick, City Clerk.

AGENDA APPROVAL

Items pulled: 14, 16, and 17

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

PUBLIC HEARING

5. First Reading – Ordinance No. 2015-44 - 2015 Comprehensive Plan Capital Improvements Element (CIE) Annual Update; CASE NO. 15-27500001

Mayor Green read Ordinance No. 2015-44.

ORDINANCE NO. 2015-44

AN ORDINANCE OF THE CITY OF PORT ORANGE, VOLUSIA COUNTY, FLORIDA, RELATING TO COMPREHENSIVE

PLANNING; PROVIDING FOR ADOPTION OF THE FY2016-2021 FIVE YEAR SCHEDULE OF CAPITAL IMPROVEMENTS AS SET FORTH IN THE COMPREHENSIVE PLAN, CAPITAL IMPROVEMENTS ELEMENT AND SUPPORTING DATA; PROVIDING FOR REPEAL OF CONFLICTING ORDINANCES AND RESOLUTIONS; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

Motion to adopt Ordinance No. 2015-44 was made by Vice Mayor Bastian, and Seconded by Councilman Burnette. Motion carried unanimously by roll call vote.

6. First Reading - Ordinance No. 2015-45 - LDC Amendment/Chapters 17 and 18; Case No. 15-25000005

Mayor Green read Ordinance No. 2015-45.

ORDINANCE NO. 2015-45

AN ORDINANCE OF THE CITY OF PORT ORANGE, VOLUSIA COUNTY, FLORIDA AMENDING THE LAND DEVELOPMENT CODE; AMENDING CHAPTER 17, SECTION 25 TO ADD FARMERS/FLEA MARKET AS A SPECIAL EXCEPTION USE IN THE RIDGEWOOD DEVELOPMENT (RD) ZONING DISTRICT; AMENDING CHAPTER 18, SECTION 3 TO ADD SPECIAL REQUIREMENTS FOR THE FARMERS/FLEA MARKET USE; PROVIDING FOR REPEAL OF CONFLICTING ORDINANCES; PROVIDING FOR CODIFICATION; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

Motion to adopt Ordinance No. 2015-45 was made by Vice Mayor Bastian, and Seconded by Councilman Burnette.

Tim Burman, Interim Community Development Director, explained the change to special exemption.

Council supported the requested change and feel it's a better use of the property. Citizens have asked that lights be shielded from the residential area.

Motion carried unanimously by roll call vote.

SPECIAL AWARDS, REPORTS, RECOGNITION AND PROCLAMATIONS

7. Port Orange/South Daytona Chamber of Commerce Quarterly Report

Debbie Connors, Executive Director of the Chamber, discussed the activities and membership of the Chamber. They have maintained over 700 members for the year. The Chamber held a purchasing workshop with the community.

Councilman Burnette asked that information from the purchasing workshop be posted on their website.

CITIZEN PARTICIPATION (Agenda)

8. Water Use Policy - Ted Noftall

Ted Noftall, citizen, discussed his concerns relating to the back billing of the utility services at his business after a water leak. He provided documentation and asked Council to consider his five (5) points as listed below:

- 1) Water leak – the City did not contact him of the high water usage
- 2) Meter size & change out fee – Staff opinions vs. Code requirements.
- 3) Monthly bills do not add up month after month
- 4) Staff generated fees are unlawful – No taxation without representation.
- 5) Back billing resolution is unconstitutional

He addressed issues and concerns with the manager having Council approve far too much of his staff's work product; the length of the agenda packets and when they are distributed to Council for review; and implementing policies after Staff has established a past practice.

9. Utility Lien Reduction Request - Aaron Abdolahifard, 828 Wildwood Circle

Anthony Andrealia, Wedgewood, Inc., asked for a reduction in the utility lien at 828 Wildwood Circle after obtaining the property through foreclosure.

Margaret Roberts, City Attorney, recommended that the Council collect the monies due since it is a utility lien. They live through foreclosures and bankruptcies.

Councilman Ford is hesitant to forgive water liens.

Consensus of Council was to collect the full amount of the utility lien.

CITIZEN PARTICIPATION (Non-Agenda – 15 minutes)

Edith Shelley, Halifax Health, announced the grand opening of a Healthy Living Center at the Port Orange YMCA. It opens on Wednesday, December 9, 2015.

Robert Scott, citizen, addressed Council regarding his concerns on Coquina Cove Subdivision and Coraci Blvd. extension. He asked for assurance that the City is monitoring the projects to protect the citizens.

COUNCIL COMMENTS

10. Comments/Concerns from Council Members

Councilman Ford asked that an assistance program be set up soon for those who cannot afford their bill due to leaks or other issues not in their control. He doesn't support "past practice". He wants written policies and procedures that Staff follows.

Councilman Burnette thanked the Parks & Recreation Department and all of Staff for their efforts over the weekend for the holiday events. He asked for an update on the lights on Dunlawton Avenue. Mr. Johansson will be meeting with the county again once they review the issue.

Vice Mayor Bastian also thanked Staff for the events.

Councilman Stiltner echoed thanks to Staff for the coordination of events.

Mayor Green asked for a status of the meter change out program and exception reports. Mr. Johansson advised that the meters transmit the information as requested but Staff is working on it. He also advised that "past practices" are currently being codified in policies, resolutions, and/or ordinances.

CONSENT AGENDA

11. Approval of Minutes
 - a. December 1, 2015 - Regular City Council Meeting
12. Bid Awards and Contract Items
 - a. Contract Piggyback Purchase of FY 2016 Fleet Vehicle and Equipment
 - b. Seeking Council Approval for the purchase of new Self Contained Breathing Apparatus from Ten-8 Fire Equipment, Inc.
 - c. Piggyback Agreement and spending authorization under Volusia County Bid #14-B-127KW for Cummins Power South
 - d. Sole source contract for repairs with Menzi USA Sales Inc.
 - e. Change Order #6 to Hall Construction
 - f. License Agreement on Parcel 908 to Pioneer Community Development District constructing the South Williamson Boulevard Extension.
13. 2015 Annual Concurrency Management Report
14. Resolution No. 15-83 - Parks & Recreation Fees
15. 2016 Public Hearing & Development Review Calendars
16. Rejection of All Bids - Bid #16-01, Concrete Services
17. City Attorney's Report
18. CDBG required Analysis of Impediments (AI) to Fair Housing Choice

19. Public Employees Association (PEA) Contract Approval of 2015-2016 Wage Reopener for Article 24, Wages on the PEA 2014 - 2016 Collective Bargaining Agreement

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

Item #14 - Resolution No. 15-83 - Parks & Recreation Fees

Vice Mayor Bastian asked if the open gym fees can remain the same instead of being raised.

Susan Lovallo, Parks and Recreation Director, reviewed the fees and needs to adjust the amount to collect 100% of the adult programs and 50% of the youth programs.

Council supported the changes as presented.

Mayor Green read Resolution No. 15-83.

RESOLUTION NO. 15-83

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PORT ORANGE, VOLUSIA COUNTY, FLORIDA, ESTABLISHING REVISED FEES FOR PARKS AND RECREATION FACILITY USE, ATHLETIC PROGRAMS, SPONSORSHIPS, AND SERVICES; SUPERSEDING PRIOR RESOLUTIONS; AND PROVIDING AN EFFECTIVE DATE.

Motion to approve Resolution No. 15-83 was made by Councilman Burnette, and Seconded by Councilman Stiltner. Motion carried 4-1 by roll call vote with Vice Mayor Bastian voting no.

Item #16 – Rejection of All Bids - Bid #16-01, Concrete Services

Mike Gardner, citizen, addressed Council regarding his concerns on the ambiguous specs of the bid.

Tracey Riehm, Finance Director, introduced Diana Fye, as the new Purchasing Manager. Ms. Fye advised that the bid form was list by unit price and there was no easy way to determine the lowest bidder. There was no stated intent as to awarding to one vendor vs. more than one. She recommends re-bidding. Mayor Green agreed that the

vendors did not understand the bidding documents. They were too far off from each other.

Newton White, citizen, asked what direction Council will give Staff regarding sidewalk repairs while this is re-bid. Mayor Green said Sparks will continue to repair until it is re-bid.

Motion to approve as presented was made by Councilman Burnette, and Seconded by Councilman Ford. Motion carried unanimously by roll call vote.

Item #17 – City Attorney's Report

Councilman Burnette asked that a resolution be past for a quarterly report from the City Attorney's Office.

Motion to direct the City Attorney to provide quarterly reports was made by Councilman Burnette, and Seconded by Councilman Ford. Motion carried unanimously by voice vote.

Motion to accept the City Attorney's Report was made by Councilman Burnette, and Seconded by Councilman Ford. Motion carried unanimously by voice vote.

REGULAR AGENDA

20. Lobbying Services Contract for the 2016 and 2017 Legislative Years

Motion to reconsider the lobbying services contract was made by Vice Mayor Bastian, and Seconded by Councilman Burnette. Motion carried 3-2 with Councilman Ford and Vice Mayor Bastian voting no.

Motion to approve the contract was made by Vice Mayor Bastian, and Seconded by Councilman Stiltner.

Council asked that language be added to the contract to restrict the lobbyist from lobbying for the City on issues they have not approved.

Councilman Stiltner believes a lobbyist should only lobby on issues as directed by Council.

Councilman Burnette agreed with Vice Mayor Bastian and would like Sean Pittman to keep Council apprised on issues he hears in Tallahassee.

Councilman Ford doesn't support a lobbyist. He believes the City should have a Governmental Affairs Liaison on staff.

Mr. Noftall asked why Council will restrict the scope but raise the fees and why is it a two year contract. Mr. Johansson said the contract is for 18 months to cover the Legislative Session.

Mr. White asked Council how many lobbyists were interviewed. He asked that it be bid out.

Motion carried 3-2 by roll call vote with
Councilman Ford and Vice Mayor
Bastian voting no.

21. Contract Award to A.G. Pifer for YMCA Phase Three Renovations

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

Councilman Stiltner is concerned with only receiving one bid for this project. He wants to see more bids so it is more competitive. He asked what the "verbal agreement" was as presented in the agenda packet.

Ms. Riehm advised that she reviewed the lease and amendments and the funds (106 - Recreation Fund) which show a reserve. There is a portion reserved for the YMCA; one of which is the lease amount and the other which cannot be determined by written authority. She recommended an amendment of the lease to show both amounts.

Councilman Ford asked that Staff review the bidding process for improvement.

Mayor Green said there has been a problem with bidding in a lot of communities. He said it is easier to work on the private side than the public side.

Councilman Burnette asked where the budgeted amount was derived.

Ms. Lovallo advised the YMCA provided initial estimates. They were charged with hiring the architect originally. She believes now that it is a City project, costs are higher

because of the need for more contractor time and work. There is a delay in payments when working with the City.

Motion failed unanimously by roll call vote.

22. First Reading - Ordinance No. 2015-47 - Relating to Bidding Requirements

Mayor Green read Ordinance No. 2015-47.

ORDINANCE NO. 2015-47

AN ORDINANCE OF THE CITY OF PORT ORANGE, VOLUSIA COUNTY, FLORIDA, AMENDING THE CITY OF PORT ORANGE CODE OF ORDINANCES, CHAPTER 2, ADMINISTRATION, SECTION 2-267, RELATING TO BIDDING REQUIREMENTS FOR PURCHASES; PROVIDING FOR REPEAL OF CONFLICTING ORDINANCES; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

Motion to adopt Ordinance No. 2015-47 was made by Vice Mayor Bastian, and Seconded by Councilman Burnette. Motion carried unanimously by roll call vote.

COMMENTS

23. City Attorney Comments

a. Implementation of the Cody compensation study for the City Attorney

Ms. Roberts discussed the accomplishments of the City Attorney's Office through the years and asked for approval to implement the Cody compensation study pay rates to the midpoint.

Councilman Stiltner supports moving all of the employees into a competitive position. He would like to see the salaries for other City Attorney's in the surrounding area cities. He volunteered to gather the data and bring it back for discussion.

Vice Mayor Bastian would like to see data that is more current than the Cody Study.

Councilman Burnette asked Council to consider a partial increase now and re-visit it during the annual evaluation in May.

Councilman Ford is concerned with the message a 16.6% increase sends to other employees. He supported the same increase as other employees.

Mayor Green asked Councilman Stiltner to gather the data.

Sarah Jones, citizen, said the collective bargaining units should be settled before upper management receives a raise.

Mr. Noftall addressed his concerns with the implementation of the Cody Study.

Council agreed to revisit after more information is gathered by Councilman Stiltner.

Ms. Roberts asked Council for approval to close on a property donation of vacant land located on Reed Canal. It is commercial property annexed to the City in 1985. The donor would like to close prior to year-end. She recommended Council obtain marketable title before accepting the property, as well as an environmental report.

Council is interested if the title is clear and the land is clean.

Ms. Roberts advised that the Yorktowne Blvd. parcel bid is moving forward. Council did not want any further restrictions other than the current codes.

24. City Manager Comments

Mr. Johansson advised Council that a Special Meeting will be scheduled as soon as possible to discuss the IAFF Contract and budget resolution approving the funding for the tentative agreement that has been reached. The vote from IAFF is expected December 16, 17, and 18. The Special Meeting will be scheduled the week of December 21, 2015 if all paperwork is received in time.

He advised that bond reviews are coming up which require significant staff time. The 2009 Water/Sewer Revenue Bond in the principal amount of \$205,000 plus \$3,600 in interest. He asked for approval to place the total amount into an escrow account to relieve the administrative burden associated with a Finch review. The monies will come from fund balance. The Bond is not callable so it cannot be paid off at this time. Council agreed to review a resolution with further details in January. He will bring a resolution to Council in January.

COUNCIL COMMITTEE REPORTS

25. City Council Committee Reports

a. Arthaus – Councilman Burnette asked Mr. Johansson for feedback on his tour of Arthaus. Mr. Johansson found it very enlightening.

b. Port Orange/South Daytona Chamber of Commerce – Report given by Ms. Connors.

Regular City Council Meeting

December 8, 2015

Page **10** of **10**

c. Roundtable of Elected Officials – Meets on Monday, December 14, 2015.

ADJOURNMENT: 8:44 p.m.

Mayor Allen Green

Attest:

Robin Fenwick, CMC
City Clerk

SPECIAL CITY COUNCIL MEETING MINUTES
COUNCIL CHAMBERS – CITY HALL
1000 CITY CENTER CIRCLE
DECEMBER 22, 2015

THE SPECIAL CITY COUNCIL MEETING of the City of Port Orange was called to order by Mayor Allen Green at 5:00 p.m.

Pledge of Allegiance

Silent Invocation

Roll Call:	Present:	Councilman Bob Ford Councilman Donald Burnette (arrived at 5:03 Councilman Scott Stiltner Vice Mayor Drew Bastian Mayor Allen Green
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Also Present:	Jake Johansson, City Manager Margaret T. Roberts, City Attorney Theresa Gutierrez, Deputy City Clerk
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DISCUSSION ITEMS:

4. Resolution No. 15-84 - Budget Appropriation

Mayor Green read Resolution No. 15-84.

RESOLUTION NO. 15-84

A RESOLUTION OF THE CITY OF PORT ORANGE,
VOLUSIA COUNTY, FLORIDA, APPROPRIATING
OPERATING FUNDS FOR THE FIRE DEPARTMENT
PERSONNEL EXPENDITURES; SETTING FORTH
REVENUES AND EXPENDITURES; AND PROVIDING AN
EFFECTIVE DATE.

Motion to approve Resolution No. 15-84
was made by Vice Mayor Bastian, and
Seconded by Councilman Ford. Motion
carried unanimously by roll call vote.

5. Approval of Port Orange Professional Firefighters Association Contract
through September 30, 2017 Collective Bargaining Agreement

Motion to approve the Collective Bargaining Agreement with IAFF was made by Vice Mayor Bastian, and Seconded by Councilman Ford. Motion carried unanimously by roll call vote.

Council thanked Staff and IAFF members for their work on the agreement.

Carol Calache, President of Port Orange Professional Fire Fighters Association, thanked Staff for coming to an agreement with the IAFF members.

Councilman Burnette arrived at 5:03 p.m.

ADJOURNMENT: 5:03 p.m.

Attest:

Mayor Allen Green

Robin Fenwick, City Clerk



CITY COUNCIL AGENDA ITEM

REQUESTED COUNCIL MEETING DATE 01/05/2016

Consent item: Yes

SUBJECT: Council Meeting Schedule for 2016

DEPARTMENT: City Clerk

GOAL: N/A

OBJECTIVE: N/A

RECOMMENDED MOTION: Move to approve the proposed City Council meeting schedule for 2016.

SUMMARY: The Port Orange City Council generally meets twice (2x) per month, the first and third Tuesdays, except for November and December when Council meets the first and second Tuesdays and July, when Council modifies the meeting dates in observance of Independence Day. The meetings will begin at 6:30 p.m. unless otherwise changed by Council.

The proposed schedule for the 2016 Regular City Council meetings is as follows:

January 5, 19	July 19
February 2, 16	August 2, 16
March 1, 15	September 6, 20
April 5, 19	October 4, 18
May 3, 17	November 1, 9 (Wednesday)
June 7, 21	December 6, 13

Due to the elections being held on November 8, 2016, the City Council will meet on Wednesday, November 9, 2016.

In addition, Council has designated the fourth Tuesday of each month for Council workshops, as needed.

Project	Funding Account
No.:	No.:

ATTACHMENTS:

1.	Calendar	Council Meeting Calendar 2016.pdf
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Fenwick, Robin
Johansson, M. Jake

Created/Initiated - 12/30/2015
Final Approval - 12/30/2015

JANUARY 2016



SUNDAY	MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY	SATURDAY
					1 New Year's Day	2
3	4	5 City Council Meeting @ 6:30 p.m. in Council Chambers	6	7	8	9
10	11	12	13	14	15	16
17	18 Martin Luther King Day	19 City Council Meeting @ 6:30 p.m. in Council Chambers	20	21	22	23
24	25	26 City Council Workshop @ 6:30 p.m.	27	28	29	30
31		NOTES:				

CITY OF PORT
ORANGE, 1000 City
Center Circle

PHONE: 386-506-5563

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FEBRUARY 2016



SUNDAY	MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY	SATURDAY
	1	2 City Council Meeting @ 6:30 p.m. in Council Chambers	3	4	5	6
7	8	9	10	11	12 Lincoln's Birthday	13
14 St. Valentine's Day	15 Presidents' Day	16 City Council Meeting @ 6:30 p.m. in Council Chambers	17	18	19	20
21	22	23 City Council Workshop @ 6:30 p.m.	24	25	26	27
28	29					
		NOTES:				

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MARCH 2016



SUNDAY	MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY	SATURDAY
		1 City Council Meeting @ 6:30 p.m. in Council Chambers	2	3	4	5
6	7	8	9	10	11	12
13 Daylight Savings Time Begins	14	15 City Council Meeting @ 6:30 p.m. in Council Chambers	16	17 St. Patrick's Day	18	19
20	21	22 City Council Workshop @ 6:30 p.m.	23	24	25 Good Friday	26
27 Easter Sunday	28	29	30	31		
		NOTES:				

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APRIL 2016



SUNDAY	MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY	SATURDAY
					1	2
3	4	5 City Council Meeting @ 6:30 p.m. in Council Chambers	6	7	8	9
10	11	12	13	14	15	16
17	18	19 City Council Meeting @ 6:30 p.m. in Council Chambers	20	21	22	23
24	25	26 City Council Workshop @ 6:30 p.m.	27	28	29	30
		NOTES:				

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MAY 2016



SUNDAY	MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY	SATURDAY
1	2	3 City Council Meeting @ 6:30 p.m. in Council Chambers	4	5	6	7
8 Mother's Day	9	10	11	12	13	14
15	16	17 City Council Meeting @ 6:30 p.m. in Council Chambers	18	19	20	21
22	23	24 City Council Workshop @ 6:30 p.m.	25	26	27	28
29	30 Memorial Day Observed	31				
		NOTES:				

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JUNE 2016



SUNDAY	MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY	SATURDAY
			1	2	3	4
5	6	7 City Council Meeting @ 6:30 p.m. in Council Chambers	8	9	10	11
12	13	14	15	16	17	18
19 Father's Day	20	21 City Council Meeting @ 6:30 p.m. in Council Chambers	22	23	24	25
26	27	28 City Council Workshop @ 6:30 p.m.	29	30		
		NOTES:				

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JULY 2016



SUNDAY	MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY	SATURDAY
					1	2
3	4 Independence Day	5	6	7	8	9
10	11	12	13	14	15	16
17	18	19 City Council Meeting @ 6:30 p.m. in Council Chambers	20	21	22	23
24	25	26 City Council Workshop @ 6:30 p.m.	27	28	29	30
31		NOTES:				

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AUGUST 2016



SUNDAY	MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY	SATURDAY
	1	2 City Council Meeting @ 6:30 p.m. in Council Chambers	3	4	5	6
7	8	9	10	11	12	13
14	15	16 City Council Meeting @ 6:30 p.m. in Council Chambers	17	18	19	20
21	22	23 City Council Workshop @ 6:30 p.m.	24	25	26	27
28	29	30 City General Elections 7:00 a.m. - 7:00 p.m.	31			
		NOTES:				

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SEPTEMBER 2016



SUNDAY	MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY	SATURDAY
				1	2	3
4	5 Labor Day	6 City Council Meeting @ 6:30 p.m. in Council Chambers	7	8	9	10
11	12	13	14	15	16	17
18	19	20 City Council Meeting @ 6:30 p.m. in Council Chambers	21	22	23	24
25	26	27 City Council Workshop @ 6:30 p.m.	28	29	30	
		NOTES:				

CITY OF PORT
ORANGE, 1000 City
Center Circle

PHONE: 386-506-5563

www.port-orange.org



OCTOBER 2016



SUNDAY	MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY	SATURDAY
						1
2 Rosh Hashanah	3	4 City Council Meeting @ 6:30 p.m. in Council Chambers	5	6	7	8
9	10 Columbus Day Observed	11 Yom Kippur	12	13	14	15
16	17	18 City Council Meeting @ 6:30 p.m. in Council Chambers	19	20	21	22
23	24	25 City Council Workshop @ 6:30 p.m.	26	27	28	29
30	31 Halloween	NOTES:				

CITY OF PORT
ORANGE, 1000 City
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NOVEMBER 2016



SUNDAY	MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY	SATURDAY
		1 City Council Meeting @ 6:30 p.m. in Council Chambers	2	3	4	5
6 Daylight Saving Time Ends	7	8 General/Runoff Elections 7:00 a.m. - 7:00 p.m.	9 City Council Meeting @ 6:30 p.m. in Council Chambers	10	11 Veterans Day	12
13	14	15	16	17	18	19
20	21	22	23	24 Thanksgiving Day	25	26
27	28	29	30			
		NOTES:				

CITY OF PORT
ORANGE, 1000 City
Center Circle

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DECEMBER 2016



SUNDAY	MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY	SATURDAY
				1	2	3
4	5	6 City Council Meeting @ 6:30 p.m. in Council Chambers	7 Pearl Harbor Day	8	9	10
11	12	13 City Council Meeting @ 6:30 p.m. in Council Chambers	14	15	16	17
18	19	20	21	22	23	24
25 Christmas Day	26	27	28	29	30	31
		NOTES:				

CITY OF PORT
ORANGE, 1000 City
Center Circle

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CITY COUNCIL AGENDA ITEM

REQUESTED COUNCIL MEETING DATE 01/05/2016

Consent item: Yes

SUBJECT: Resolution No. 16-1 - Budget Appropriation

DEPARTMENT: Finance

GOAL: 6 - Organizational Excellence

OBJECTIVE: 2 - Create a program for recruitment, retention and development of employees

RECOMMENDED MOTION: Move to approve Resolution No. 16-1.

SUMMARY: On October 21, 2014, Council discussed providing the City Clerk's Office with an additional position at approximately \$33,000 (benefits included), if funding could be identified. Funding was provided for the position at a part-time rate (23 hours) with no benefits. As the City Clerk's Office gears up to digitalize the City's records, additional hours are needed in the part-time position.

In addition to the additional workload in the City Clerk's Office, the City Manager routinely requests assistance in his office to allow the Executive Assistant more time to perform additional duties being assigned by the City Manager.

The attached budget resolution transfers additional money needed to reclassify the existing part time position to full time with benefits.

Project	Funding Account
No.:	No.:

ATTACHMENTS:

1.	Reso. No. 16-1	Reso. No. 16-1.pdf
----	----------------	--------------------

Fenwick, Robin
Johansson, M. Jake
Riehm, Tracey
Roberts, Margaret
Johansson, M. Jake

Created/Initiated - 12/14/2015
Approved - 12/27/2015
Approved - 12/29/2015
Approved - 12/30/2015
Final Approval - 12/30/2015

RESOLUTION NO. 16 – 1

A RESOLUTION OF THE CITY OF PORT ORANGE,
VOLUSIA COUNTY, FLORIDA, APPROPRIATING
OPERATING FUNDS FOR RECLASSIFYING THE
PART-TIME ADMINISTRATIVE ASSISTANT IN THE
CITY CLERK'S OFFICE TO FULL-TIME WITH
BENEFITS; SETTING FORTH REVENUES AND
EXPENDITURES; AND PROVIDING AN EFFECTIVE
DATE.

WHEREAS, the City Council desires to appropriate the funds related to reclassifying the part-time position in the City Clerk's Office to full-time with benefits, and to set forth, appropriate and change appropriations of certain revenues and expense.

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

Section 1. The funds for the City operating items are hereby appropriated as set forth in Composite Exhibit A, attached hereto, which reflects revenues and corresponding expenditures for the designated projects.

Section 2. The Budget item adopted in the preceding section shall govern the expenditures relating to such operations for the City during the current fiscal year effective October 1, 2015 through September 30, 2016.

Section 3. Supplemental appropriations, reductions of appropriations, emergency appropriations, and interdepartmental transfers of appropriations may be effected by the City Council and the City Manager as deemed necessary in strict compliance with the procedures specified in Chapter 2, Article VI, Division 3, Code of Ordinances, City of Port Orange, Florida.

Section 4. This resolution shall become effective immediately upon adoption.

MAYOR ALLEN GREEN

ATTEST:

Robin L. Fenwick, CMC, City Clerk

Adopted on the day of

Reviewed and Approved: _____
Margaret T. Roberts, City Attorney

FY 2016

PREPARED:

FINANCE:

General Fund 001

12/29/15

Lisa A. Pallante

**APPROVED
BUDGET**

REVENUES:

Appropriated Equity	13,710
----------------------------	---------------

TOTAL REVENUES:	13,710
------------------------	---------------

EXPENDITURES:

City Clerk 13,710

TOTAL EXPENDITURES:	13,710
----------------------------	---------------

To fund the reclassification of the part-time Administrative Assistant position in the City Clerk's Office to full-time with benefits.



CITY COUNCIL AGENDA ITEM

REQUESTED COUNCIL MEETING DATE 01/05/2016

Consent item: Yes

SUBJECT: Resolution No. 16-3 - Sanctuary Traffic Enforcement Agreement

DEPARTMENT: Police Services

GOAL: N/A

OBJECTIVE: N/A

RECOMMENDED MOTION: Move to approve Resolution No. 16-3 authorizing the City to enter into a Traffic Enforcement Agreement with the Sanctuary on Spruce Creek Homeowners Association, Inc. and authorize the Mayor and City Clerk to execute the agreement.

SUMMARY: Staff has worked with The Sanctuary on Spruce Creek Homeowners Association, Inc. to finalize the Traffic Enforcement Agreement and recommends the approval of the agreement with The Sanctuary on Spruce Creek Homeowners Association. This agreement will be in effect until September 30, 2022.

Project	Funding Account
No.:	No.:

ATTACHMENTS:

1.	Reso. No. 16-3	Reso. No. 16-3.pdf
----	----------------	--------------------

Grabowski, Debbie	Created/Initiated - 12/04/2015
Grimaldi, Thomas	Approved - 12/04/2015
Riehm, Tracey	Approved - 12/16/2015
Roberts, Margaret	Approved - 12/30/2015
Johansson, M. Jake	Final Approval - 12/30/2015

RESOLUTION NO. 16-3

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PORT ORANGE, VOLUSIA COUNTY, FLORIDA; APPROVING A TRAFFIC ENFORCEMENT AGREEMENT WITH THE SANCTUARY ON SPRUCE CREEK HOMEOWNERS ASSOCIATION, INC.; AUTHORIZING THE MAYOR AND CITY CLERK TO EXECUTE THE TRAFFIC ENFORCEMENT AGREEMENT ON BEHALF OF THE CITY OF PORT ORANGE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, The Sanctuary on Spruce Creek Homeowners Association, Inc. desire to enter into an agreement with the City to provide traffic enforcement on their private streets; and;

WHEREAS, the City may exercise jurisdiction over any private road or roads located within the City's boundaries under written agreement as authorized by Section 316.006(2) (b), Florida Statutes; and

WHEREAS, City staff has worked with the Association to finalize the agreement that is required by Florida Statutes, Chapter 316.

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

SECTION 1. The Traffic Enforcement Agreement with The Sanctuary on Spruce Homeowners Association, Inc., a copy of which is attached hereto as **Exhibit "1"** is hereby approved.

SECTION 2. The Mayor and City Clerk are hereby authorized to execute said Agreement on behalf of the City of Port Orange.

SECTION 3. This resolution shall take effect immediately upon adoption.

MAYOR ALLEN GREEN

ATTEST:

Robin L. Fenwick, CMC, City Clerk

Adopted on the ____ day of _____, 2016

Reviewed and Approved: _____
Margaret T. Roberts, City Attorney

EXHIBIT "1"

TRAFFIC ENFORCEMENT AGREEMENT

THIS AGREEMENT ("Agreement") entered this _____ day of _____, 2015, by and between the CITY OF PORT ORANGE, FLORIDA, a Florida municipal corporation, whose address is 1000 City Center Circle, Port Orange, Florida 32129, hereinafter referred to as "CITY", and THE SANCTUARY ON SPRUCE CREEK HOMEOWNERS ASSOCIATION, INC., a Florida non-profit corporation, whose address is 6156 Sabal Point Circle, Port Orange, Florida 32128, hereinafter referred to as "ASSOCIATION," and collectively referred to as the "Parties."

WITNESSETH:

WHEREAS, the CITY may exercise jurisdiction over any private road or roads located within the CITY's boundaries under written agreement as authorized by Section 316.006(2)(b), Florida Statutes; and

WHEREAS, the CITY is empowered to enforce the State Uniform Traffic Control provisions within the City of Port Orange under Section 316.008(2), Florida Statutes; and

WHEREAS, the CITY and the ASSOCIATION, in the interest of the public health, safety, and welfare, desire to establish terms and conditions for the enforcement of the State Uniform Traffic Control provisions on the private roads owned and controlled by the ASSOCIATION.

NOW, THEREFORE, in consideration of the mutual understandings and agreements set forth herein, the CITY and the ASSOCIATION agree as follows:

SECTION 1. PURPOSE. The purpose of this Agreement is to establish the terms and conditions under which the CITY will provide State Uniform Traffic Control enforcement over the private roads under the ownership and control of the ASSOCIATION, including all roads shown on the Plats of The Sanctuary on Spruce Creek, Phase I, as recorded in Map Book 45, Pages 48-51, The Sanctuary on Spruce Creek, Phase IIA, as recorded in Map Book 45, Pages 122-123, The Sanctuary on Spruce Creek, Phase IIB, as recorded in Map Book 46, Pages 17-19, and The Sanctuary on Spruce Creek, Phase III, as recorded in Map Book 47, Pages 143-145, all in the Public Records of Volusia County, Florida (hereinafter collectively referred to as the "Plats of The Sanctuary on Spruce Creek"). A location map and a list of the names of the private roads located within the Plats of The Sanctuary on Spruce Creek are attached hereto as Exhibit "A."

SECTION 2. TERM. This Agreement shall become effective upon execution by both Parties, and completion of Traffic Signage Improvements as required in Section 4, and shall run through September 30, 2022.

SECTION 3. PRIVATE ROADS. The CITY shall enforce the State Uniform Traffic Control provisions over the private roads under the ownership and control of the ASSOCIATION as identified on the attached Exhibit "A" that is incorporated by reference into this Agreement.

SECTION 4. TRAFFIC SIGNAGE.

A. The ASSOCIATION shall, within 30 days of city council approval of this Agreement, acquire and install, at its sole cost, new street/traffic signage to be installed at the locations listed in the attached Exhibit "B." The ASSOCIATION shall also provide for maintenance of the signage at its sole cost.

B. The CITY reserves the right to make any and all final decisions for all street/traffic signage installations such as, by way of example and not limitation, multi-way stop locations, stop locations, reduction or increase of speed limits. Requests for permission to install the above-referenced signage must be made in writing by the ASSOCIATION to the CITY and the following information must be included in the request:

1. the type of signage requested;
2. the requested location of the signage; and
3. the authorized signature of the person making the request on behalf of the ASSOCIATION.

C. It shall be the ASSOCIATION's sole and exclusive obligation to replace lost, stolen or damaged traffic signage with replacement traffic signage.

D. The ASSOCIATION shall provide to the CITY, upon request, the proposed design plans and specifications for all traffic signs to be installed and the CITY shall review the plans and specifications for conformance to the Manual for Uniform Traffic Control Devices and respond appropriately. The CITY shall be the sole and exclusive party with approval authority as to all final plans and specifications. Prior to commencement of any installation activities by the ASSOCIATION, written approval from the CITY's Chief of Police and Public Works Director must be obtained.

E. The ASSOCIATION shall comply with all CITY standards for signage installation. The CITY's Chief of Police and Public Works Director shall be solely responsible for all signage determinations.

SECTION 5. TRAFFIC ENFORCEMENT.

A. The CITY shall exercise its jurisdiction for municipal traffic control and enforcement on the private roads identified on the attached Exhibit "A." Traffic control and enforcement shall include applicable provisions of Chapters 316, 318, 320 and 322, Florida Statutes.

B. The CITY currently provides routine patrols for enforcement of criminal violations of the Florida Statutes within the Plats of The Sanctuary on Spruce Creek. The CITY shall be solely responsible for the means and methods of enforcement of the State Uniform Traffic Control laws, including but not limited to the scheduling of special detail patrols and the use of radar or other methods of enforcement. The CITY in its sole discretion shall have the right to perform traffic control and enforcement if violations are observed concurrently while performing routine patrols. Upon execution of this Traffic Enforcement Agreement routine patrols shall continue at the same rate and frequency unless the CITY determines otherwise and shall include traffic enforcement along with criminal law enforcement.

SECTION 6. MAINTENANCE AND OPERATION. Upon the completion of the installation of the signage, if any, the ASSOCIATION shall maintain full responsibility for the maintenance and operation of the signage subject to the provisions of this Agreement. Upon the ASSOCIATION's written request, the CITY shall provide for the signage at the ASSOCIATION's expense. If the ASSOCIATION fails to maintain the signage required in this Traffic Enforcement Agreement and fails to authorize the CITY to provide said signage, then upon the CITY's notice to the ASSOCIATION, the CITY shall provide for the required signage at the ASSOCIATION's expense.

SECTION 7. LEVEL OF MAINTENANCE. The ASSOCIATION shall maintain the signage in accordance with all CITY policies. In this regard the ASSOCIATION shall record all maintenance activities relative to said street/traffic signage on a CITY approved log sheet and shall routinely furnish copies of said log to the Chief of Police.

SECTION 8. REPAIR, MODIFICATION AND REPLACEMENT. The ASSOCIATION shall not make any modifications (except for normal maintenance activities) to the signage or replace any of the signage without the prior written approval of the CITY's Chief of Police and Public Works Director or in clear emergency situations in which case the CITY shall be immediately notified.

SECTION 9. LEVEL OF SERVICE. It is expressly understood and agreed by the Parties hereto that the effect of the signage must be such that traffic will be properly handled. Necessary modifications or replacements may be made by the ASSOCIATION, after written approval by the CITY's Chief of Police and Public Works Director, to accommodate the changing needs of traffic.

SECTION 10. COMPENSATION. The ASSOCIATION shall reimburse the CITY for all actual costs, if any, resulting to the CITY from the installation of the ASSOCIATION's traffic signage, emergency signage requirements, or other CITY costs related to the private roads based upon the City's rate for private detail law enforcement activities.

A. If private detail traffic enforcement services are requested in writing by the ASSOCIATION, the CITY shall have the right to charge the ASSOCIATION for all actual costs resulting to the CITY from the provision of private detail traffic enforcement

services over the private roads. Upon execution of this Traffic Enforcement Agreement the rate for private detail traffic enforcement shall commence at the rate of \$40.00 per hour and shall be subject to amendment by city council from time to time.

B. Upon execution of this Traffic Enforcement Agreement the rate for labor relating to the installation of traffic signage shall commence at the rate of \$25.00 per hour. Traffic enforcement shall be performed during routine patrol within the Plats of The Sanctuary on Spruce Creek and the CITY shall not charge for said routine patrol and traffic enforcement occurring during the routine patrol.

C. The actual cost for signage and signage services provided by the CITY and the actual cost for provision of traffic enforcement services provided by the CITY shall be adjusted annually effective on October 1 of each successive year of this Agreement to the actual costs contemplated by this Traffic Enforcement Agreement. If the actual costs are increased, the CITY shall provide forty-five (45) days written notice of the increased rates.

SECTION 11. PAYMENT AND BILLING.

A. The CITY shall render to the ASSOCIATION, at the close of each calendar month if services have been rendered, an itemized invoice describing the services rendered, the cost of the services, and other information required by this Agreement.

B. The costs of services of the CITY shall be invoiced to the ASSOCIATION. Payment by the ASSOCIATION shall be made to the CITY within thirty (30) days of receipt of the CITY's invoices.

SECTION 12. INSURANCE.

A. GENERAL. The ASSOCIATION shall, at the ASSOCIATION's own cost, procure the insurance required under this section and maintain such insurance in effect during the term of this Agreement.

1. The ASSOCIATION shall furnish the CITY with a Certificate of Insurance signed by an authorized representative of the insurance company evidencing the insurance required by this section (Workers' Compensation/Employer's Liability, if applicable, Comprehensive General Liability, Comprehensive Automobile Liability, and Property Damage). The Association shall provide the CITY not less than thirty (30) days written notice prior to the cancellation, nonrenewal, amendment or restriction of coverage. Until such time as the insurance is no longer required to be maintained by the ASSOCIATION, the ASSOCIATION shall provide the CITY with a renewal or replacement Certificate of Insurance not less than thirty (30) days before expiration or replacement of the insurance for which a previous certificate has been provided.

2. In addition to providing the Certificate of Insurance, if required by the CITY, the ASSOCIATION shall, within thirty (30) days after receipt of the request, provide the CITY with a copy of each of the policies of insurance providing the coverage required by this section.

3. Neither approval by the CITY nor failure to disapprove the insurance furnished by the ASSOCIATION shall relieve the ASSOCIATION of the ASSOCIATION's full responsibility for liability, damages and accidents.

B. INSURANCE COMPANY REQUIREMENTS. Insurance companies providing the insurance under this Agreement must meet the following requirements:

1. Companies issuing policies, other than Workers' Compensation, must be authorized by maintaining Certificates of Authority issued to the companies by the Department of Insurance of the State of Florida to conduct business in the State of Florida. Policies for Workers' Compensation may be issued by companies authorized as a group self-insurer by Section 440.57, Florida Statutes.

2. In addition, such companies other than those authorized by Section 440.57, Florida Statutes, shall have and maintain a Best's Rating of "A-" or better and a Financial Size Category of "VII" or better according to A.M. Best Company.

3. If, during the period which an insurance company is providing the insurance coverage required by this Agreement, an insurance company shall: (1) lose its Certificate of Authority, (2) no longer comply with Section 440.57, Florida Statutes, or (3) fail to maintain the Best's Rating and Financial Size Category, the ASSOCIATION shall, as soon as the ASSOCIATION has knowledge of any such circumstance, immediately notify the CITY and immediately replace the insurance coverage provided by the insurance company with a different insurance company meeting the requirements of this Agreement. Until such time as the ASSOCIATION has replaced the unacceptable insurance company with an insurance company acceptable to the CITY, the ASSOCIATION shall be deemed to be in default of this Agreement.

C. SPECIFICATIONS. Without limiting any of the other obligations or liability of the ASSOCIATION, the ASSOCIATION shall, at the ASSOCIATION's sole expense, procure, maintain and keep in force amounts and types of insurance conforming to the minimum requirements set forth in this subsection. Except as otherwise specified in this Agreement, the insurance shall become effective prior to the commencement of work by the ASSOCIATION and the CITY and shall be maintained in force until the termination date of this Agreement. The amounts and types of insurance shall conform to the following minimum requirements:

1. Workers' Compensation/Employer's Liability.

(a) The ASSOCIATION, if acting as an employer or contractor, shall obtain insurance to cover the ASSOCIATION and its subcontractors of every tier for those sources of liability which would be covered by the latest edition of the standard Workers' Compensation Policy, as filed with the Commissioner of Insurance, State of Florida for use in Florida or by the National Council on Compensation Insurance, without restrictive endorsements. In addition to coverage for the Florida Workers' Compensation Act, if applicable, coverage is to be included for the United States Longshoremen and Harbor Workers' Compensation Act, Federal Employers' Liability Act, and any other applicable federal or state law.

(b) In such amounts as required by law and subject to the restrictions of coverage found in the standard Workers' Compensation Policy for liability, to the extent applicable, for the Florida Workers' Compensation Act, the United States Longshoremen's and Harbor Workers' Compensation Act, or any other coverage customarily insured under Part One of the standard Workers' Compensation Policy.

(c) The minimum amount of coverage under Part Two of the standard Workers' Compensation Policy shall be the minimum statutory requirement, as amended from time to time.

2. Comprehensive General Liability.

(a) The ASSOCIATION's insurance shall cover the ASSOCIATION for those sources of liability which would be covered by the latest edition of the standard Comprehensive General Liability Coverage Form as filed for use in the State of Florida by the Insurance Services Office, without the attachment of restrictive endorsements other than the elimination of Coverage C, Medical Payment, and the elimination of coverage for Fire Damage Legal Liability.

(b) The ASSOCIATION shall maintain coverage applicable to the work performed under this Agreement. The Association shall maintain the minimum limits (inclusive of any amounts provided by an Umbrella or Excess policy) as follows:

	<u>LIMITS</u>
General Aggregate	\$2,000,000.00
Personal & Advertising Injury Limit	\$1,000,000.00
Each Occurrence Limit	\$1,000,000.00

3. Comprehensive Automobile Liability. The ASSOCIATION shall provide coverage for all owned, if applicable, and non-owned vehicles for limits of not less than \$1,000,000.00 Combined Single Limits or its equivalent.

4. **Obligations.** Compliance with the foregoing insurance requirements shall not relieve the ASSOCIATION, its officers, employees, servants or agents, of liability from any obligation under a section or any other portions of this Traffic Enforcement Agreement.

SECTION 13. TERMINATION. This Traffic Enforcement Agreement may be terminated by either party at any time, with or without cause, upon not less than thirty (30) days' written notice delivered to the other party or, at the option of the CITY, immediately in the event any of the terms, covenants or agreements of this Agreement have been violated.

SECTION 14. ASSIGNMENT. No party to this Traffic Enforcement Agreement shall assign this Agreement, or any interest arising herein, without the written consent of the other party.

SECTION 15. INDEPENDENT CONTRACTOR. It is agreed by the Parties that, at all times and for all purposes within the scope of this Traffic Enforcement Agreement, the relationship of the ASSOCIATION to the CITY is that of independent contractor and not that of agent or employee. No statement contained in this Traffic Enforcement Agreement shall be construed so as to find the ASSOCIATION an agent or employee of the CITY, and the ASSOCIATION shall be entitled to none of the rights, privileges or benefits of CITY employees.

SECTION 16. EMPLOYEE STATUS. Persons employed by the ASSOCIATION in the performance of services and functions pursuant to this Traffic Enforcement Agreement shall have no claim to pension, workers' compensation, unemployment compensation, civil service or other employee rights or privileges granted to the CITY's officers and employees either by operation of law or by the CITY.

SECTION 17. ENTIRE AGREEMENT.

A. It is understood and agreed that the entire agreement of the Parties is contained herein and that this Traffic Enforcement Agreement supersedes all oral agreements and negotiations between the Parties relating to the subject matter hereof as well as any previous agreements presently in effect between the Parties relating to the subject matter hereof.

B. Any alterations, amendments, deletions, or waivers of the provisions of this Traffic Enforcement Agreement, except the annual actual cost adjustment set forth in Section 10(c) of this Traffic Enforcement Agreement, shall be valid only when expressed in writing and duly signed by the Parties.

SECTION 18. NOTICES. Whenever either party desires to give notice to the other, notice shall be sent by certified mail, return receipt requested, to:

FOR CITY: City Manager
City of Port Orange
1000 City Center Circle
Port Orange, Florida 32129

FOR ASSOCIATION: Karen Koch, Registered Agent
6156 Sabal Point Circle
Port Orange, Florida 32128

Either party may change, by written notice as provided herein, the address or person for receipt of notices.

SECTION 19. PUBLIC RECORDS LAW. The Parties acknowledge the obligations under Chapter 119, Florida Statutes, to release public records to members of the public upon request. The Parties acknowledge that the CITY is required to comply with Chapter 119, Florida Statutes, in the handling of the materials created under this Traffic Enforcement Agreement and that said statute controls over the terms of this Traffic Enforcement Agreement.

THE REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK.

IN WITNESS WHEREOF, the Parties have executed this Traffic Enforcement Agreement on the dates indicated below.

WITNESSES:

CITY OF PORT ORANGE, FLORIDA
a Chartered Municipal Corporation

Name: _____

By: _____
Allen Green, Mayor

Name: _____

Name: _____

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

Name: _____

Date: _____

STATE OF FLORIDA
COUNTY OF VOLUSIA

The foregoing instrument was acknowledged before me this ____ day of _____, 2015 by Allen Green, as Mayor of the City of Port Orange, Florida, a chartered municipal corporation, who acknowledged that he is duly authorized to execute the foregoing agreement on behalf of the city. He ☐ is personally known to me, or ☐ has produced _____ as identification.

Notary Public, State of Florida at Large
Printed name, commission and expiration of commission term:

STATE OF FLORIDA
COUNTY OF VOLUSIA

The foregoing instrument was acknowledged before me this ____ day of _____, 2015 by Robin L. Fenwick, as City Clerk of the City of Port Orange, Florida, a chartered municipal corporation, who acknowledged that she is duly authorized to execute the foregoing agreement on behalf of the city. She ☐ is personally known to me, or ☐ has produced _____ as identification.

Notary Public, State of Florida at Large
Printed name, commission and expiration of commission term:

WITNESSES:

THE SANCTUARY ON SPRUCE CREEK
HOMEOWNERS ASSOCIATION
a Florida Non-Profit Corporation

[Signature]
Name: Danielle Frick

[Signature]
Name: Diane Casadey

[Signature]
Name: KAREN KOCH

[Signature]
Name: Cheryl Weber

By: [Signature]
Name: Pio Casadey
Title: President

Attest: [Signature]
Name: John Bogdanoff
Title: Secretary/Treasurer

Date: 11-19-15

STATE OF FLORIDA
COUNTY OF VOLUSIA

The foregoing instrument was acknowledged before me this 21 day of NOVEMBER, 2015 by Pio Casadey as President of The Sanctuary on Spruce Creek Homeowners Association, Inc., a Florida non-profit corporation, on behalf of the association, and who ☒ is personally known to me, or ☐ has produced _____ as identification.



[Signature]
Notary Public, State of Florida at Large
Printed name, commission and expiration of commission term:

STATE OF FLORIDA
COUNTY OF VOLUSIA

The foregoing instrument was acknowledged before me this 19 day of NOVEMBER, 2015 by John Bogdanoff as Secretary/Treasurer of The Sanctuary on Spruce Creek Homeowners Association, Inc., a Florida non-profit corporation, on behalf of the association, and who ☒ is personally known to me, or ☐ has produced _____ as identification.



[Signature]
Notary Public, State of Florida at Large
Printed name, commission and expiration of commission term:

EXHIBIT "A"

The Sanctuary on Spruce Creek Homeowners Association Private Roads

THE SANCTUARY ON SPRUCE CREEK, PHASE I, per Plat Book 45, Pages 48-51, of the Public Records of Volusia County, Florida

Roscoe Turner Trail
Sanctuary Garden Boulevard
Oxbow Bend Lane
Osprey Nest Lane
Jasmine Vine Drive

THE SANCTUARY ON SPRUCE CREEK, PHASE IIA, per Plat Book 45, Pages 122-123, of the Public Records of Volusia County, Florida

Osprey Nest Lane

THE SANCTUARY ON SPRUCE CREEK, PHASE IIB, per Plat Book 46, Pages 17-19, of the Public Records of Volusia County, Florida

Roscoe Turner Trail
Sanctuary Garden Boulevard
Heron Pond Drive
Florida Moss Lane

THE SANCTUARY ON SPRUCE CREEK, PHASE III, per Plat Book 47, Pages 143-145, of the Public Records of Volusia County, Florida

Sanctuary Garden Boulevard
Hawk Owl Trail
Deer Feed Trail
Crepe Myrtle Lane

THE SANCTUARY ON SPRUCE CREEK

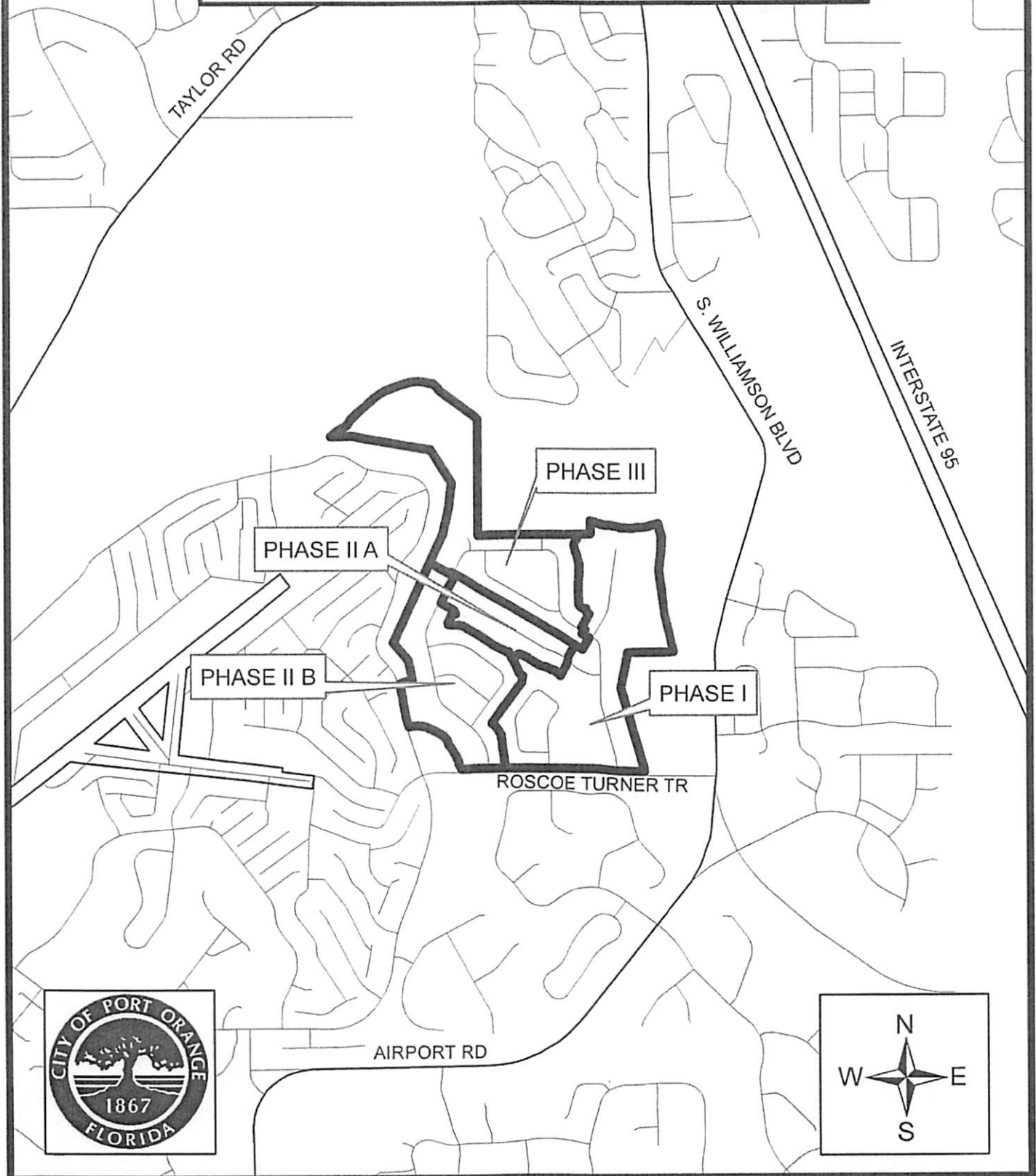


EXHIBIT "B"

The Sanctuary on Spruce Creek Homeowners Association Inventory of Street Signs

Stop signs located on the following streets at the following locations:

Roscoe Turner Trail @ CR4009 (S. Williamson Blvd.) exit
Jasmine Vine Dr. @ Jasmine Vine Dr.
Jasmine Vine Dr. @ Roscoe Turner Trail
Sanctuary Gardens Blvd. @ Roscoe Turner Trail (east side)
Sanctuary Gardens Blvd. @ Roscoe Turner Trail (west side)
Osprey Nest Ln. @ Sanctuary Gardens Blvd. (east)
Osprey Nest Ln. @ Sanctuary Gardens Blvd. (west)
Heron Pond Dr. @ Florida Moss Lane
Heron Pond Dr. @ Sanctuary Gardens Blvd. (south)
Heron Pond Dr. @ Sanctuary Gardens Blvd. (north)
Florida Moss Lane @ Sanctuary Gardens Blvd.
Crepe Myrtle Ln. @ Sanctuary Gardens Blvd. (east side)
Crepe Myrtle Ln. @ Sanctuary Gardens Blvd. (north side)
Oxbow Bend Ln. @ Sanctuary Gardens Blvd.
Deer Feed Trail @ Sanctuary Gardens Blvd.
Hawk Owl Trail @ Sanctuary Gardens Blvd.

16 stop signs in total for the subdivision

Speed Limit signs (25 MPH) located at the following locations:

Roscoe Turner Trail @ CR4009 (S. Williamson Blvd.) entrance
Roscoe Turner Trail just west of gate (traveling west)
Roscoe Turner Trail east of Jasmine Vine Dr. (traveling east)
Sanctuary Gardens Blvd. north of Roscoe Turner Trail (east side)
In front of 6127 Sanctuary Gardens Blvd., (traveling south)
In front of 6061 Sanctuary Gardens Blvd. (traveling south)
In front of 6017 Sanctuary Gardens Blvd. (traveling north)
Jasmine Vine Dr. @ Roscoe Turner Trail (traveling north)

8 speed limit signs in total for the subdivision

Keep Right signs located at the following locations:

Roscoe Turner Trail @ gate (traveling east)
Roscoe Turner Trail @ gate (traveling west)
Sanctuary Gardens Blvd. @ Roscoe Turner Trail (traveling north, east side)
Sanctuary Gardens Blvd. @ Roscoe Turner Trail (traveling north, west side)
Jasmine Vine Dr. @ Roscoe Turner Trail (traveling north)

5 keep right signs in total for the subdivision



CITY COUNCIL AGENDA ITEM

REQUESTED COUNCIL MEETING DATE 01/05/2016

Consent item: Yes

SUBJECT: Resolution No. 16-4 - 2015 Edward Byrne Memorial Justice Assistance Grant (JAG) Program

DEPARTMENT: Police Services

GOAL: N/A

OBJECTIVE: N/A

RECOMMENDED MOTION: Move to approve Resolution No. 16-4, applying for grant funds from the Florida Department of Law Enforcement in the amount of \$7,315.00 to be used towards the purchase of new handguns.

SUMMARY: The Port Orange Police Department is requesting approval to apply for grant funds from the Florida Department of Law Enforcement 2015 Edward Byrne Memorial Justice Assistance Grant in the amount of \$7,315.00. These funds will be used towards the purchase of new handguns.

Project	Funding Account
No.:	No.:

ATTACHMENTS:

1.	Reso. No. 16-4	Reso. No. 16-4.pdf
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Grabowski, Debbie	Created/Initiated - 12/23/2015
Grimaldi, Thomas	Approved - 12/23/2015
Riehm, Tracey	Approved - 12/29/2015
Roberts, Margaret	Approved - 12/30/2015
Johansson, M. Jake	Final Approval - 12/30/2015

RESOLUTION NO. 16-4

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PORT ORANGE, VOLUSIA COUNTY, FLORIDA; AUTHORIZING THE SUBMITTAL OF AN APPLICATION FOR GRANT FUNDS FROM THE FLORIDA DEPARTMENT OF LAW ENFORCEMENT 2015 EDWARD BYRNE MEMORIAL JUSTICE ASSISTANCE GRANT (JAG), FOR THE PURCHASE OF NEW HANDGUNS; AUTHORIZING THE MAYOR AND CITY CLERK TO EXECUTE AGREEMENTS AND CONTRACTS; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Port Orange Police Department is requesting approval to apply for grant funds from the Florida Department of Law Enforcement 2015 Edward Byrne Memorial Justice Assistance Grant (JAG) for the purchase of new handguns; and

WHEREAS, the City Council of the City of Port Orange authorize the submission of an application from the Florida Department of Law Enforcement 2015 Edward Byrne Memorial Justice Assistance Grant (JAG).

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

Section 1. The City Council of the City of Port Orange hereby authorizes the submission of an application to the Florida Department of Law Enforcement 2015 Edward Byrne Memorial Justice Assistance Grant (JAG).

Section 2. The City Council of the City of Port Orange hereby requests grant funding in the amount of \$7,315.00.

Section 3. The Mayor and City Clerk shall be authorized to execute any and all documents, agreement or contracts necessary to implement this Resolution.

Section 4. This Resolution shall become effective immediately upon adoption.

MAYOR ALLEN GREEN

ATTEST:

Robin L. Fenwick, CMC, City Clerk

Adopted on the _____ day of _____, 2016

Reviewed and Approved: _____
Margaret T. Roberts, City Attorney



CITY COUNCIL AGENDA ITEM

REQUESTED COUNCIL MEETING DATE 01/05/2016

Consent item: Yes

SUBJECT: Ratify and confirm the decision of the City Manager for Emergency Waters Edge Force Main Cleaning to Professional Piping Services, Inc.

DEPARTMENT: Public Utilities

GOAL: 1 - Infrastructure Preservation

OBJECTIVE: 4 - Enhance the infrastructure maintenance programs in order to extend the full life of capital investments

RECOMMENDED MOTION: Move to approve emergency purchase order to Professional Piping Services, Inc. for Waters Edge force main cleaning in the amount of \$77,205.00; to ratify and confirm the decision of the City Manager.

SUMMARY: Public Utilities Department pursued an emergency purchase order for the cleaning of one of our force mains pursuant to City Ordinance No. 2015-19 Emergency Purchase by employing a specialized contractor, Professional Piping Services, Inc.

On November 24, 2015, Waters Edge Lift Station #38 experienced significant and abnormally high pressure spikes in the force main system. These abnormally high pressure spikes inhibited this lift station from pumping wastewater (raw sewage) downstream in the wastewater collection system to the wastewater treatment plant. Utilities staff had to manually transport raw sewage from this station to another station via Vac-Con truck. The normal operational pressure this station should encounter is about 20-40 pounds per square inch (psi). The pressure experienced was above 99 psi. Utilities field staff examined the situation and found an obstruction was restricting flow. Field staff was able to maintain sewage flow via emergency by-pass pumping and temporarily flushing the line.

This work was accomplished to ensure the blockage was fully removed avoiding a possible raw sewage spillage, severe environmental impact to the surrounding neighborhoods and water ways, and to prevent possible backing-up of raw sewage into homes.

Professional Piping Services, Inc. was the specialized contractor that performed the force main cleaning (pigging). Professional Piping had performed similar force mains and potable water mains cleaning for the City over the last +20 years to our satisfaction. They mobilized on December 7, 2015 to perform the work which was their first available time until February or April 2016. The cost for this emergency work was \$77,205.00.

Project No.: URH001 Funding Account No.: 401 0400 535 6397

ATTACHMENTS:

1.	Quote 1115-2235	Quote #1115-2235Revised.pdf
2.	Standard Contract for Services	Professional Piping Services - Standard Contract.pdf
3.	Emergency Justification	Waters Edge Force Main Cleaning Emergency Purchase Order Memorandum.pdf
4.	Ordinance No 2015-19 Emergency Purchases	Ord 2015-19 Emergency Purchase.pdf

Anderson, Liz	Created/Initiated - 12/15/2015
Wiggins, Julia	Approved - 12/15/2015
Ho, Kenny	Approved - 12/15/2015
Wilson, Rick	Approved - 12/15/2015
Neff, Andrew	Approved - 12/15/2015
Riehm, Tracey	Approved - 12/29/2015
Roberts, Margaret	Approved - 12/30/2015
Johansson, M. Jake	Final Approval - 12/30/2015

PROFESSIONAL PIPING SERVICES, INC.

The Piping System Cleaning Specialists

Certified Underground Utility Contractor

License No. CU-C055717

November 24, 2015

Mr. Kenny Ho, PE
Utilities Eng., & Const Manager
City of Port Orange
1000 City Center Circle
Port Orange, FL 32129

Quote #1115-2235-Revised December 7, 2015

- RE: Cleaning of;
1. Waters Edge Station to Sabal Creek Blvd., 5,500 ± LF X 8" force main piping
 2. Sabal Creek Blvd., to Airport Rd., and Moody Bridge, 12,672 ± LF X 12" force main piping
 3. Moody Bridge to Clark Re-pump Station, 5,746 ± LF X 16" force main piping
 4. Clark Re-pump Station to Clyde Morris and Dunlay, 5,280 ± LF X 12" force main piping.

REVISION: Add 4,224 ± LF of 8" force main piping, Waters Edge One Station to Waters Edge Two Station.

Dear Mr. Ho,

Professional Piping Services is pleased to submit for your consideration and approval the following proposal.

To provide for the poly pig cleaning of the above referenced piping as per the projects plans and specifications.

For this cleaning, Professional Piping Services fee will be, \$67,447.00.

Original Quote of 11-24-15 was 29,198 ± LF of force main piping at \$2.31/ft, \$67,447.00, now revised to 33,422 ± LF @ \$2.31/ft., \$77,205.00.

It should be carefully noted that if the internal investigation and cleaning determines that remedial action is require in or on the system at one or more sites and this in turn requires Professional Piping Services work force to be put on a standby basis, until the system is once again available to them to continue the internal investigation and cleaning, then the standby charges as noted further in this proposal shall apply.

P. O. Box 7337, Wesley Chapel, Florida 33545

E-mail: ppsinc@tampabay.rr.com

Telephone (813) 994-0032 (800) 780-6098 FAX (813) 907-0902

Quote #1115-2235
November 24, 2015
Page Two

Proposed starting date Monday, December 9, 2015, subject to mutual scheduling agreement, acceptance of this proposal and issuing of the purchase order. Professional Piping Services is currently involved with another malfunctioning system, we will make every attempt to be available to start this work on the 9th of December but may be a day off.

For this fee, Professional Piping Services, will provide, with the exception of those items noted elsewhere in the proposal, all supervision, labor, tools, material and equipment necessary for the proper cleaning and flushing of the force main including;

1. Proper, knowledgeable and experienced supervision of the entire cleaning project.
2. Professional Piping Services, personnel are trained and accredited to be in compliance with OSHA 29, CFR 1910.120, Health and Safety Training.
3. As required by the State of Florida, Professional Piping Services is certified and licensed by the State of Florida as an Underground Utility Contractor, License number CU-C055717, to provide this type of service. It should be noted that compliance with Florida Statute 489, requires that this work must be done by a state certified Underground Utility Contractor.
4. As required, Professional Piping Services personnel are in compliance with the Drug-Free Workplace Program in accordance with Florida Law, Chapter 287.087, and the Florida Worker's Compensation Standard.

TOOLING AND EQUIPMENT

5. Professional Piping Services poly pigging apparatus, to be installed and removed upon completion of the project.
6. Professional Piping Services will have onsite and available for immediate use, at no charge or expense, an inline poly pig electronic detector device. This instrument can be inserted into a specialty fabricated poly pig which once in the system, can be used for tracking or locating specific inline areas. After review and discussion of its potential use, the decision to use it will be solely at the discretion of the client or its authorized representative. If this device is used, then the following charges will apply;
 - a) Use of electronic device \$400.00 per day or part thereof.
 - b) Use of specialty poly pig, cost to be determined by the size of the poly pig used.
 - c) Any labor provided by Professional Piping Services in conjunction with the use of this device will be charged at the rate of \$400.00 per hour or part thereof. For daily time exceeding 8 hours or for this work performed on holidays or weekends, the hourly charge rate will be \$475.00.

NOTE: There is no charge for the equipment to be onsite.

NOTE: These terms, costs and conditions do not apply for system wide tracking and location.

7. Standby charge rate. If Professional Piping Services work forces cannot perform their assigned tasks due to causes outside their scope of work or sphere of responsibility, then a standby charge rate for supervision, labor, tooling, equipment and vehicles of \$400.00 per hour will apply.

SCHEDULE

8. Maintain an eight (8) hour daylight work schedule.

STANDARDS

9. Radio communications, necessary and required.
10. Job site transportation
11. Auxiliary centrifugal pumps for cleaning

REPORTS/SURVEYS

12. Provide a report upon completion of the cleaning program to outline and detail information acquired during the cleaning process about the system or confirm existing information.
13. Perform flow test prior to and upon completion of this cleaning operation to provide comparable data for assessment.
14. Provide certification of the insurance coverage's we offer which includes;
 - a) Comprehensive General Liability (\$1,000,000 each occurrence with a \$2,000,000 aggregate)
 - b) Worker's Compensation Insurance
 - c) Automobile Liability Insurance (\$1,000,000 each occurrence)
 - d) Umbrella Liability Insurance (\$1,000,000 each occurrence)
 - e) Professional Liability Insurance, including Errors and Omissions, is included in the General Liability, (\$1,000,000 each occurrence)

NOTE: Additional insurance coverage available but at additional cost.

Quote #1115-2235-Revised
November 24, 2015
Page Four

15. This quote is based upon information available or provided to Professional Piping Services at the time of this submitted proposal and reflects our understanding of the project requirements, procedures and costs as known at this time. These factors may be subject to future clarifications and/or modifications, which can results in alterations of the project requirements, procedures and quoted costs.

City of Pt Orange will be required to provide without cost or delay to Professional Piping Services the following;

1. Cleaning and flushing media (water) at no expense to Professional Piping Services within reasonable distance of where it is to be used. Supplementary volumes of fluid (water) to be made available if required for the cleaning and flushing procedures. Fire hydrants with proper meter/backflow connections, drafting from adjacent bodies of usable water, flooding the gravity collection system leading to the lift stations wet well or other possible fluid supply means are the anticipated source.

ACCESSIBILITY

2. Accessibility to the pipeline at the points designated by Professional Piping Services, (and facility, during the pre project survey) if **necessary** or **required**. This would include excavations, restoration of excavations, and piping or fittings required for access to the piping. Please see item number twelve.

EXCAVATIONS

3. If required, all labor, materials and equipment for excavations required to provide access one (1) foot below the pipe and restoration of the area after completed operations.
4. If required, sheeting and bracing and maintenance of all excavations to prevent accidents, cave-ins, or breaking of the ground outside of the excavation area.
5. System repairs as required to include; all excavations, site work and their restoration, any fittings, valving and piping necessary to effect the repair of the system, and any labor, tooling or equipment required to effect the repair of the system.

VALVING

6. Accurate plot and/or system diagram, detailing all valves and appurtenances. The valve would be required to be operated in a full open and a full closed position prior to Professional Piping Services mobilization.

LABOR

7. Please locate, check, repair or replace all valves that will be operated during the course of this cleaning procedure.
8. Sufficient labor and supervision, necessary or required, to assist Professional Piping Services for the duration of the cleaning operation with valve location, valve operations and operation of the system.

STANDARDS

6. All permits required for the proper conduct of the work, including legal permission to enter or cross private property where necessary to secure access to the work.
7. Accurate plot and/or system diagram.
8. Barricades, lights and other items that may be required to conform to existing safety and traffic regulations.
9. Proper disposal of the discharged effluent/material and control of the discharged water from this cleaning operation.
10. Vehicle access to work site.
11. Although the total volume of solids, sand, silt, etc., to be removed from this system cannot be accurately ascertained at this time, standby provisions should be made to collect and dispose of the accumulated contents of this system if that need arises during the course of the cleaning operation.
12. Provide and install new 8" pig port at the Waters Edge station.



CITY OF PORT ORANGE STANDARD CONTRACT FOR SERVICES

This Standard Contract for Services ("Contract") is entered into this 8 day of December, 2015, by and between the CITY OF PORT ORANGE, a Florida municipal corporation, whose principal address is 1000 City Center Circle, Port Orange, Florida 32129 (the "City"), and PROFESSIONAL PIPING SERVICES, INC., a Florida corporation whose principal address is 30043 State Road 54 W, Wesley Chapel, Florida 33544 ("Contractor"). (The City and Contractor are collectively referred to herein as the "Parties.")

1. Provision of Services

- (a) The Contractor hereby agrees to provide the City of Port Orange with emergency professional pipe cleaning services at the Waters Edge Station to Sabal Creek Boulevard, Sabal Creek Boulevard to Airport Road and Moody Bridge, Moody Bridge to Clark Re-pump Station, and Clark Re-pump Station to Clyde Morris and Dunlay, as more specifically described in Professional Piping Services, Inc. Quote #1115-2235 – Revised December 7, 2015 attached hereto as Exhibit "1".

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

Term: The term of this Contract shall be effective commencing on the last date the Contract is signed by the Parties, work shall be completed within fourteen (14) days from the issuance of the Notice to Proceed (the "Term").

Manner and Place: As outlined in Exhibit "1", in accordance with Standard Construction Details as required on all City owned facilities and properties (i.e. rights-of-way) and in a manner as required by all current federal, state, county, fire, building and land development codes, laws, ordinances and regulations, and with applicable permits and licenses per the City Code of Ordinances. Contractor shall not deliver goods or services without a written Purchase Order(s), signed by an authorized agent of the City of Port Orange.

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

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

2. City Obligations. In return for the services identified above, the City agrees to compensate Contractor subject to a limit up to but not to exceed Seventy-Seven Thousand Two Hundred Five and 00/100 Dollars (\$77,205.00) for the term of the contract. The City's obligation to pay Contractor under this Contract is limited to the budgeted amount for the fiscal year approved by the Port Orange City Council for the then current fiscal year. All

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

3. Contract Administration. Andrew Neff, Public Utilities Director, shall perform contract administration of this Contract. For notice provisions, see the paragraph below entitled "Notice."

4. Termination for Convenience of the City

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

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

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

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

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

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

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

- (i) With respect to all Contract performance prior to the effective date of Notice of Termination, the total of:
 - (1) the cost of work performed or supplies delivered;

(2) the cost of settling and paying any reasonable claims as provided in paragraph (c) (iv), above;

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

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

(g) In the event that the Contractor is not satisfied with any payments which the Finance Director shall determine to be due under this clause, the Contractor may appeal any claim to the City Council in accordance with Paragraph 19 of this contract concerning disputes.

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

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

7. Examination of Records

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

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

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

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

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

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

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

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

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

9. Termination for Non-Appropriation of Funds

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

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

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

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

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

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

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

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

12. Modifications or Changes to this Contract

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

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

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

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

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

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

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

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

16. Inspection

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

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

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

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

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

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

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

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

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

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

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

PARTIES HEREBY EXPRESSLY CONSENT AND SUBMIT THEMSELVES TO THE PERSONAL JURISDICTION AND VENUE OF THE COURT.

22. Additional Provisions. As may have been outlined in Exhibit "1" and any attachments or exhibits to this Contract whether delivered herewith or subsequently approved as a part hereof, such as drawings or technical specifications prepared in the performance of this work.

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

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

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

Copy to: City of Port Orange
Attention: Andrew Neff, Public Utilities Director
1000 City Center Circle
Port Orange, Florida 32129
(386) 506-5750

Contractor: Professional Piping Services, Inc.
Attention: Roger M. Cimbora, President
30043 State Road 54 W
Wesley Chapel, Florida 33545
(813) 994-0032 – Business Telephone
(813) 907-0902 – Business Facsimile
ppsinc@tampabay.rr.com

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

25. Contract Construction

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

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

[remainder of page intentionally left blank]

Witnesses:

Roger M. Cimboras
Printed Name: Roger M. Cimboras

Thomas Aycock
Printed Name: Thomas Aycock

PROFESSIONAL PIPING SERVICES, INC.

By: [Signature]
Roger M. Cimboras, President

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

Date: 12-8-15

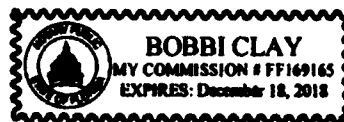
STATE OF FLORIDA
COUNTY OF PASCO

The foregoing instrument was acknowledged before me this 8 day of December, 2015, by Roger M. Cimboras, as President of Professional Piping Services, Inc., a Florida corporation, and who:

Notary: Please select one)

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

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



Witnesses:

CITY OF PORT ORANGE

Frances Gosnell
Printed Name: Frances Gosnell

By: M.H. Johansson
M. H. Johansson, City Manager

Barbara Abbate
Printed Name: Barbara Abbate

Date: 12/8/15

STATE OF FLORIDA
COUNTY OF VOLUSIA

The foregoing instrument was acknowledged before me this 8 day of DEC., 2015, by M. H. Johansson, as City Manager of the City of Port Orange, a Florida municipal corporation, on behalf of the city, and who is personally known to me.



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

Witnesses:

ATTEST:

Frances Gosnell
Printed Name: Frances Gosnell

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

Barbara J. Abbate
Printed Name: Barbara J. Abbate

Date: 12/8/15

STATE OF FLORIDA
COUNTY OF VOLUSIA

The foregoing instrument was acknowledged before me this 8 day of DEC., 2015, by Robin L. Fenwick, as City Clerk of the City of Port Orange, a Florida municipal corporation, on behalf of the city, and who is personally known to me.



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

[CA 5193]

PROFESSIONAL PIPING SERVICES, INC.

The Piping System Cleaning Specialists

Certified Underground Utility Contractor

License No. CU-C055717

November 24, 2015

Mr. Kenny Ho, PE
Utilities Eng., & Const Manager
City of Port Orange
1000 City Center Circle
Port Orange, FL 32129

Quote #1115-2235-Revised December 7, 2015

- RE: Cleaning of;
1. Waters Edge Station to Sabal Creek Blvd., 5,500 ± LF X 8" force main piping
 2. Sabal Creek Blvd., to Airport Rd., and Moody Bridge, 12,672 ± LF X 12" force main piping
 3. Moody Bridge to Clark Re-pump Station, 5,746 ± LF X 16" force main piping
 4. Clark Re-pump Station to Clyde Morris and Dunlay, 5,280 ± LF X 12" force main piping.

REVISION: Add 4,224 ± LF of 8" force main piping, Waters Edge One Station to Waters Edge Two Station.

Dear Mr. Ho,

Professional Piping Services is pleased to submit for your consideration and approval the following proposal.

To provide for the poly pig cleaning of the above referenced piping as per the projects plans and specifications.

For this cleaning, Professional Piping Services fee will be, \$67,447.00.

Original Quote of 11-24-15 was 29,198 ± LF of force main piping at \$2.31/ft. \$67,447.00, now revised to 33,422 ± LF @ \$2.31/ft., \$77,205.00.

It should be carefully noted that if the internal investigation and cleaning determines that remedial action is require in or on the system at one or more sites and this in turn requires Professional Piping Services work force to be put on a standby basis, until the system is once again available to them to continue the internal investigation and cleaning, then the standby charges as noted further in this proposal shall apply.

P. O. Box 7337, Wealey Chapel, Florida 33545

E-mail: ppsinc@tampabay.rr.com

Telephone (813) 994-0032 (800) 780-6098 FAX (813) 907-0902

EXHIBIT "1"

**Quote #1115-2235
November 24, 2015
Page Two**

Proposed starting date Monday, December 9, 2015, subject to mutual scheduling agreement, acceptance of this proposal and issuing of the purchase order. Professional Piping Services is currently involved with another malfunctioning system, we will make every attempt to be available to start this work on the 9th of December but may be a day off.

EXHIBIT "1"

For this fee, Professional Piping Services, will provide, with the exception of those items noted elsewhere in the proposal, all supervision, labor, tools, material and equipment necessary for the proper cleaning and flushing of the force main including;

1. Proper, knowledgeable and experienced supervision of the entire cleaning project.
2. Professional Piping Services, personnel are trained and accredited to be in compliance with OSHA 29, CFR 1910.120, Health and Safety Training.
3. As required by the State of Florida, Professional Piping Services is certified and licensed by the State of Florida as an Underground Utility Contractor, License number CU-C055717, to provide this type of service. It should be noted that compliance with Florida Statute 489, requires that this work must be done by a state certified Underground Utility Contractor.
4. As required, Professional Piping Services personnel are in compliance with the Drug-Free Workplace Program in accordance with Florida Law, Chapter 287.087, and the Florida Worker's Compensation Standard.

TOOLING AND EQUIPMENT

5. Professional Piping Services poly pigging apparatus, to be installed and removed upon completion of the project.
6. Professional Piping Services will have onsite and available for immediate use, at no charge or expense, an inline poly pig electronic detector device. This instrument can be inserted into a specialty fabricated poly pig which once in the system, can be used for tracking or locating specific inline areas. After review and discussion of its potential use, the decision to use it will be solely at the discretion of the client or its authorized representative. If this device is used, then the following charges will apply;
 - a) Use of electronic device \$400.00 per day or part thereof.
 - b) Use of specialty poly pig, cost to be determined by the size of the poly pig used.
 - c) Any labor provided by Professional Piping Services in conjunction with the use of this device will be charged at the rate of \$400.00 per hour or part thereof. For daily time exceeding 8 hours or for this work performed on holidays or weekends, the hourly charge rate will be \$475.00.

NOTE: There is no charge for the equipment to be onsite.

NOTE: These terms, costs and conditions do not apply for system wide tracking and location.

7. Standby charge rate. If Professional Piping Services work forces cannot perform their assigned tasks due to causes outside their scope of work or sphere of responsibility, then a standby charge rate for supervision, labor, tooling, equipment and vehicles of \$400.00 per hour will apply.

SCHEDULE

8. Maintain an eight (8) hour daylight work schedule.

STANDARDS

9. Radio communications, necessary and required.
10. Job site transportation
11. Auxiliary centrifugal pumps for cleaning

REPORTS/SURVEYS

12. Provide a report upon completion of the cleaning program to outline and detail information acquired during the cleaning process about the system or confirm existing information.
13. Perform flow test prior to and upon completion of this cleaning operation to provide comparable data for assessment.
14. Provide certification of the insurance coverage's we offer which includes;
 - a) Comprehensive General Liability (\$1,000,000 each occurrence with a \$2,000,000 aggregate)
 - b) Worker's Compensation Insurance
 - c) Automobile Liability Insurance (\$1,000,000 each occurrence)
 - d) Umbrella Liability Insurance (\$1,000,000 each occurrence)
 - e) Professional Liability Insurance, including Errors and Omissions, is included in the General Liability, (\$1,000,000 each occurrence)

NOTE: Additional insurance coverage available but at additional cost.

Quote #1115-2235-Revised
November 24, 2015
Page Four

15. This quote is based upon information available or provided to Professional Piping Services at the time of this submitted proposal and reflects our understanding of the project requirements, procedures and costs as known at this time. These factors may be subject to future clarifications and/or modifications, which can results in alterations of the project requirements, procedures and quoted costs.

City of Pt Orange will be required to provide without cost or delay to Professional Piping Services the following;

1. Cleaning and flushing media (water) at no expense to Professional Piping Services within reasonable distance of where it is to be used. Supplementary volumes of fluid (water) to be made available if required for the cleaning and flushing procedures. Fire hydrants with proper meter/backflow connections, drafting from adjacent bodies of usable water, flooding the gravity collection system leading to the lift stations wet well or other possible fluid supply means are the anticipated source.

ACCESSIBILITY

2. Accessibility to the pipeline at the points designated by Professional Piping Services, (and facility, during the pre project survey) if **necessary** or **required**. This would include excavations, restoration of excavations, and piping or fittings required for access to the piping. Please see item number twelve.

EXCAVATIONS

3. If required, all labor, materials and equipment for excavations required to provide access one (1) foot below the pipe and restoration of the area after completed operations.
4. If required, sheeting and bracing and maintenance of all excavations to prevent accidents, cave-ins, or breaking of the ground outside of the excavation area.
5. System repairs as required to include; all excavations, site work and their restoration, any fittings, valving and piping necessary to effect the repair of the system, and any labor, tooling or equipment required to effect the repair of the system.

VALVING

6. Accurate plot and/or system diagram, detailing all valves and appurtenances. The valve would be required to be operated in a full open and a full closed position prior to Professional Piping Services mobilization.

LABOR

7. Please locate, check, repair or replace all valves that will be operated during the course of this cleaning procedure.
8. Sufficient labor and supervision, necessary or required, to assist Professional Piping Services for the duration of the cleaning operation with valve location, valve operations and operation of the system.

STANDARDS

6. All permits required for the proper conduct of the work, including legal permission to enter or cross private property where necessary to secure access to the work.
7. Accurate plot and/or system diagram.
8. Barricades, lights and other items that may be required to conform to existing safety and traffic regulations.
9. Proper disposal of the discharged effluent/material and control of the discharged water from this cleaning operation.
10. Vehicle access to work site.
11. Although the total volume of solids, sand, silt, etc., to be removed from this system cannot be accurately ascertained at this time, standby provisions should be made to collect and dispose of the accumulated contents of this system if that need arises during the course of the cleaning operation.
12. Provide and install new 8" pig port at the Waters Edge station.

INTEROFFICE MEMORANDUM

TO: DIANA FYE
FROM: KENNY HO
SUBJECT: EMERGENCY PURCHASE ORDER – WATERS EDGE FORCE MAIN CLEANING
DATE: DECEMBER 4, 2015
CC: ANDREW NEFF, RICK WILSON, MICK NEALS, GRAEME GARDINER

Public Utilities Department needs to pursue emergency cleaning of one of our force mains pursuant to City Ordinance No. 2015-19 Emergency Purchase by employing a sole source specialized contractor – Professional Piping Services, Inc.

On November 24, 2015, Waters Edge Lift Station #38 experienced significant and abnormality high pressure spikes in the force main system. These abnormality high pressure spikes inhibited this lift station from pumping wastewater (raw sewage) downstream in the wastewater collection system. Utilities staff had to manually transport raw sewage from this station to another station via Vac-Con truck. The normal operational pressure this station should encounter is about 20-40 psi. The pressure experienced was above 99psi. After numerous field troubleshooting by City staff, it appeared an internal blockage in the force main system is restricting flow. At present time, field staff maintains flow via emergency by-pass pumping.

Alleviating this force main blockage is critical for the proper operation of lift station #38 to prevent raw sewage spillage, to avoid severe environmental impact to the surrounding neighborhoods and water ways, and to prevent possible backing-up of raw sewage into homes.

Professional Piping Services, Inc. will be the sole source specialized contractor performing the force main cleaning (pigging). Professional Piping had performed similar force mains and potable water mains cleaning for the City over the last +20 years to our satisfaction. They are mobilizing to do the force main cleaning (pigging) on December 7, 2015 which is their first available time until February or April 2016. The cost for this emergency work has been quoted at \$77,205.00.

Please contact me if you have any questions or need further clarifications.

 DEC 7, 2015
Kenny Ho

Public Utilities Engineering and Construction Manager

ORDINANCE NO. 2015-19

AN ORDINANCE OF THE CITY OF PORT ORANGE,
VOLUSIA COUNTY, FLORIDA, AMENDING THE CITY
CODE CHAPTER 2, ARTICLE VI, DIVISION 2, SECTION 2-
271, RELATING TO EMERGENCY PURCHASES;
PROVIDING FOR REPEAL OF CONFLICTING
ORDINANCES; PROVIDING FOR SEVERABILITY; AND
PROVIDING AN EFFECTIVE DATE.

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 2, Article VI, Section 2-271 of the Code of Ordinances, to read as follows:

Chapter 2 – ADMINISTRATION

Section 2-271: - Emergency purchases.

Situations may arise whereby an exception to the City's policies and procedures may be required. Emergency purchases represent one of the potential situations. Emergency is defined as an unplanned or unexpected event that requires immediate action in order to prevent or remedy a service outage; or to prevent or remedy a situation that presents an immediate danger to human life, health or safety or a significant loss or damage to property, and where failure to take immediate action would enhance the risk of loss or prolong the delay in restoring service to Customers. Routine repairs and planned refurbishment do not constitute emergencies. Therefore, the City may dispense with requirements for competitive solicitations and the City Manager may acquire or contract for non-real property, goods, or services required in contemplation of, preparation for, or during an emergency. Emergency acquisitions of non-real property, goods or services where the expenditure by the City is estimated to exceed \$25,000.00 shall be subject to ratification by the City Council at the next regularly scheduled meeting or as soon as practicable. The requesting department shall state the reason for the emergency purchase, and what caused the emergency situation, including a statement of financial or operational damage or risk that will occur if needs are not satisfied immediately. Once a determination has been made, the City may procure commodities or contractual services needed. However, such an emergency purchase shall be made by obtaining pricing information from at least two (2) prospective vendors, which must be documented with the purchase request, unless the City determines that the time required to obtain pricing information will increase the immediate danger to the public health, safety, or welfare or other substantial loss to the City.

- ~~(a) In case of any apparent emergency which requires immediate purchase of supplies, equipment or contractual services, the department head is authorized to secure by open market procedure as herein set forth, at the lowest obtainable price, any such supplies, equipment or contractual services. The department heads are hereby given the authority to act in the case of any emergency that might affect the public health, safety and welfare. Such action shall be reported in writing to the purchasing agent at the beginning of the following workday, and such report shall be presented to the city manager.~~
- ~~(b) "Emergency" is defined as an incident or accident or equipment breakdown which jeopardizes public health, welfare and safety. During working hours a verbal authorization by the city manager or finance director is required without a purchase order being required. If an emergency occurs during nonworking hours or on weekends, the appropriate department head or his designee is authorized to correct the problem. Proper paperwork must follow within one working day. "Emergency" is further defined as a situation where probable legal problems and/or adverse financial consequences could result and sufficient time is not available to follow the bid requirements of this article. In a situation such as this, the city manager is granted authority to correct the problem even if the price exceeds \$25,000.00. Unless sole source, at least three telephone bids are required and an immediate written report must be made to the city council if the price exceeds \$25,000.00. Where possible, council approval must be received prior to authorization.~~

SECTION 2: CONFLICTING ORDINANCES.

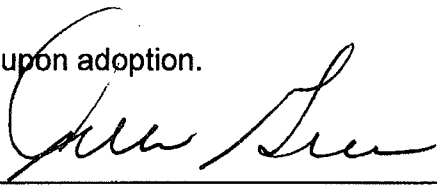
All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed to the extent of such conflict.

SECTION 3: SEVERABILITY.

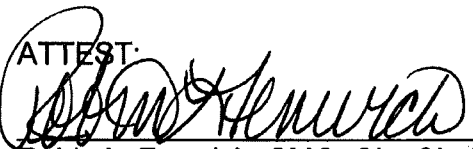
If any provision of this ordinance or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are declared severable.

SECTION 4: EFFECTIVE DATE.

This Ordinance shall take effect immediately upon adoption.

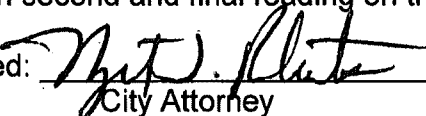

MAYOR ALLEN GREEN

ATTEST:


Robin L. Fenwick, CMC, City Clerk

Passed on first reading on the 5th day of May, 2015.

Passed and adopted on second and final reading on the 19th day of May, 2015.

Reviewed and Approved: 
City Attorney



CITY COUNCIL AGENDA ITEM

REQUESTED COUNCIL MEETING DATE 01/05/2016

Consent item: No

SUBJECT: Resolution No. 16-2 - Utility Billing Adjustments

DEPARTMENT: Finance

GOAL:

OBJECTIVE:

RECOMMENDED MOTION: Move to approve Resolution No. 16-2.

SUMMARY: The attached resolution formalizes the City's current practice of processing billing adjustments (both charges and credits), and including but not limited to services received and retroactively billed for up to twelve months.

This policy also authorizes the city administrative staff to not collect or back bill for utility service when (1) the services were rendered over twelve months previously and (2) as a result of a billing error, the customer was not previously charged.

Project Funding Account
No.: No.:

ATTACHMENTS:

1.	Reso. No. 16-2	Reso. No. 16-2.pdf
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Riehm, Tracey
Roberts, Margaret
Johansson, M. Jake

Created/Initiated - 12/29/2015
Approved - 12/31/2015
Final Approval - 12/31/2015

RESOLUTION NO. 16-2

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PORT ORANGE, VOLUSIA COUNTY, FLORIDA, ESTABLISHING THE POLICY FOR ADJUSTED UTILITY BILLS; PROVIDING FOR CONFLICTING RESOLUTIONS; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Chapter 74 of the Code of Ordinances of the City of Port Orange, Florida, provides for the establishment of certain utility fees and charges by resolution of the City Council; and

WHEREAS, the City Council has determined that the utility fees and charges are necessary to fund the proper operation of the City's water and sewer system and are to be billed in a fair and equitable manner; and

WHEREAS, the city administrative staff desires uniform standards for corrective action as necessary to remediate under billing errors for services received, or overbilling errors for services not received.

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

Section 1. Purpose.

The City Council finds that a standard policy is necessary to remediate inaccuracies in previously rendered utility bills. By approval of this Resolution No. 16-2 the City Council hereby ratifies the past practice of the Finance Department consistent herewith.

Section 2. Unbilled Utility Charges

(a) The City shall provide customer account adjustments for services which were provided but were not billed to the customer. The City shall invoice under-billed accounts for the current month, plus up to twelve (12) prior billing periods for both Residential and Commercial customers. When available, actual consumption data shall be used to calculate the under-billing charge. If actual consumption information is not available, the City shall prorate the back-bill using the first valid month of consumption. The rates in effect at the time of the service delivery shall be used to calculate the back-billing charge. The customer shall be granted up to the same number of months used in calculating the back-bill to pay the balance of the assessed back-billed amount. The City administrative staff shall not back bill for utility service when (1) the services were rendered over twelve months previously and (2) as a result of a billing error, the customer was not previously charged for the utility services.

(b) To correct inaccurate bill(s) resulting from malfunctions including, but not limited to meter tampering or bypassing, customer-inflicted damage to the service point, unauthorized or fraudulent use of service or service diversion, the City shall invoice the customer for services rendered from the time the malfunction was detected by the City back to the event causing the malfunction without limitation of time.

Section 3. Over-Billing Errors

(a) The City shall provide Customer account adjustments for the services which were billed but were not provided to the Customer. The City shall refund the overcharge to the customer based on available records and rates in effect at the time of the over-billing without limitation of time, except that in the event that the administrative staff cannot verify the commencement date of the over-billing. When the commencement date of the over-billing is unverified and other evidence of the over-billing is available, then the overbilling shall be estimated based on the customer's past consumption; and the City administrative staff shall limit the refund for over-billed utility services to a maximum of four (4) years prior to the discovery of the over-billing.

(b) In the event of an overbilling, if the refund due is in excess of the customer's average monthly bill for each of the past twelve (12) billing periods, the customer may elect to receive the refund as a one-time disbursement. Otherwise, the credit will be applied to future billings.

Section 4. Conflicting Resolutions

All resolutions or parts thereof in conflict herewith are hereby superseded and repealed to the extent of such conflict.

Section 5. Effective Date

This resolution shall become effective immediately upon adoption.

MAYOR ALLEN GREEN

ATTEST:

Robin L. Fenwick, CMC, City Clerk

Adopted on the day of

Reviewed and Approved: _____
Margaret T. Roberts, City Attorney



**The City of Port Orange
Finance Department**

MEMORANDUM

TO: Michael H. Johansson, City Manager
FROM: Tracey Riehm, Finance Director
DATE: December 30, 2015
SUBJECT: **Highlights of the November 2015 Financial Report**

Attached are interim financial reports and highlights of activity for the City's five major funds for the period ending November 30, 2015, which represents 17% of the fiscal year. Also attached are the financial reports from Cypress Head Golf Course and the YMCA. Detailed reports for all funds are available on the City's website at: http://www.port-orange.org/finance/?p=budget_and_financial_reports. Highlights of these funds are as follows:

GENERAL FUND (Fund 001)

Revenues: During the first two months of the current fiscal year, the General Fund received a total of \$4,432,735 in revenues, which is 13% of general fund revenues for the year. \$4,163,668 was operating revenue and \$269,067 accounted for inter-fund transfers and contributions from the enterprise funds. These revenues include \$2,645,832 or 24% of the annual estimated ad valorem tax revenue. The majority of ad valorem taxes are collected in the first quarter of the fiscal year. General fund revenues are 13% of the budget compared with 15% at this point last year, however after allowing for the budgeted use of appropriated equity, the percent collected increases to 14%. Ad-valorem and communication service taxes account for approximately 70% of the overall decrease in revenue of \$670,434 compared with this time last year.

Expenditures: The first two months operating expenditures amounted to \$3,976,979 or 12% of the estimated expenditures for the year, with an additional encumbered amount of \$1,599,993. Actual expenditures are \$39,106 less than at this time last year.

Please also see the attached financial statement for additional detail.

BUILDING SPECIAL REVENUE FUND (Fund 109)

Revenues: During the first two months of the current fiscal year, the Building Special Revenue Fund received \$179,267 in operating and non-operating revenues, inclusive of transfers. This equates to 13% of the annual budget, and is \$8,134 (4.8%) more than last year. Revenues in this fund are typically received in a sporadic nature.

Expenditures: Year-to-date expenditures in the Building Special Revenue fund are \$138,971 or 10% of estimated expenditure for the year. On a percent of budget basis,

year-to-date expenditures are 4% lower than this time last year; with actual expenditures at the same level as this time last year.

Year to date, the Building Special Revenue Fund's net position has increased by \$40,295.

Please also see the attached financial statement for additional detail.

WATER & SEWER FUND (Fund 401)

Revenues: The Water and Sewer Fund collected \$2,667,698 in operating revenues during the first two months, which is 11% of projected revenues for the year. This is \$255,822 more than last year and \$336,221 less than in 2014.

Expenses: The first two month's operating expenses excluding depreciation amounted to \$1,796,002 or 12% of estimated expenses for the year, with an additional \$2,170,292 encumbered. Non-operating activity reports a net gain of \$6,271 compared to a net loss of \$35,503 at this time last year. Currently, the water and sewer fund is reporting an income of \$877,967, but after transfers the fund is posting a loss of \$769,494 which is \$142,537 less than this time last year.

The attached financial statement provides additional detail.

SOLID WASTE FUND (Fund 410)

Revenues: The Solid Waste Fund's total operating revenues for the first two months were \$ 725,752, which is 10% of the annual budget and \$41,861 less than this time last year.

Expenses: The Solid Waste Fund's first two month's operating expenses excluding depreciation total \$467,793 or 7% of estimated expenses for the year, with an additional encumbered amount of \$5,570,609. The Solid Waste Fund currently is reporting an income before transfers of \$262,502 and a change in net position of \$228,431 after allowing for transfers. The change in net position is \$89,189 higher than at this time last year.

The attached financial statement provides additional detail.

DRAINAGE UTILITY FUND (Fund 412)

Revenues: The Drainage Utility Fund's operating revenues for two months amount to \$840,118, or 21% of the annual budget and \$259,652 less than this time last year. Revenues in this fund represent the collection of Drainage fees by the non-advalorem method.

Expenses: For the first two months operating expenses totaled \$218,877 which is 12% of the annual budget and \$36,499 less than last year. An additional \$1,021,024 is

encumbered. After allowing for non-operating expenses, transfers in lieu of taxes and debt service payment transfers, the Drainage fund reported an increase in net position of \$335,148 which is \$134,384 less than at this time last year.

The attached financial statement provides additional detail.

YMCA REPORT

The financial reports for the period ending October 31, 2015 for the YMCA are attached.

GOLF COURSE REPORT

The financial report for the period ending November 30, 2015 for the Cypress Head Golf Course is attached. Detailed statements are available in the Finance Department.

IN SUMMARY:

As appropriations lapse at the end of each year, City Council re-appropriates funding for open purchase orders and existing funded projects. Total budget projections as they are presented in the attached reports incorporate current year appropriations plus prior year carryover pertaining to open and in process projects. Available liquid equity has been evaluated and is adequate to meet or exceed revenue policies as established by City Council.

Should you have any questions as they relate to this report or its attachments, please feel free to contact me.

Thank you,

Tracey Riehm
Finance Director

City of Port Orange Revenue Comparison - General Fund (001) Period Ending: November 30 (17% of the Fiscal Year)									
Sub Activity	2014		FYTD14 % of Total	2015		FYTD15 % of Total	2016		FYTD16 % of Budget
	FYTD Actual	Audited Annual Receipts		FYTD Actual	Unaudited Annual Receipts		FYTD Actual	Total Current Budget	
ADVALOREM TAXES	2,660,356	10,360,132	26%	2,959,126	10,443,031	28%	2,645,832	10,807,883	24%
SALES & USE TAXES	0	717,597	0%	0	736,939	0%	0	717,597	0%
UTILITY SERVICE TAXES	537,675	5,002,091	11%	500,686	5,145,954	10%	469,425	4,944,127	9%
COMMUNICATIONS SERVICE TX	0	1,972,034	0%	157,375	1,886,648	8%	0	1,862,251	0%
LOCAL BUSINESS TAX	21,247	122,860	17%	20,586	113,499	18%	27,478	123,000	22%
FEES & PERMITS	16,658	3,200,700	1%	24,735	3,316,823	1%	18,493	3,510,499	1%
INTER GOVT	361,587	4,784,473	8%	537,020	5,152,711	10%	340,768	5,172,006	7%
CHARGES FOR SERVICE	360,653	2,273,583	16%	359,783	2,513,619	14%	366,955	2,348,669	16%
FINES & FORFEITS	27,314	165,185	17%	32,029	837,633	4%	65,937	137,400	48%
MISC REVENUE	231,211	1,208,274	19%	237,453	1,173,894	20%	228,781	1,066,462	21%
INTERFUND TRANSFER	0	65	0%	0	63,649	0%	0	0	0%
CONTRB FROM ENTERPRISE FD	276,062	1,656,372	17%	274,377	1,646,259	17%	269,067	1,614,401	17%
APPROPRIATED EQUITY	0	0	0%	0	0	0%	0	1,525,111	0%
INTERNAL SERVICES	0	0	0%	0	0	0%	0	0	0%
INTRA. GOV. SERVICES	0	0	0%	0	0	0%	0	0	0%
GENERAL FUND REVENUE:	\$4,492,762	\$31,463,366	14%	\$5,103,169	\$33,030,659	15%	\$4,432,735	\$33,829,406	13%

City of Port Orange Expense Comparison - General Fund (001) Period Ending: November 30 (17% of the Fiscal Year)									
Department Description	2014		FYTD14 % of Total	2015		FYTD15 % of Total	2016		FYTD16 % of Budget
	FYTD Actual	Audited Annual Expenditures		FYTD Actual	Unaudited Annual Expenditures		FYTD Actual	Total Current Budget	
NON DEPARTMENTAL	309,194	2,264,450	14%	313,678	3,770,091	8%	304,573	2,694,699	11%
MAYOR & COUNCIL	31,772	198,686	16%	24,813	202,166	12%	30,891	216,897	14%
CITY MANAGER	70,995	476,171	15%	49,217	459,041	11%	77,916	584,932	13%
LEGAL SERVICES	63,712	515,978	12%	60,441	501,110	12%	51,244	706,423	7%
CITY CLERK	35,830	255,705	14%	31,862	293,702	11%	39,309	307,967	13%
FINANCE	104,369	740,966	14%	119,422	873,561	14%	132,440	1,092,777	12%
PERSONNEL	30,226	276,184	11%	53,177	354,229	15%	42,441	345,631	12%
COMMUNITY DEVELOPMENT	200,076	1,298,459	15%	181,870	1,274,946	14%	187,689	1,471,700	13%
FIRE SERVICES	1,192,658	8,268,579	14%	1,077,409	7,677,909	14%	1,051,473	8,083,999	13%
POLICE	1,615,380	11,095,306	15%	1,567,236	11,652,556	13%	1,473,559	12,319,928	12%
PUBLIC WORKS	254,939	1,875,210	14%	203,647	1,966,931	10%	212,159	2,536,100	8%
PARKS MAINTENANCE	340,823	1,830,748	19%	212,723	1,740,667	12%	224,009	2,148,954	10%
RECREATION	79,846	684,616	12%	75,315	720,520	10%	77,815	857,343	9%
ATHLETICS	42,791	287,958	15%	44,546	312,732	14%	70,900	443,886	16%
POGTV	1,346	6,313	21%	729	3,133	23%	560	18,170	3%
GENERAL FUND EXPENSES:	\$4,373,956	\$30,075,329	15%	\$4,016,085	\$31,803,295	13%	\$3,976,979	\$33,829,406	12%
Excess of Revenue over(under) Expenditures	\$118,806	\$1,388,037		\$1,087,085	\$1,227,364		\$455,756	\$ -	

Note: minor variances in totals may exist due to rounding

CITY OF PORT ORANGE									
STATEMENT OF REVENUE, EXPENDITURES AND CHANGES IN FUND BALANCE									
BUDGET AND ACTUAL - BUILDING SPECIAL REVENUE FUND (109)									
Period Ending: November 30 (17% of the Fiscal Year)									
	FY2014			FY2015			FY2016		
	FYTD Actual	Audited Annual	%	FYTD Actual	Unaudited Annual	%	FYTD Actual	Budgeted Annual	%
Revenues									
Permits and fees	192,319	1,176,045	16%	172,535	1,250,378	14%	177,428	1,136,200	16%
Miscellaneous		83	0%		140	0%	-		0%
Total operating revenues	192,319	1,176,128	16%	172,535	1,250,518	14%	177,428	1,136,200	16%
Expenditures									
General government:									
Planning and community development	126,524	863,069	15%	138,516	988,875	14%	138,971	1,389,621	10%
Total operating expenses - w/o depreciation	126,524	863,069	15%	138,516	988,875	14%	138,971	1,389,621	10%
Operating income (loss)	65,795	313,059	21%	34,018	261,643	13%	38,457	(253,421)	-15%
Non-operating revenues (expenses)									
Interest earnings	(875)	3,180		(1,402)	16,028		1,839	7,000	
Other income (expense)									
Interest and amortization expense									
Total nonoperating revenue (expenses)	(875)	3,180	0%	(1,402)	16,028	0%	1,839	7,000	0%
Income (loss) before contributions and transfers	64,920	316,239	21%	32,616	277,671	12%	40,295	(246,421)	-16%
Appropriated Fund Balance								246,421	
Transfers									
Transfers in					2,613				
Transfers (out) - In Lieu of Tax									
Transfers (out) - Debt Service									
Change in net position	64,920	316,239		32,616	280,284		40,295	-	

Note: minor variances in totals may exist due to rounding

CITY OF PORT ORANGE									
STATEMENT OF REVENUE, EXPENDITURES AND CHANGES IN FUND BALANCE									
BUDGET AND ACTUAL - UTILITIES OPERATING FUND (401)									
Period Ending: November 30 (17% of the Fiscal Year)									
	FY2014			FY2015			FY2016		
	FYTD Actual	Audited Annual	%	FYTD Actual	Unaudited Annual	%	FYTD Actual	Budgeted Annual	%
Operating revenues									
Charges for services:									
Water sales	1,273,112	10,957,095	12%	1,045,568	11,274,678	9%	1,112,883	10,984,280	10%
Hydrant rentals	1,419	35,235	4%	1,297	36,164	4%	34,687	46,010	75%
Sewer charges	1,560,474	12,893,433	12%	1,263,294	13,650,986	9%	1,410,729	13,058,784	11%
Connections service, and cut-off charges	164,542	937,684	18%	100,070	791,306	13%	103,023	891,308	12%
Other revenues	4,371	309,840	1%	1,646	59,104	3%	6,376	36,253	18%
Total operating revenues	3,003,919	25,133,286	12%	2,411,876	25,812,237	9%	2,667,698	25,016,635	11%
Operating expenses									
Personal services	982,691	5,696,318	17%	895,880	5,666,614	16%	808,525	6,395,260	13%
Contractual services (Professional & Other)	69,585	2,230,218	3%	102,354	981,098	10%	99,912	1,494,564	7%
Utilities	200,460	1,349,753	15%	106,908	1,275,599	8%	95,538	1,362,956	7%
Maintenance and repairs	60,607	1,933,414	3%	23,579	420,325	6%	41,964	737,225	6%
Other supplies and expenses	592,503	2,906,828	20%	491,367	4,851,092	10%	750,064	5,058,940	15%
Total operating expenses - w/o depreciation	1,905,848	14,116,531	14%	1,620,087	13,194,728	12%	1,796,002	15,048,945	12%
Operating income (loss)	1,098,071	11,016,755	10%	791,789	12,617,509	6%	871,696	9,967,690	9%
Non-operating revenues (expenses)									
Interest earnings	(8,321)	53,444		(8,831)	94,380		20,667	54,500	
Other income (expense)	(31,460)	445,747		(26,672)	(137,452)		(14,396)	(1,693,428)	
Interest and amortization expense	-	(1,361,091)		-	(154,398)		-	(259,793)	
Total nonoperating revenue (expenses)	(39,780)	(861,900)	5%	(35,503)	(197,470)	18%	6,271	(1,898,721)	0%
Income (loss) before contributions and transfers	1,058,291	10,154,855	10%	756,286	12,420,040	6%	877,967	8,068,969	11%
Appropriated Fund Balance							-	1,815,798	
Transfers									
Transfers in	29,666	-		-	9,579		-	-	
Transfers (out) - In lieu of tax	(212,686)	(1,276,118)		(210,091)	(1,260,543)		(204,234)	(1,225,404)	
Transfers (out) - debt service ¹	(1,624,893)	-		(1,458,227)	(8,749,359)		(1,443,227)	(8,659,363)	
Change in net position	(749,623)	8,878,738		(912,031)	2,419,717		(769,494)	-	

¹ Proprietary Debt Service transfers zero out as part of the year-end funds consolidation process.

Note: minor variances in totals may exist due to rounding

CITY OF PORT ORANGE

STATEMENT OF REVENUE, EXPENDITURES AND CHANGES IN FUND BALANCE

BUDGET AND ACTUAL - SOLID WASTE OPERATING FUND (410)

Period Ending: November 30 (17% of the Fiscal Year)

	FY2014			FY2015			FY2016		
	FYTD Actual	Audited Annual	%	FYTD Actual	Unaudited Annual	%	FYTD Actual	Budgeted Annual	%
Operating revenues									
Charges for services:									
Waste Disposal Fees	811,586	6,943,255	12%	762,859	7,036,746	11%	725,205	6,982,050	10%
Other revenues	-	41,749	0%	4,755	14,769	32%	546	67,100	1%
Total operating revenues	811,586	6,985,004	12%	767,613	7,051,515	11%	725,752	7,049,150	10%
Operating expenses									
Personal services	31,896	226,705	14%	34,522	223,607	15%	33,331	236,419	14%
Contractual services (Professional & Other)	468,640	4,805,927	10%	474,339	5,782,795	8%	348,842	5,981,244	6%
Utilities	30	1,014	3%	47	858	5%	71	890	8%
Maintenance and repairs	533	6,843	8%	-	1,970	0%	-	2,250	0%
Other supplies and expenses	65,450	1,414,561	5%	85,091	563,496	15%	85,549	523,725	16%
Total operating expenses (w/o depreciation)	566,549	6,455,050	9%	593,998	6,572,726	9%	467,793	6,744,528	7%
Operating income (loss)	245,037	529,954	46%	173,615	478,788	36%	257,959	304,622	85%
Non-operating revenues (expenses)									
Interest earnings	(1,517)	6,580		(2,060)	23,199		4,544	14,000	
Other income (expense)								(114,197)	
Interest and amortization expense									
Total nonoperating revenue (expenses)	(1,517)	6,580	-23%	(2,060)	23,199	-9%	4,544	(100,197)	-5%
Income (loss) before contributions and transfers	243,520	536,534	45%	171,554	501,987	34%	262,502	204,425	128%
Appropriated Fund Balance									
Transfers									
Transfers in					888		-	-	
Transfers (out) - In lieu of taxes	(32,330)	(193,978)		(32,313)	(193,875)		(34,071)	(204,425)	
Transfers (out) - debt service									
Change in net position	211,191	342,556		139,242	309,000		228,431	-	

Note: minor variances in totals may exist due to rounding

CITY OF PORT ORANGE									
STATEMENT OF REVENUE, EXPENDITURES AND CHANGES IN FUND BALANCE									
BUDGET AND ACTUAL - STORMWATER OPERATING FUND (412)									
Period Ending: November 30 (17% of the Fiscal Year)									
	FY2014			FY2015			FY2016		
	FYTD Actual	Audited Annual	%	FYTD Actual	Unaudited Annual	%	FYTD Actual	Budgeted Annual	%
Operating revenues									
Charges for services:									
Drainage Fees	1,036,491	3,805,631	27%	1,099,770	3,860,256	28%	840,118	3,978,063	21%
Other revenues		127	0%	-	218	0%	-		0%
Total operating revenues	1,036,491	3,805,758	27%	1,099,770	3,860,474	28%	840,118	3,978,063	21%
Operating expenses									
Personal services	124,125	721,017	17%	121,358	721,271	17%	113,272	929,554	12%
Contractual services (Professional & Other) ¹	3,537	613,143	1%	3,647	105,965	3%	2,018	140,482	1%
Utilities	-	-	0%	-	-	0%	-	-	0%
Maintenance and repairs	11,528	93,595	12%	35,032	141,756	25%	12,679	118,191	11%
Other supplies and expenses	97,073	65,509	148%	95,339	575,441	17%	90,908	618,954	15%
Total operating expenses (w/o depreciation)	236,262	1,493,264	16%	255,376	1,544,433	17%	218,877	1,807,181	12%
Operating income (loss)	800,229	2,312,494	35%	844,394	2,316,041	36%	621,241	2,170,882	29%
Non-operating revenues (expenses)									
Interest earnings	(1,967)	20,586		(1,922)	31,413		835	26,700	
Other income (expense)	(59,944)	500,000		(34,312)	(313,010)		0	(2,277,361)	
Interest and amortization expense	-	(460,404)		-	(8,719)		-	(42,686)	
Total nonoperating revenue (expenses)	(61,911)	60,182	-103%	(36,234)	(290,317)	12%	835	(2,293,347)	0%
Income (loss) before contributions and transfers	738,319	2,372,676	31%	808,159	2,025,724	40%	622,076	(122,465)	-508%
Appropriated Fund Balance								1,844,034	
Transfers									
Transfers in					847,500		0	0	
Transfers (out) - General Fund					(63,649)		0	0	
Transfers (out) - In Lieu of Tax	(31,046)	(186,277)		(31,973)	(191,841)		(30,762)	(184,572)	
Transfers (out) - debt service ¹	(246,587)	(83,520)		(306,654)	(1,839,926)		(256,166)	(1,536,997)	
Change in net position	460,685	2,102,879		469,532	777,808		335,148	-	

¹ Proprietary Debt Service transfers zero out as part of the year-end funds consolidation process. The remaining balance of Transfer (Out) - Debt Service represents governmental debt.

Note: minor variances in totals may exist due to rounding

Financial Reports
for period ending
October 31, 2015
Provided by
YMCA

Statement Of Activities Report

Volusia Flagler Family YMCA

10/01/2015 - 10/31/2015

Period 10 October 2015

Branch Port Orange 07

Account Group	Account Group Name	Period 10 October 2015					Year to Date 2015				
		Actual	Budget	\$ Variance	Last Year	\$ Variance	Actual	Budget	\$ Variance	Last Year	\$ Variance
Revenue											
01	Contributions	1,510	6,000	-4,490	6,222	-4,712	78,131	63,300	14,831	65,625	12,506
03	Special Events	13,811	0	13,811	0	13,811	28,593	17,900	10,693	14,197	14,396
08	United Way	3,466	3,411	55	3,466	0	34,661	34,440	221	34,330	331
10	Grants	2,586	3,200	-614	3,900	-1,314	31,192	26,015	5,177	29,840	1,352
11	Membership	107,238	125,628	-18,390	115,830	-8,592	1,116,150	1,296,944	-180,794	1,265,289	-149,139
13	Program Fees	37,126	42,876	-5,750	35,067	2,059	529,759	550,742	-20,983	518,098	11,661
14	Other - Merchandise/Vending	1,072	1,600	-528	-85	1,157	13,012	10,200	2,812	9,265	3,747
16	Late Fees/Misc Income	0	0	0	0	0	1,727	0	1,727	0	1,727
19	Release from -	-420	0	-420	0	-420	-5,077	0	-5,077	0	-5,077
Total Unrestricted Revenue		166,389	182,715	-16,326	164,400	1,989	1,828,148	1,999,541	-171,393	1,936,644	-108,496
Total Revenue		166,389	182,715	-16,326	164,400	1,989	1,828,148	1,999,541	-171,393	1,936,644	-108,496
Expenses											
21	Salaries & Wages	62,032	69,185	7,153	65,189	3,157	758,142	785,187	27,045	753,880	-4,262
22	Employee Benefits	5,917	4,581	-1,336	4,726	-1,191	48,799	50,295	1,496	41,951	-6,848
23	Payroll, Taxes & W/C	5,911	7,276	1,365	6,316	405	68,005	82,492	14,487	70,250	2,245
24	Contract Services	2,238	3,401	1,163	4,018	1,780	40,173	48,385	8,212	46,284	6,111
25	Supplies	3,158	3,192	34	4,812	1,654	40,945	32,417	-8,528	41,155	210
26	Telephone	878	1,017	139	1,028	150	9,490	10,953	1,463	10,436	946
27	Postage & Shipping	0	83	83	4,265	4,265	75	833	758	4,984	4,909
28	Facility Costs	38,723	38,714	-9	40,069	1,346	398,676	422,329	23,653	418,459	19,783
29	Equipment Costs	4,212	6,012	1,800	4,237	25	45,550	60,121	14,571	57,579	12,029
30	Program Expenses	8,692	4,000	-4,692	6,963	-1,729	63,251	64,723	1,472	70,161	6,910
31	Marketing & Promotion	76	0	-76	71	-5	582	1,150	568	794	212
32	Travel & Mileage	0	144	144	0	0	191	1,538	1,347	678	487
33	Conference & Training	173	25	-148	103	-70	1,494	1,065	-429	3,006	1,512
34	Fundraising Expense	0	0	0	0	0	511	0	-511	236	-275
35	National & Other Dues	2,505	2,505	0	2,401	-104	25,188	25,864	676	23,006	-2,182
37	Financing Costs	0	33	33	0	0	0	330	330	0	0
38	Insurance	2,244	2,244	0	4,299	2,055	22,443	22,443	0	38,620	16,177
39	Miscellaneous Expense	0	0	0	0	0	0	0	0	201	201
40	Depreciation & Amortization	2,057	2,372	315	2,925	868	21,810	23,717	1,907	28,457	6,647
48	Metro Services	26,585	26,585	0	24,770	-1,815	290,933	290,933	0	282,354	-8,579
Total Unrestricted Expenses		165,401	171,369	5,968	176,192	10,791	1,836,258	1,924,775	88,517	1,892,491	56,233
Total Expenses		165,401	171,369	5,968	176,192	10,791	1,836,258	1,924,775	88,517	1,892,491	56,233
Change in Net Assets		988	11,346	-10,358	-11,792	12,780	-8,110	74,766	-82,876	44,153	-52,263

Financial Report
for period ending
November 30, 2015
provided by
Golf Course

The Golf Club at Cypress Head
Comparative Income Statement
For the Two Months Ending November 30, 2015

	MTD Prior Year	YTD Prior Year	Audited Prior Year	Percent of Total	MTD Actual	YTD Actual	Annual Budget	Percent of Total
REVENUES								
Green Fees & Cart Fees	86,442	151,117	714,869	21%	109,210	114,236	1,023,426	11%
Merchandise	6,631	11,131	53,694	21%	6,529	7,062	61,281	12%
Other Pro Shop	315	713	10,198	7%	507	527	10,769	5%
Range	1,941	4,885	16,885	29%	2,905	3,056	35,044	9%
Food and Beverage	27,761	53,880	182,967	29%	0	0	0	
Membership Initiation Fees	0	0	750		(250)	0	0	
Other Operating Revenues	3,028	5,555	24,901	22%	3,715	3,911	35,106	11%
TOTAL REVENUE	126,118	227,281	1,004,262	23%	122,615	128,792	1,165,626	11%
COST OF SALES								
Merchandise	4,640	8,259	44,543	19%	5,762	6,077	33,672	18%
Food & Beverage	12,000	24,770	72,592	34%	0	0	0	
TOTAL COGS	16,640	33,029	117,135	28%	5,762	6,077	33,672	18%
COGS - Merchandise %	70.0%	74.2%	83.0%	89.4%	88.3%	86.1%	54.9%	156.6%
COGS - Food %	43.2%	46.3%	39.8%	116.2%				
PAYROLL								
Course and Grounds	23,233	45,842	291,280	16%	26,092	60,148	302,225	20%
Carts, Range, Starters, Etc.	5,071	9,581	39,741	24%	8,483	10,048	73,469	14%
Pro Shop	4,864	9,284	33,566	28%	6,644	10,347	53,508	19%
Food and Beverage	16,152	29,131	94,245	31%	0	0	0	
General and Administrative	9,551	19,875	126,613	16%	9,376	19,799	127,761	15%
Marketing	3,966	8,532	45,103	19%	3,577	7,946	45,604	17%
TOTAL PAYROLL	62,838	122,245	630,548	19%	54,172	108,288	602,567	18%

The Golf Club at Cypress Head
Comparative Income Statement
For the Two Months Ending November 30, 2015

	MTD	YTD	Audited	Percent	MTD	YTD	Annual	Percent
	Prior Year	Prior Year	Prior Year	of Total	Actual	Actual	Budget	of Total
OPERATING EXPENSES								
Course and Grounds	12,882	48,374	213,953	23%	12,877	42,450	194,632	22%
Carts, Range, Starters, Etc.	10,895	18,155	113,365	16%	6,681	14,505	85,831	17%
Pro Shop	1,981	2,031	10,087	20%	574	574	11,155	5%
Food and Beverage	4,758	9,213	30,128	31%	0	185	0	
General and Administrative	20,547	36,922	181,883	20%	23,268	35,843	197,717	18%
Marketing	1,536	4,494	29,588	15%	8,190	14,891	39,686	38%
TOTAL OPERATING EXPENSES	52,599	119,189	579,003	21%	51,589	108,447	529,021	20%
TOTAL EXPENSES	132,078	274,463	1,326,685	21%	111,524	222,813	1,165,260	19%
OTHER INCOME (EXPENSE)								
MANAGEMENT FEES	(7,370)	(14,739)	(66,226)	22%	(5,713)	(13,082)	(65,296)	20%
Depreciation & Amortization	(535)	(1,070)	(4,572)	23%	(381)	(762)	(6,420)	12%
TOTAL OTHER INCOME (EXPENSE)	(7,904)	(15,809)	(70,798)	22%	(6,094)	(13,844)	(71,716)	19%
NET INCOME	(13,864)	(62,991)	(393,221)	16%	4,998	(107,865)	(71,350)	151%
Paid Rounds	3,188	6,050	25,909	23%	3,456	3,703	38,507	10%
Annual Pass Rounds	370	772	2,970	26%	820	842	4,295	20%
Other Rounds	197	434	1,772	24%	215	216	2,819	8%
Total Rounds	3,755	7,256	30,651	24%	4,491	4,761	45,621	10%
Revenue/Paid Rounds	\$ 39.56	\$ 37.57	\$ 38.76	97%	\$35.48	\$ 34.78	\$ 30.27	115%
Revenue/Total Rounds	\$ 33.59	\$ 31.32	\$ 32.76	96%	\$27.30	\$ 27.05	\$ 25.55	106%



CITY COUNCIL AGENDA ITEM

REQUESTED COUNCIL MEETING DATE 01/05/2016

Consent item: No

SUBJECT: Discussion Regarding Palmer College Lease Agreement

DEPARTMENT: City Manager

GOAL: 1 - Infrastructure Preservation

OBJECTIVE: N/A

RECOMMENDED MOTION: Provide Direction on Palmer College Lease Extension and Purchase Options

SUMMARY: The Palmer College Foundation, Inc. (Palmer College) has leased the former Allen Green Center at 4705 South Clyde Morris Boulevard since May 9, 2002. The lease was extended on January 5, 2010 for another 10-year period ending on March 31, 2020. The College uses this location as their chiropractic clinic.

During the Council meeting on May 19, 2015, staff discussed this lease with elected body. At that time representatives of Palmer were requesting to extend the lease for an additional 5-year period (from 2020 to 2025). They also requested to include an option to purchase in the next adopted lease amendment.

At that meeting, Council gave direction to staff that they were interested in extending the lease to 2025, but were not yet ready to commit to a purchase option.

Since that time, staff and representatives from Palmer College have met to discuss their future at the former Allen Green Center. During these meetings Palmer representatives have expressed an interest in additional items they would like the City to consider regarding the building.

Palmer indicates that the "auditorium" area is not useful and they need more space. They are interested in leveling the floor and building out that space for a number of different uses including: insurance/billing offices, active/passive care space, meeting rooms, a computer lab, and a storage room.

The preliminary concept is attached to this agenda item. However, in order to move forward and procure actual drawings from an architect, representatives from Palmer would like to gain consensus from Council that they would entertain this path. These representatives understand that a conceptual agreement to move forward at this point in no way binds the two parties to a definite agreement.

If the Council is willing to entertain this idea, there are a number of points to consider.

1. The current lease states that all modifications must be approved by the City. Further, if Palmer makes modifications to the building, then at the sole discretion of the City, Palmer may have to return the building to its original state before vacating the building.

Palmer would like some assurance (even if not binding) that if the City agrees to the concept of design, it will not be held responsible for restoring the building to its former design if they vacated in the future. This assurance will make them more comfortable in paying for design fees, which can then be brought back to City Council for final approval.

2. According to the lease all items installed or improvements made to the building become the property of the City.

Palmer would like the City Council to consider rent credits if the changes made to the building increase the value of the property. Palmer already receives some credit on their lease payment for performing exterior maintenance. The details of a new credit cannot be finalized until the architectural drawings are complete and/or the modifications are complete so that an appraisal can determine the extent of the change in value.

At this juncture, Palmer representatives are only asking if the current Council is willing to entertain this idea should they be approved to move forward with improvements.

3. The Current lease indicates that there are some items remaining in the building that are the personal property of the City and that these items will remain as they were after the lease has ended. The agreement specifically mentions the pews in the "auditorium" as one of these items.

If Palmer is allowed to "improve" the "auditorium", the pews will no longer be needed. However due to the language in the contract, Palmer would need to store the pews and possibly other small items, so that those items can be returned to the City after the lease ends. Palmer representatives would like to know if the Council is also willing to consider disposal of these items (according to city surplus policy) so that they do not need to be stored and returned at the end of the lease period.

If Council is willing to entertain these ideas in concept, Palmer will engage an architect and return to the City with the design for approval (as per the current contract). If, at that time, the City agrees to allow Palmer to move forward, staff will work with Palmer representatives in completing the extension of the lease agreement until 2025 as previously discussed to include additional details as described above.

Project Funding Account
No.: No.:

ATTACHMENTS:

1.	Allen Green Center Lease Third Amendment	2010 Lease.pdf
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2.	Conceptual Drawings	Conceptual Plans for Allen Green Center.pdf
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Rosen, Alan
Jones, Matthew
Johansson, M. Jake

Created/Initiated - 12/10/2015
Approved - 12/29/2015
Final Approval - 12/29/2015



CITY COUNCIL AGENDA ITEM

REQUESTED COUNCIL MEETING DATE: 01/05/10

SUBJECT: PALMER COLLEGE FOUNDATION, INC. LEASE RENEWAL – ALLEN GREEN CENTER

DEPARTMENT: CITY MANAGER

RECOMMENDED MOTION:

To approve the Third Amendment and Restatement of Lease Agreement for the Allen Green Center with Palmer College Foundation, Inc.

SUMMARY:

Palmer College Foundation, Inc. (Palmer) has leased the Allen Green Center since May 9, 2002. Their current lease agreement expires on March 31, 2010 and Palmer would like to continue use of the facility for their clinic and associated activities. The attached lease agreement is for a 10-year period and may be cancelled by Palmer after the fifth year subject to specified notice requirements and an early termination payment.

Palmer will pay \$410,634 annually in years 1 through 3; \$469,296 annually in years 4 through 7; and \$483,961.50 annually in years 8 through 10. They will continue to be responsible for interior building maintenance and will receive an annual rental credit for taking over all exterior maintenance activities from the City.

Palmer is in good standing with the City and has complied with all provisions in the current lease agreement. Staff recommends approval of the Third Amendment and Restatement of Lease Agreement with Palmer as attached.

ATTACHMENTS: ☐ Ordinance ☐ Resolution ☐ Budget Resolution

☒ Other ☐ Support Documents/Contracts Available for Review in Manager's Office

DEPARTMENT HEAD

Shannon M. Lewis

Date 12/14/2009

FINANCE DEPARTMENT

Approved as to Budget Requirements

Date 12/22/09

CITY ATTORNEY

Approved as to Form and Legality

Date 12/23/09

CITY MANAGER

Approved Agenda Item For:

1/5/10

COUNCIL ACTION: ☐ Approved as Recommended ☐ Disapproved ☐ Tabled Indefinitely
☐ Continued to Date Certain ☐ Approved with Modification:

THIRD AMENDMENT AND RESTATEMENT OF LEASE AGREEMENT

THIS LEASE AGREEMENT is made and entered the day and year set forth hereinafter by and between the **CITY OF PORT ORANGE, FLORIDA**, a chartered municipal corporation, with its principal business offices located at 1000 City Center Circle, Port Orange, Volusia County, Florida 32129 ("City" or "Landlord"), and **PALMER COLLEGE FOUNDATION, INC.**, f/k/a Palmer Chiropractic University Foundation, Inc., a not-for-profit corporation duly organized under the laws of the State of Iowa, in good standing and authorized to do business in the State of Florida and d/b/a Palmer College of Chiropractic, Florida, having its principal business office located at: 4777 City Center Parkway, Port Orange, Florida 32129 ("Palmer" or "Tenant"), and hereinafter collectively referred to as the "Parties".

WHEREAS, the Parties entered into a Lease Agreement for the Allen Green Civic Center dated May 9, 2002; and

WHEREAS, the Parties entered into a First Amendment and Restatement of Lease Agreement for the Allen Green Civic Center dated February 10, 2003; and

WHEREAS, the Parties entered into a Second Amendment and Restatement of Lease Agreement for the Allen Green Civic Center dated March 20, 2007; and

WHEREAS, the Parties entered into an Addendum to Second Amendment and Restatement of Lease Agreement for the Allen Green Civic Center dated October 16, 2007; and

WHEREAS, the Parties entered into a Right of Entry Protocol for the Allen Green Civic Center dated March 25, 2008; and

WHEREAS, the Parties entered into a Second Addendum to Second Amendment and Restatement of Lease Agreement for the Allen Green Civic Center dated January 6, 2009, extending the term of the agreement for one year to terminate on March 31, 2010, at midnight; and

WHEREAS, the Parties desire to amend the Second Amendment and Restatement of Lease Agreement, as amended, as set forth in this Third Amendment and Restatement of Lease Agreement, hereinafter referred to as the "Third Amended Lease Agreement."

NOW, THEREFORE, the Parties, for good and valuable consideration, receipt whereof is hereby acknowledged, agree as follows:

- 1. Demised Premises.** The City is the owner of and hereby leases to Palmer and Palmer hereby leases and rents from the City the land and improvements located

thereon as more specifically defined hereafter. The demised premises is commonly referred to as the "Allen Green Civic Center" consisting of **16,972** square feet on the first floor, **2,955** square feet on the second floor and an expansion consisting of **9,404** square feet, for a **total of 29,331 square feet** of the building and structures, together with common grounds and vehicular parking facilities located at: 4705 Clyde Morris Boulevard, Port Orange, Volusia County, Florida and more particularly described on **Exhibit "A"** attached hereto ("Demised Premises"). Palmer shall occupy the Demised Premises as approved by the City Manager and the Parks and Recreation Director and as shown on the floor plan as described on **Exhibit "B."** Palmer, and its agents, employees and invitees shall have the non-exclusive right with others designated by the City to the free use of the common areas in the building and on the common grounds for the intended and normal purpose of such common areas and common grounds. Common areas shall include, but not be limited to, elevators (if any), sidewalks, parking areas, driveways, hallways, stairways, public restrooms, common entrances, lobby and other similar public areas and access ways. The City may change the common areas and common grounds if such changes do not materially and unreasonably interfere with Palmer's access and use of such common areas and common grounds.

2. **Term.** The term of this Third Amended Lease Agreement shall be for ten years, commencing on the 1st day of April, 2010, and extending until midnight on March 31, 2020, and for any additional periods of time during which the Demised Premises is leased by Palmer. The City shall have limited use of the general assembly room ("Auditorium") in the facility. The City and Palmer shall mutually agree upon the schedule for use of the Auditorium. Nothing in this Third Amended Lease Agreement shall prohibit the City from reasonable use of the facility or remaining properties as long as such use does not interfere with Palmer's use of the Demised Premises for purposes as described in Section 5a.
3. **Palmer Modifications.** To meet its growing needs, Palmer plans to make additional interior modifications from time to time. All modifications to the Demised Premises shall be subject to review for grant compliance and approval by the City prior to such modifications being made. At the City's sole option, all modifications shall be removed and the Demised Premises returned to its like condition at lease end.
4. **Payments and Credits.**
 - a. **Rental.** The rental rate shall be based upon the square footage of the Demised Premises totaling 29,331 square feet as follows:
 - (1) The rate of \$14.00 per square foot for years one (1) through three (3) of the Lease (April 1, 2010 – March 31, 2013) shall in each lease year equal **Four Hundred Ten Thousand Six Hundred Thirty-Four and no/100 Dollars (\$410,634.00)** annually, and shall be payable in **twelve (12) equal monthly installments of Thirty-four Thousand Two Hundred Nineteen and 50/100 Dollars (\$34,219.50).**
 - (2) The rate of \$16.00 per square foot for years four (4) through seven (7) of the Lease (April 1, 2013 – March 31, 2017) shall in each lease year

equal **Four Hundred Sixty-Nine Thousand Two Hundred Ninety-Six and no/100 Dollars (\$469,296.00)** annually, and shall be payable in twelve (12) equal monthly installments of **Thirty-Nine Thousand One Hundred Eight and no/100 Dollars (\$39,108.00)**.

- (3) The rate of \$16.50 per square foot for years eight (8) through ten (10) of the Lease (April 1, 2017 – March 31, 2020) shall in each lease year equal **Four Hundred Eighty-Three Thousand Nine Hundred Sixty-One and 50/100 Dollars (\$483,961.50)** annually, and shall be payable in twelve (12) equal monthly installments of **Forty Thousand Three Hundred Thirty and 13/100 Dollars (\$40,330.13)**.

Each rental payment described in Section 4.a. of this Third Amended Lease Agreement shall be payable on the first day of the month and each successive first day of the month thereafter, in advance, without notice or demand, **commencing on April 1, 2010**, hereafter referred to as the "Date of First Payment" and shall be delivered to: City of Port Orange, Florida, Attention: Accounts Receivable, 1000 City Center Circle, Port Orange, FL 32129. The rental specified herein shall be net to the City during the term of this Lease. The rental shall include the City's cost of insurance for the real property and general liability, cost of maintaining the structural, mechanical, electrical, plumbing, elevator or access equipment, if any, and other components for the building for the Demised Premises. All other costs, expenses and obligations of every kind including but not limited to electric, water and sanitary sewer services, telecommunications services, maintenance, janitorial and cleaning services, and maintenance of the surrounding grounds services relating to the Demised Premises which may arise or become due during the term of this Lease shall be paid by Palmer. The City shall be indemnified by Palmer against such costs, expenses, and obligations.

- b. **Palmer Credit.** Palmer shall receive an annual credit for taking over all exterior maintenance of the Demised Premises, including mowing, edging, landscaping, irrigation and maintenance of all surrounding grounds, to be credited in twelve (12) equal monthly installments, as follows:

- (1) Credit in an initial annual amount not to exceed **\$28,600.00 for years one (1) through three (3) of the Lease (April 1, 2010 – March 31, 2013)** shall equal **\$2,383.33 per month**.
- (2) Annual credit shall be increased not to exceed **\$30,500.00 for years four (4) through seven (7) of the Lease (April 1, 2013 – March 31, 2017)** and shall equal **\$2,541.67 per month**.
- (3) Annual credit shall be increased not to exceed **\$31,500.00 for years eight (8) through ten (10) of the Lease (April 1, 2017 – March 31, 2020)** and shall equal **\$2,625.00 per month**.

c. **Renewal and Replacement Payment.**

Beginning April 1, 2019, provided Palmer is then a tenant in possession under this Lease, Palmer shall pay to the City the amount of **Twenty-Five Thousand and no/100 Dollars (\$25,000.00) in twelve (12) equal monthly installments of Two Thousand Eighty-Three and 33/100 Dollars (\$2,083.33)** to cover the costs to the City for painting and replacing the carpet throughout the Demised Premises after Palmer vacates the Demised Premises.

d. **Early Termination Payments.**

In the event of Palmer's early termination of the Lease after the fifth year, under Section 16a, Palmer shall pay to the City a total sum of **Seventy-Five Thousand Dollars (\$75,000.00), to be paid in twelve (12) equal monthly installments of Six Thousand Two Hundred Fifty Dollars (\$6,250.00) during the final year of occupancy under the Lease.** This shall be the exclusive remedy available to the City under the terms of Section 16 of the Lease.

5. **Use of Premises.**

- a. Palmer shall use the Demised Premises for a private college, administrative offices, campus health center, clinical services, outpatient clinic, research center, and such uses as are generally appurtenant to the operation of a private college and campus. Palmer shall comply with all federal, state and local laws, rules and regulations applicable to the use of the Demised Premises. Palmer shall comply with the special event ordinances of the City of Port Orange for any special events held on the Demised Premises.
- b. As more specifically provided in the attached Right of Entry Protocol marked Exhibit C, the City reserves the right upon 24 hours notice to Palmer to use a portion of the Demised Premises for an emergency evacuation shelter for persons as designated by the City. The City shall use the Auditorium, kitchen, restrooms and other common areas, access ways and common grounds for emergency management purposes. Such use shall be considered an operation of the City who shall be responsible for any damage resulting from said operation. Similarly, in the event of such use as designated by the City, Palmer shall be entitled to reimbursement from the City of any and all reasonable and necessary expenses incurred by Palmer in excess of its average 3 prior billing cycles for utility services which Palmer is obligated to pay as described in Section 10.
- c. The City further reserves the right to use the new vehicular access and all driveways and parking lot areas across and within the Demised Premises for the purposes of vehicular and pedestrian ingress, egress, parking, and access to the City's adjoining property. The City's adjoining property includes the playing fields, the library parking and the fire station. The City may exercise its right of use as described herein during all times except the

normal hours of operation of Palmer's administrative offices, campus health center, clinical services, outpatient clinic and research center, not to exceed the hours of 7:30 a.m. to 7:30 p.m., Monday through Friday. In the event of a conflict or potential conflict arising out of this use and Palmer operations as may be needed in the future for Saturday operations, the matter shall be presented to the City Manager for final resolution in consultation with Palmer. The City shall prioritize its utilization of the Demised Premises to the northern most driveways and parking spaces for the vehicular ingress and egress from and to Clyde Morris Boulevard, except during special events requiring overflow parking to use the new vehicular access driveways leading to the adjoining City property northeast of the Demised Premises. The City shall provide Palmer with a calendar of special event utilization including four times per year for Family Days, Lakeside Jazz Fest, Fourth of July and the Art Show.

6. **Fixtures and Alterations.** Palmer shall not make or cause to be made any alterations, additions to the structural, mechanical, electrical, plumbing, access equipment or other components of the building and surrounding site improvements without first notifying the City as set forth in this Section. For all contemplated changes to the components of the building, Palmer shall supply to the City plans and specifications for such work, obtain written approval from the City Manager who shall be the Lease Administrator for the City, and Palmer shall apply for and obtain such permits as may be required under the Land Development Code of the City of Port Orange, Florida and other governing entities. Palmer shall provide performance and payment bonds equal to the value of all contracts for improvements naming the City as an insured. Palmer shall do all things necessary to prevent the filing of any liens for work, labor, services or materials performed or supplied or claimed to have been performed or supplied to Palmer, or anyone holding the Demised Premises, or any part of them, through or under Palmer. If any claim of lien is filed, Palmer shall have it cancelled of record within thirty (30) business days after the date of the filing or, if Palmer in good faith determines that the lien should be contested, Palmer shall furnish security to release the claim of lien as a lien against the property and to prevent any foreclosure, pending resolution of the contest. If Palmer does not release the claim of lien, the City may, but shall not be obligated to, release the claim of lien either by paying the amount claimed to be due or by procuring the release of claim of lien by giving security or in such other manner as may be prescribed by law. Palmer shall repay to the City all sums disbursed or deposited by the City pursuant to the foregoing provisions of this paragraph, including the City's costs, expenses and attorneys' fees reasonably incurred in connection therewith as additional rent hereunder on demand. Nothing contained herein shall imply any consent or agreement of the City or the owner of the entire premises to subject their interests to liability under any mechanics' or other lien law whether or not the performance or the furnishing of such work, labor, services or materials to Palmer or anyone holding the Demised Premises, or any part of them, through or under Palmer has been consented to by the City or the owner of the premises.
7. **Repairs to Demised Premises.** Upon learning of defects or operational deficiencies, Palmer shall provide verbal and written notice to the City identifying components of the building that require repair. The City shall expeditiously

commence and complete the repair, replacement or restoration of the building component to comply with all applicable building, plumbing, electrical, mechanical, accessibility and other codes and in compliance with the purchasing policies duly adopted by the City of Port Orange, Florida.

8. **Items Installed by Palmer.** All additions, alterations, expansions and improvements to the components of the building, grounds and parking lots, including but not limited to wall, ceiling and floor coverings, made by Palmer shall be the property of the City and shall remain the property of the City for the term of this Third Amended Lease Agreement or any extension or renewal thereof.
9. **Signs.** Palmer shall have the right to place upon the Demised Premises such sign or signs as may be necessary to designate the Demised Premises. Such signs shall be maintained in good condition and repair at all times, and shall comply with all zoning and sign requirements of the City of Port Orange. All permits necessary for such signs shall be obtained by Palmer at Palmer's expense.
10. **Utilities Services.** Palmer shall be responsible for all utility services and shall maintain an individual account with the various providers. Palmer shall be responsible for arranging access to and all fees associated with telecommunications services; including, but not necessarily limited to, telephone service, fire and security system monitoring, facsimile, and internet connection.
11. **The City's Right of Entry.** The City, or the City's agents or representatives, shall have the right to enter the Demised Premises during all reasonable hours with reasonable notice to Palmer to inspect the Demised Premises or to make repairs, additions, or alterations as may be deemed necessary for the safety of Palmer, or for the preservation of the Demised Premises or the building. The right of entry shall likewise exist for the purpose of removing placards, signs, fixtures, alterations, or additions which do not conform to this Third Amended Lease Agreement or to the rules and regulations of the Land Development Code as the same relates to the building and Demised Premises. Palmer shall at all times provide the City with keys to all portions of the Demised Premises. In possessing such keys, the City, its agents and representatives understand that Palmer maintains confidential patient, student, employee, and research records in paper and electronic media in portions of the Demised Premises. The Parties have agreed to the designated locations of such confidential records and have developed a separate right of entry protocol which balances Palmer's rights and responsibilities to maintain confidentiality with the rights and responsibilities of the City as Landlord. A copy of the Right of Entry Protocol dated March 25, 2008, is attached hereto as **Exhibit "C."** The Right of Entry Protocol shall remain in full force and effect during the term of this Third Amended Lease Agreement, and any renewal term.
12. **Assignment.** Palmer shall not sell, assign, mortgage, pledge or in any manner transfer this Third Amended Lease Agreement or any estate or interest thereunder and shall not sublet the leased premises or any part thereof without previous written consent of the City in each instance. The consent by the City to any assignment or subletting shall not constitute a waiver of the necessity for such consent to any subsequent assignment or subletting. The City may withhold its consent to a

proposed assignment of lease or sublease for any reason and shall not be required to accept a proposed assignee or sublease regardless of the reputation or financial responsibility of same. This prohibition against assigning or subletting shall be construed to include an assignment or subletting by operation of law. Palmer shall not permit any licensee or concessionaire therein without previous written consent of the City in each instance. The consent by the City shall not be unreasonably withheld for any licensee to use a portion of the Demised Premises in furtherance of Palmer's operation including, but not limited to, a bookstore or food/refreshment vending machine concession. Further, the consent of the City shall not be unreasonably withheld for any licensee to temporarily use a portion of the Demised Premises in furtherance of Palmer's operation including, but not limited to Palmer related expositions for equipment and professional products or services commonly recognized in the chiropractic profession, if limited to a maximum average of twenty (21) days per calendar quarter.

Notwithstanding the foregoing provisions of this Section, Palmer may assign or sublet the Demised Premises, without the City's consent, to any corporation or other entity which controls, is controlled by or is under common control with Palmer, or to any other corporation or entity resulting from the merger or consolidation with Palmer, or to any corporation or entity which acquires all or substantially all of the assets of Palmer provided that the assignee or subtenant executes a written agreement assuming, in full, the obligations of Palmer under this Third Amended Lease Agreement and agrees to be bound by all the terms and conditions thereof. No assignment or sublet of this Third Amended Lease Agreement at any time shall release Palmer of its obligations hereunder.

13. **Default by Palmer.** If any installment of rent shall remain due and unpaid for 30 days, or if Palmer shall materially violate or materially default on any of the other covenants, agreements or stipulations of this Third Amended Lease Agreement, the City may, at its option, and without notice in the case of failure to pay rent, and upon reasonable written notice and opportunity to cure as provided below in the case of the material breach of any of the other covenants, if such material breach continues unremedied: (1) elect to declare the entire balance of the rent, minus any rental credit for the leased term immediately due and payable by Palmer; (2) terminate Palmer's right to possession of the Demised Premises and enter the Demised Premises and remove all persons, furniture and equipment located therein; and (3) seek any and all remedies available to the City by statute or law. If Palmer defaults, materially or otherwise, on any covenant other than the payment of rent, the City shall set forth in the written notice, a reasonable time to cure the default which shall not be less than 15 days. Palmer shall take immediate steps to remedy the breach and shall diligently pursue such steps until completed and reasonably accepted by the City. No material default shall be deemed to continue if and so long as Palmer diligently proceeds to cure in good faith or is delayed in or prevented from curing by facts or circumstances beyond Palmer's control. If the material violation or material default continues after the expiration of a reasonable time to cure, as provided herein, then the City may terminate Palmer's right to possession of the Demised Premises and enter the Demised Premises and remove all persons, furniture and equipment located therein, and may seek any and all other remedies available to the City by statute or law. The Parties agree that for purposes of this Third Amended

Lease Agreement, the determination of the materiality of any violation or default shall be governed by Florida law and shall include the following criteria: (1) the extent to which the injured party will be deprived of the benefit which can reasonably be expected; (2) the extent to which the injured party can be adequately compensated for the part of the benefit of which the injured party will be deprived; (3) the extent to which the breaching party will suffer forfeiture; (4) the likelihood that the breaching party will cure; and (5) the extent to which the behavior of the breaching party comports with the standards of good faith and fair dealing. In the event of a dispute between the Parties as to the materiality of the violation or default, the Parties agree to participate in nonbinding mediation. Mediation shall be initiated at the written request of either party. Within 60 days of the notice requesting mediation the Parties shall select a mediator and schedule the mediation conference, unless additional time is mutually agreed upon by the Parties. Each party agrees to share equally in the cost of the mediator.

14. If the City has actual knowledge Palmer has abandoned the Demised Premises, or the City reasonably believes Palmer has been absent from the Demised Premises for a period of thirty (30) consecutive days with rent not current, then the City may serve a written notice of abandonment upon Palmer, and after ten (10) days have elapsed since service of such notice, then the City may declare this Lease abandoned, and shall, in such event, make reasonable efforts to relet the Premises. Damages shall include, but shall not be limited to, the following: (a) all actual damages suffered by the City until the property is relet, including reasonable expenses incurred in reletting or in attempting to relet; and (b) the difference between the rent received when the property is relet and the rent reserved under this Third Amended Lease Agreement. In calculating this difference, Palmer shall be given the benefit of any rental credit. After the premises have been relet, Palmer agrees to pay to the City, on the last day of each rental period, the difference between the rent received for the period from reletting and the rent reserved under this Third Amended Lease Agreement for that period. In calculating this difference, Palmer shall be given the benefit of any rental credit.
15. **Loss or Destruction of Demised Premises.** If the Demised Premises become, as a practical matter, totally untenable after a casualty loss such as fire, storm, explosion, earthquake, or other casualty loss, this Third Amended Lease Agreement shall be at an end from such time, except for the purpose of enforcing rights and obligations that may have then accrued under this Third Amended Lease Agreement, including but not limited to, the payment of insurance claims, indemnity, and any remaining rental credit. The rental shall then be accounted for between the City and Palmer up to the time of such injury or destruction of the Demised Premises, Palmer paying up to such date and the City crediting to Palmer the rents collected beyond such date, if any. Should only a part of the Demised Premises be rendered untenable, the rental minus any rental credit shall abate in the proportion which the injured part bears to the whole Demised Premises, and such part so injured shall be restored by the City as speedily as practicable, after which the full rent minus any rental credit shall recommence and the Third Amended Lease Agreement shall continue according to its terms.

16. Surrender or Early Termination of Lease by Palmer.

- a. The City agrees that Palmer may terminate this Third Amended Lease Agreement after the fifth year and before October 1, 2018 upon providing to the City 18 months written notice in advance of the intended voluntary or other surrender by Palmer of the Demised Premises. In the absence of any material default or material breach of covenants as otherwise set forth in this Third Amended Lease Agreement, such termination shall relieve Palmer of any further obligation for unpaid monthly rental payments subsequent to the surrender date and not yet due and payable. However, Palmer shall be responsible for early termination payments as set forth in Section 4d of this Third Amended Lease Agreement.
- b. In the event Palmer surrenders or terminates this Lease prior to the end of the fifth year, Palmer shall be responsible for making the monthly rental payments through the end of the fifth year, as set forth in Section 4a(1) and 4a(2) of this Third Amended Lease Agreement.

17. Attorney's Fees. In the event civil action shall be brought by one party against the other to enforce any term, condition, or statutory right arising out of this Third Amended Lease Agreement, the prevailing party may apply to the Court for its reasonable attorney's fees which shall be fixed by the Court.

18. Recordation. This Lease shall not be recorded by Palmer without the consent of the City.

19. Waste. Palmer agrees to commit or suffer no act that would result in damage to or waste of the Demised Premises.

20. Palmer's Personal Property. All personal property of Palmer in the Demised Premises shall be and remain in the Demised Premises at Palmer's sole risk and the City shall not be liable for any damage to nor loss of such personal property arising from any acts of negligence of any other persons; nor from the leaking of the roof; nor from the bursting, leaking or overflowing of water, sewer, or steam pipes; nor from heating or plumbing fixtures; nor from electric wires or fixtures; nor from any other cause whatsoever. Notwithstanding the foregoing, the City shall maintain personal property coverage for damage to the personal property of Palmer resulting from the negligence of the City's employees and agents.

21. The City's Personal Property. The personal property of the City in the Demised Premises is described on the inventory attached hereto as **Exhibit "D."** The City Manager shall be authorized to update the inventory list and to amend the inventory in writing as shown on Exhibit "D," from time to time, accordingly. The inventory shall remain within the Demised Premises and Palmer shall be permitted to utilize the inventory for its operations. Palmer shall be permitted to utilize the pews from the Auditorium. Palmer shall be responsible for any damage to the inventory resulting from Palmer or its agents' use and shall immediately repair any such damage incurred. Palmer shall not be liable for any damage to nor loss of such inventory arising from any acts of negligence of any other persons; nor from the

leaking of the roof; nor from the bursting, leaking or overflowing of water, sewer, or steam pipes; nor from heating or plumbing fixtures; nor from electrical wires or fixtures; nor from any other cause whatsoever. Notwithstanding the foregoing, Palmer shall maintain inventory coverage for damage to the inventory described on Exhibit "D" resulting from the negligence of Palmer's employees and agents. Except as otherwise provided herein, upon termination of this Third Amended Lease Agreement, the inventory shall be returned to the City in the same condition as originally received, excepting normal wear and tear.

22. Insurance, Loss, Indemnity, Liability.

- a. Palmer shall during the entire term of this Third Amended Lease Agreement except as provided otherwise, keep in full force and effect a policy of comprehensive general liability insurance with respect to the Demised Premises, in the amount of not less than One Million Dollars (\$1,000,000.00) per occurrence. Further, the City shall provide property insurance for the building for its full replacement cost.

Palmer shall reimburse the City for 50% of the cost of property insurance. Palmer shall be responsible to insure its personal property located within the Demised Premises.

The policy(ies) shall name the City, as an additional insured, and shall contain a clause that the insurer will not cancel or change the insurance without first giving the City thirty (30) days prior written notice, except for non-payment of premium which, by law, is ten (10) days notice. The insurance shall be evidenced by a certificate in a form acceptable to the City, stating the amount of any "deductible," written by an insurance company reasonably acceptable to the City, and a copy of the policy or certificate of insurance shall be delivered to the City prior to the commencement of this Lease.

In the event Palmer shall fail to procure the insurance, the City may, but shall be under no obligation to, procure insurance in which event Palmer agrees to pay to the City, as additional rent, the amount of the premium on the first day of the month following the month in which the City notifies Palmer of the amount of the premium due. The City Manager shall be authorized to approve in writing amendments to this paragraph, from time to time, to adjust insurance limits and coverage consistent with City policy and in keeping with the nomenclature of the insurance industry.

- b. Palmer shall indemnify, defend and hold the City and its officers, agents, representatives and employees harmless from and against any and all claims, actions, damages, liability and expense in connection with loss of life, personal injury and/or damage to property arising from or out of any occurrence resulting from Palmer's operation of the college directly related to its use and occupancy of the Demised Premises or any part of the Demised Premises occasioned wholly or in part by any act or omission of Palmer or those acting under Palmer or Palmer's agents, and employees, including students under the supervision of instructors and student body activities

sanctioned by Palmer. In the event that the City shall, without fault on its part, be made a party to any litigation commenced by or against Palmer, City shall promptly notify Palmer in writing of any claim asserted against the City hereunder, and shall promptly deliver to Palmer the original or a true copy of any summons or any process, pleading or notice issued in any suit or other proceeding to assert or enforce any such claim. Palmer may defend any such suit brought against itself and also the City with Palmer's own attorneys and the City may participate in such defense at its expense. Palmer shall fully comply with all health and police regulations of insurance carriers writing policies covering the building and Demised Premises. The City shall not be responsible for student actions occurring on the Demised Premises.

23. **Severability.** If any portion of this Third Amended Lease Agreement shall be adjudged to be invalid, such portion shall be deemed severable, and shall not invalidate or impair the Lease Agreement as a whole or any other provision of the Lease Agreement.
24. **The Parties are Not Partners.** It is expressly understood that neither the City nor Palmer shall be construed or held to be a partner or associate of the other in the conduct of their respective business. The relationship between the Parties hereto is and shall remain at all times that of Landlord and Tenant.
25. **Notices.** Except for the monthly rental, all notices shall be put in writing, sent by certified or registered mail or shall be delivered in hand to:

Landlord: Attention: Lease Administrator/City Manager
Mailing Address: City of Port Orange, Florida
1000 City Center Circle
Port Orange FL 32129

Tenant: Attention: Treasurer
Mailing Address: Palmer College Foundation, Inc.
1000 Brady Street
Davenport, Iowa 52803

With a written copy of any such to notice to:

Attention: _____
Administration
4777 City Center Parkway
Port Orange, FL 39129-0153

This paragraph shall apply to notices provided for in this Third Amended Lease Agreement or by the laws of the State of Florida.

26. **Mitigation of Damages.** Notwithstanding any contrary covenant, agreement, or stipulation of this Third Amended Lease Agreement, the City and Palmer shall each have the obligation to mitigate, in every reasonable manner, all damages that may or

shall be caused or suffered by virtue of the other's defaults under or in violation of any covenant, agreement or stipulation.

27. **Written Agreement.** This Third Amended Lease Agreement contains the entire agreement between the Parties hereto and all previous negotiations leading thereto, and it may be modified only by an agreement in writing signed and sealed by the City and Palmer. This Third Amended Lease Agreement shall be interpreted in accordance with the laws of the State of Florida and venue for any litigation involving this Third Amended Lease Agreement shall be in Volusia County, Florida. Upon early termination, surrender or abandonment, Palmer shall provide written notice of same.
28. **Time.** Time is of the essence in all of the terms and provisions of this Third Amended Lease Agreement.
29. **Peaceful Possession.** Subject to the terms, conditions and covenants of this Third Amended Lease Agreement, Palmer shall and may peaceably have, hold and enjoy the Demised Premises without hindrance or molestation by the City.
30. **Captions.** The captions appearing in this Third Amended Lease Agreement are for reference purposes only and shall not be considered to vary, modify, or amend said Third Amended Lease Agreement.
31. **Counterparts.** This Third Amended Lease 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 of an executed copy of this Third Amended Lease Agreement shall be deemed valid as if an original signature was delivered.

THE REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK.

IN WITNESS WHEREOF, the Parties hereto have signed, sealed, and delivered this Lease Agreement the day and year stated hereinafter.

LANDLORD:
CITY OF PORT ORANGE, FLORIDA

Witness

By: _____
Allen Green, Mayor

Witness

Witness

Attest: _____
Kenneth W. Parker, City Manager

Witness

Date Signed: _____, 2009

Corporate Seal

STATE OF FLORIDA
COUNTY OF VOLUSIA

The foregoing instrument was acknowledged before me this ____ day of _____, 20__, by Allen Green and Kenneth W. Parker, the Mayor and City Manager, respectively, duly authorized to execute the foregoing THIRD AMENDMENT AND RESTATEMENT OF LEASE AGREEMENT on behalf of the **CITY OF PORT ORANGE, FLORIDA**, a chartered municipal corporation, and who [] are personally known to me, or [] have produced _____ as identification.

(Seal)

Notary Public, State of Florida at Large
Printed name, commission and expiration:

TENANT:

Palmer College Foundation, Inc., an Iowa not-for-profit corporation, d/b/a Palmer College of Chiropractic, Florida

Mary Johnson
Witness
Claudia Jenkins
Witness

By: Thomas L. Tiemeier
Thomas L. Tiemeier, Treasurer and Vice
Chancellor for Administration

Date Signed: December 14, 2009

STATE OF IOWA
COUNTY OF SCOTT

The foregoing instrument was acknowledged before me this 14th day of December, 2009, by Thomas L. Tiemeier, Treasurer and Vice Chancellor of Administration, duly authorized to execute the foregoing THIRD AMENDMENT AND RESTATEMENT OF LEASE AGREEMENT on behalf of Palmer College Foundation, Inc., an Iowa not-for-profit corporation, d/b/a Palmer College of Chiropractic, Florida, and who ☐ is personally known to me, or ☐ has produced Driver's License as identification.

Inne Lindstrom
Notary Public, State of Iowa at Large
Printed name, commission and expiration: 2/2011

(Seal)

EXHIBIT A

THE WEST ONE-HALF (1/2) OF THE FOLLOWING DESCRIBED PROPERTY:

Part of the South one-half of Government Lots 5 and 6, Section 8, Township 16 South, Range 33 East, Volusia County, Florida, being more particularly described as follows:

From a Point of Beginning being a concrete monument marking the Northwest corner of Lot 3, KINGSWOOD SUBDIVISION as recorded in Map Book 35, Pages 113 and 114 of the Public Records of Volusia County, Florida; thence South 00 degrees 18 minutes 15 seconds East along the West line of Lots 3 through 8 (shown as S. 00-38-50 E on said plat) for a distance of 450.06 feet to a concrete monument marking the Northeast corner of Lot 10, said KINGSWOOD SUBDIVISION; thence South 89 degrees 30 minutes 08 seconds West along the North line of Lots 10 through 18 (shown as S 89-03-00 W on said plat) for a distance of 806.64 feet to the Easterly right of way line of Clyde Morris Boulevard (a 100 foot wide right of way as described in Official Records Book 3331, Page 587); thence North 07 degrees 30 minutes 34 seconds West along said East right of way line for a distance of 453.28 feet to the North line of the South one-half of said Government Lots 5 and 6, said North line being also the North line of the South 1/2 of the Southwest 1/4 of said Section 8; thence North 89 degrees 20 minutes 08 seconds East along said North line of the South one-half of Government Lots 5 and 6, being along the South boundary of lands described in Official Records Book 3148, page 1572, and Official Records Book 1619, page 322, for a distance of 863.50 feet to the Point of Beginning of this description.

THE ABOVE PROPERTY MAY ALSO BE DESCRIBED AS FOLLOWS:

THE WEST ONE-HALF (1/2) OF THE FOLLOWING DESCRIBED PROPERTY:
A portion of the Southwest quarter of Section Eight (8), Township Sixteen (16) South, Range Thirty-Three (33) East, described as follows:

Commencing at a 2-inch iron pipe marking the Southwest quarter of said Section 8, thence North 88 degrees 44 minutes 50 seconds East along the Southerly line of said Section 8 a distance of 891.55 feet to a point in the center line of the Samsula-Port Orange Road; thence North 7 degrees 52 minutes 40 seconds West along the center line of said Samsula-Port Orange Road a distance of 872.02 feet to Place of Beginning; thence North 89 degrees 3 minutes East a distance of 856.81 feet; thence North 0 degrees 38 minutes 10 seconds West a distance of 450 feet to a point in the North line of the South half of the Southwest Quarter of said Section 8; thence South 89 degrees 03 minutes West along the North line of the South half of the Southwest quarter of said Section 8 a distance of 914.02 feet to the center line of the said Samsula-Port Orange Road; thence South 7 degrees 52 minutes 40 seconds East a distance of 453.31 feet to the Place of Beginning, LESS AND EXCEPT that portion taken for road right-of-way.

EXHIBIT "A"

Exhibit "B"

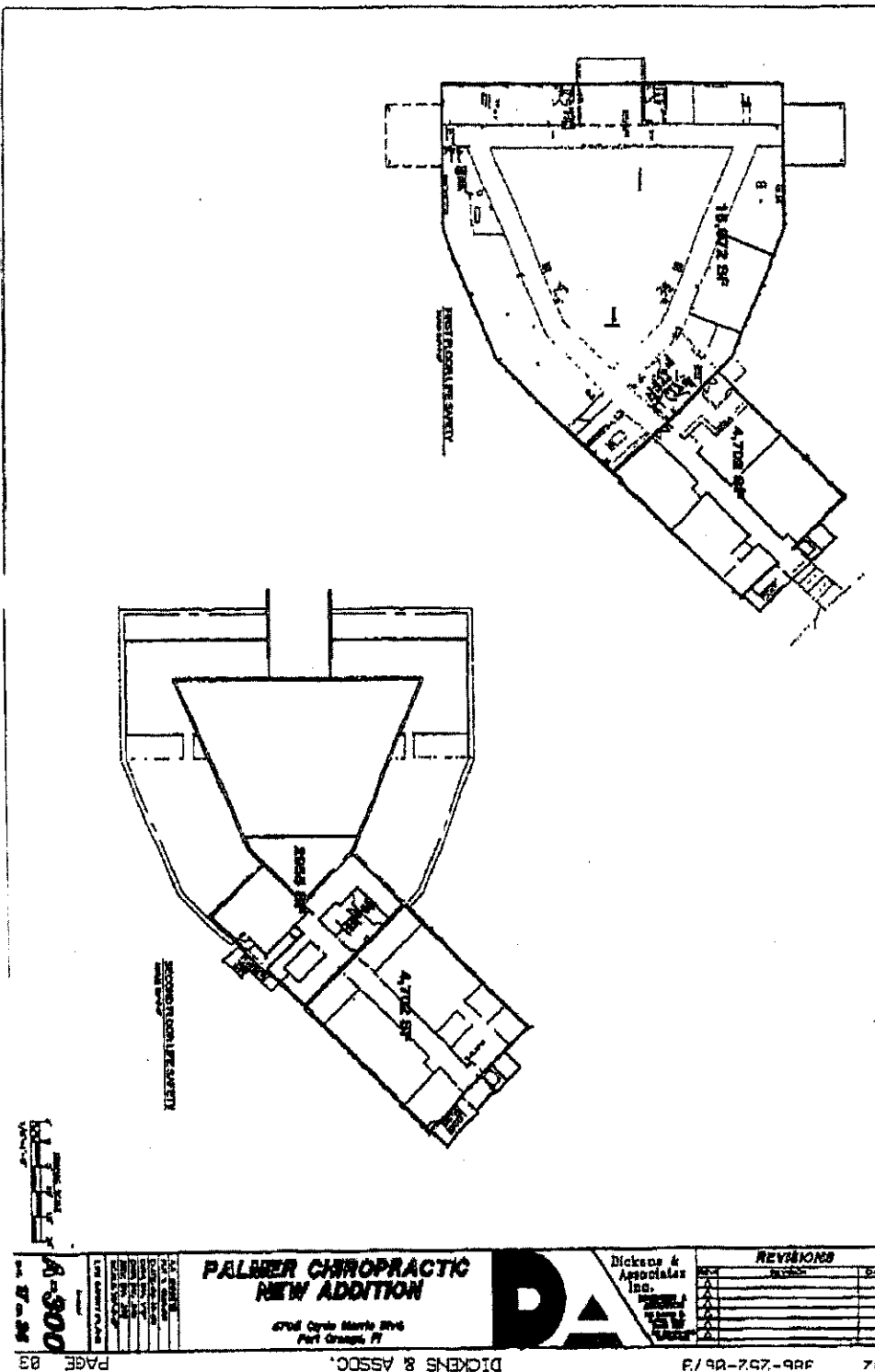


EXHIBIT "B"

RIGHT OF ENTRY PROTOCOL

This Right of Entry Protocol ("Protocol") is made and entered into the day and year set forth herein by and between the **City of Port Orange, Florida**, a chartered municipal corporation with its principal business offices located at 1000 City Center Circle, Port Orange, Volusia County, Florida 32129 ("City" or "Landlord") and **Palmer College Foundation, Inc.**, a not for profit corporation duly organized under the laws of the State of Iowa, in good standing and authorized to do business in the State of Florida and d/b/a Palmer College of Chiropractic Florida, having its principal business office located at 4777 City Center Parkway, Port Orange, Florida 32129 ("Palmer" or "Tenant") and hereinafter collectively referred to as the Parties.

WHEREAS, the Parties entered into a Second Amendment and Restatement of Lease Agreement dated March 20, 2007 ("Lease") of the Demised Premises ("Allen Green Civic Center or AGCC") to be used by Palmer for a private college, administrative offices, campus health center, clinical services, outpatient clinic, research center, and such uses as are generally appurtenant to the operation of a private college and campus;

WHEREAS, section 5b of the Lease reserves to the City the right, upon 24 hours notice to Palmer, to enter and use a portion of the AGCC for an emergency evacuation shelter for persons as designated by the City;

WHEREAS, section 5b of the Lease authorizes the City to use the AGCC's general assembly room (auditorium), kitchen, restrooms and other common areas, access ways and common grounds for emergency management purposes;

WHEREAS, section 11 of the Lease provides the City with keys and the right to enter all portions of the AGCC during all reasonable hours with reasonable notice to Palmer to inspect, to make repairs, additions or alterations for the safety of Palmer or for the preservation of AGCC or the building;

WHEREAS, section 11 of the Lease recognizes the City's right of entry to the AGCC is subject to Palmer's confidential patient, student, employee and research records in paper and electronic media located in portions of the AGCC;

WHEREAS, as further provided in section 11, the parties agreed to designate the locations of such confidential records and to develop this protocol which balances Palmer's rights and responsibilities to provide clinical services while maintaining confidentiality with the rights and responsibilities of the City as Landlord which would include the City's reservation to use a portion of the AGCC for an emergency evacuation shelter; and

Page 1 of 5

EXHIBIT "C"

WHEREAS, the City shall make every effort to work with Palmer to coordinate the timing of the access; and

WHEREAS, Palmer recognizes in the event the City gives notice of access in response to emergency conditions the City will act as quickly as possible to restore the Demised Premises; and

WHEREAS, pursuant to the Lease, the City and Palmer have jointly drafted this Protocol.

NOW, THEREFORE the Parties, for good and valuable consideration, receipt of which is hereby acknowledged, agree as follows:

1. Palmer designates the following rooms within AGCC as repositories of confidential patient, student and employee, and research records in paper and electronic media:

- (a) #101 Office
- (b) #103 Office
- (c) #103A Office
- (d) #104 Storage
- (e) #105 Office
- (f) #105A Office
- (g) #105B Office
- (h) #112 Storage
- (i) #113 Office
- (j) #115 Records Room
- (k) #117 Records Room
- (l) #216 Faculty Office
- (m) #306F Faculty Office
- (n) #317 Faculty Office
- (o) #407F Faculty Office
- (p) #410B Faculty Office

The above room designations may be changed by Palmer from time to time upon written notice to:

Attention: City Manager
City of Port Orange, Florida
1000 City Center Circle
Port Orange, FL 32129

2. The above referenced rooms are accessible to the City with reasonable notice via telephone or email from the City to one or more of the following Palmer officials for the purposes specified in section 11 of the lease:

Page 2 of 5

EXHIBIT "C"

- (a) Facilities Manager Brad Kuhns
Palmer Phone (386) 763-3690
Palmer Fax: (386) 763-2751
email: Brad.Kuhns@palmer.edu
Cell phone: (386) 566-7180
- (b) Director of Clinics, Albert Luce
Palmer Phone (386) 763-2754
Palmer Fax: (386) 763-2716
email: Al.Luce@palmer.edu
Cell phone: (321) 948-6535
- (c) Director of Institutional Support George Bertish
Palmer Phone (386) 763-2669
Palmer Fax: (386) 763-2643
email: George.Bertish@palmer.edu
cell phone: (386) 503-9456

The above listed Palmer officials and/or their respective contact information may be changed from time to time upon written notice by Palmer to the City as provided in paragraph 1 above.

3. If, and in the event, the City provides notice for access under section 11, Palmer shall have the right and the responsibility to designate a representative to be present to protect and maintain the confidentiality of its records while the City has access to one or more of such rooms.

4. If, and in the event, the City exercises its section 5b right to enter and use a portion of the AGCC for an emergency evacuation shelter, then such 24 hour notice from the City shall be timely provided to one or more of the Palmer officials listed in paragraph 2 of this Protocol.

5. Upon receipt of the City's notice designating an emergency shelter, Palmer shall have the right to secure and lock the rooms listed in paragraph 1 of this Protocol in order to protect and maintain the confidentiality of its records subject only to the City's rights under section 11 of the Lease. If, and in the event, the City also provides notice for access under section 11 after providing the section 5b emergency shelter notice, Palmer shall have the right and the responsibility to designate a representative to be present to protect and maintain the confidentiality of its records while the City has access to one or more of such rooms designated in paragraph 1 of this Protocol.

6. Upon notification of the need for an emergency evacuation shelter, the City and Palmer shall make their best efforts under the circumstances to designate a representative of each who will be responsible to coordinate their respective actions as Landlord and Tenant.

Page 3 of 5

EXHIBIT "C"

7. Without abandoning its then existing clinic patients' chiropractic needs, Palmer shall curtail but not eliminate its clinical operations to reasonably accommodate the City's need to not only prepare but also maintain the AGCC to house an emergency evacuation shelter.

8. In addition to the chiropractic care described in the preceding paragraph, Palmer shall on a case by case basis provide emergency chiropractic care to first responders and sheltered individuals provided:

- (a) appropriate space and functioning equipment is available in AGCC; and
- (b) available faculty who are authorized to practice chiropractic under Florida law volunteer to provide necessary chiropractic emergency care pursuant to Florida Statute §768.13 known and cited as the "Good Samaritan Act".

9. Except as provided in paragraphs 1 and 2, this Protocol may be modified only by an agreement in writing signed by the parties as provided in Section 26 of the Lease.

10. This Protocol shall remain in full force and effect during the remaining term of the Lease provided Palmer is in physical possession of AGCC.

11. This Protocol 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 of an executed copy of this Protocol shall be deemed valid as if an original signature was delivered.

IN WITNESS WHEREOF, the Parties hereto have signed, sealed, and delivered this Right of Entry Protocol on the day and year stated hereinafter.

Shirley M. Kelly
Witness
Myr J. Retire
Witness
Shirley M. Kelly
Witness
Myr J. Retire
Witness

Landlord:
CITY OF PORT ORANGE, FLORIDA

By: Allen Green
Allen Green, Mayor

Attest: Kenneth W. Parker
Kenneth W. Parker, City Manager

Date Signed: March 25, 2008

Corporate Seal

Page 4 of 5

EXHIBIT "C"

STATE OF FLORIDA
COUNTY OF VOLUSIA

The foregoing instrument was acknowledged before me this 25th day of March, 2008, by Allen Green and Kenneth W. Parker, the Mayor and City Manager, respectively, duly authorized to execute the foregoing RIGHT OF ENTRY PROTOCOL on the behalf of the CITY OF PORT ORANGE, FLORIDA, a chartered municipal corporation, and who ☒ are personally know to me, or ☐ have produced _____ as identification.

(Seal)



[Signature]
Notary Public, State of Florida at Large
Printed name, commission and expiration:

Tenant:
Palmer College Foundation, Inc. an Iowa not-for-profit corporation, d/b/a Palmer College of Chiropractic, Florida

[Signature]
Witness

By: [Signature]
Thomas L. Tiemeier, Authorized Agent

Witness

Date Signed: March 17, 2008

Corporate Seal

STATE OF IOWA
COUNTY OF SCOTT

The foregoing instrument was acknowledged before me this 17 day of March, 2008, by Thomas L. Tiemeier, Chief Financial Officer and being duly authorized to execute the foregoing RIGHT OF ENTRY PROTOCOL on behalf of Palmer College Foundation, Inc. an Iowa not-for-profit corporation, d/b/a Palmer College of Chiropractic, Florida, and who ☐ is personally known to me, or ☐ has produced _____ as identification.

(Seal)

[Signature]
Notary Public, State of Iowa at Large
Printed name, commission and expiration



EXHIBIT "C"

CITY OF PORT ORANGE
LISTING OF CITY PROPERTY
ALLEN GREEN CIVIC CENTER
4705 CLYDE MORRIS
PORT ORANGE, FL 32129

W

Room/Area:

Pastor's Study: Book shelves attached to wall stay at the Church. NOTE: All book shelves in the building that are attached stay with the building.

Main Auditorium/Sanctuary:

1. Pews: City has a one (1) year option on -pew seating to retain or replace the seating with another seating arrangement. Should the City wish to purchase pew seating a mutually agreeable price will be negotiated. If no agreement is reached on the purchase of pews, the church may sell the pews or take seating when they vacate the building.
2. Sound System(includes the following):

- Table in Sound Booth
 - All mounted speakers (10) with auxiliary control
 - (2) Foyer
 - (4) Sanctuary
 - (1) Nursery
 - (3) Fellowship Hall
 - Lights control panel mounted in Sound System Booth
 - Automatic Screen mounted in ceiling above platform
 - And switch located in Sound System Booth.
 - Sound Board - 16 inputs
 - Equalizer #1 Ross R-12SP
 - Stereo Amplifier (2)
 - Pyramid Amplifier PA-310
 - Digitec Programmable Equalizer
 - FXR Digital Multiple Effects Processor
 - Philips Magnavox Five Disk CD Player
 - TEAC Dual Track Tape Deck
 - TEAC Dual Track Tape Deck
 - (3) Handheld Microphones/wireless
 - (2) Dual Channel Wireless Microphone Receivers
 - (2) PL66 Microphones with cords
 - (2) Samson Microphones with cords, 1-S2's, 1-S1's
- Prescolite Series 7-12
- Peavy Unity Series 2000
Serial # OA-04712920
Serial #001984
QSC-MX700's/Serial
#089349627 & #09942968
Serial #000705
Model Mono 28/Serial
33855233
Serial #423-050884843
Serial # KQ019611-10302282
Model W-350/Serial # 535954 93
Model EW-750R/Serial #03026102
Colors Blue, Yellow, White

Confidential

EXHIBIT "D"
Page 1

5/31/2007

CITY OF PORT ORANGE
LISTING OF CITY PROPERTY
ALLEN GREEN CIVIC CENTER
4705 CLYDE MORRIS
PORT ORANGE, FL 32129

- (4) Microphone Stands with Microphone holders
 - (1) Lapel microphone/wireless
 - (1) Receiver for lapel wireless Microphone
 - (9) Drop Microphones
 - (7) White Crown
 - (2) Black
 - (2) Monitors located on platform
 - (2) Horizon monitors
- Samson VT-1, Serial #12101254
Samson VR-1, Serial #14101458
CM-30VV
A-T853A
Serial #9426308 & #9426309
3. Risers: (27) Carpeted Stage risers
4. Handicap Wheelchair Lift: This equipment stays in the auditorium

Kitchen

- Continental Refrigerator/Freezer Stainless Steel
- Maytag Dishwasher
- (2) Oven/Microwaves-Kenmore
- GE - Hotpoint Built in Stove
- Misc.rolls of carpet remnants

NOTE: Items missing from previous list September 2, 1999 when the City of Port Orange purchased the Port Orange Church of the Nazarene.

- (1) Handheld Microphones/wireless
- (2) Samson Microphones with Cords,

Confidential

EXHIBIT "D"
Page 2

5/31/2007

184 SF

MODULE 1

1478 SF

INSURANCE/
BILLING OFFICE

OR

2

883 SF

BB

ACTIVE/PASSIVE CARE

CITY OF PORT ORANGE
CLINIC
~ 1800 sq ft

COMPUTER
LAB

FACULTY
OFFICE

216

FACULTY
OFFICE

317

MEETING ROOM

BB

883 SF

1793 SF

MECH

304



CITY COUNCIL AGENDA ITEM

REQUESTED COUNCIL MEETING DATE 01/05/2016

Consent item: No

SUBJECT: Discussion regarding for YMCA Phase Three Renovations

DEPARTMENT: Parks & Recreation

GOAL: 1 - Quality of Life

OBJECTIVE: 1 - Maintain existing beautification efforts and implement phases not yet complete2

RECOMMENDED MOTION: Discussion of additional information relating to the previously considered contract award to A.G. Pifer for \$208,938 for Phase Three renovations to the YMCA.

SUMMARY: Phase three renovations of the YMCA will include improvements to the Men's locker room and women's lobby restroom. Included in the work will be new partitions, fixtures, floor and ceiling tiles, and lockers. Bid # 15-33 was opened on October 22 and we received one bid from AG Pfifer Construction. The estimated base project cost was \$145,000 the base bid opened was for \$189,969. The bid also called for three alternates, fiberglass doors (\$11,863), Z style lockers (\$7,562) and electric hand dryers (\$1,250). Since the project is over budget we are only bringing forward the base bid plus 10% unforeseen conditions due to the nature of the renovation at \$18,969 for a total project cost of \$208,938. Funding is available in the YMCA R&R fund.

Additional detail relating to the previously recommended contract award to A.G. Pifer is available for council consideration.

Project No.: QPC060 Funding Account No.: 106-1000-572.63-97
106-1000-572.63-97

ATTACHMENTS:

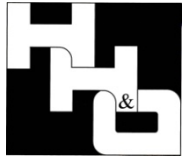
1.	Architects letter	BidRecommendation.pdf
2.	Bid Tab	Bid#15-33 YMCA Bid Tabulation.pdf
3.	AIA Agreement	AIA.pdf
4.	Fund 106 Analysis	Copy of YMCA Analysis through 9.30.15 TR.pdf

Lovallo, Susan
Lovallo, Susan
Riehm, Tracey

Created/Initiated - 12/29/2015
Approved - 12/29/2015
Approved - 12/29/2015

Roberts, Margaret
Johansson, M. Jake

Approved - 12/31/2015
Final Approval - 12/31/2015



HAWKINS, HALL & OGLE ARCHITECTS, INC.

208 MAGNOLIA AVENUE
DAYTONA BEACH, FL 32114
(386) 255-6163 FAX (386) 257-5650

AA-C000925

December 17, 2015

Susan Lovallo, Director
Parks & Recreation Department
City of Port Orange
1000 City Center Circle
Port Orange, FL 32129

Re: YMCA Phase III Remodel
Bid Recommendation

Susan:

As requested, I have reviewed the bid received from A.G. Pifer Construction, Inc. for the Phase III Remodel of the Port Orange YMCA and offer the following comments.

When the budget was established for this project by the YMCA over a year ago, it was \$145,000. However, that didn't include new lockers which is evident on the attached document. At that time, the lockers were to be bid as an alternate. There are 153 lockers in this project and the bid amount for those came in at \$63,000. When you add those numbers together, it comes up to \$208,000. Additionally, the original scope did not include new ceiling grid, it was to be painted only. Our documents call for a new FRP ceiling grid which will never corrode in the damp environment of the locker room and restrooms. The base bid for the project came in at \$190,000, in round numbers, so considering the above figures, the project is actually more than \$18,000 under the original YMCA budget. We have specified high quality products throughout, including carpet, ceilings, lockers, etc., so actually when viewed in this light, the YMCA is getting more than they requested originally, and for less than the original budget. If the lockers had been bid as an alternate, the base bid would be somewhere around \$127,000.

As far as only having one responsive bidder on the project, this doesn't surprise me in the least. The current marketplace in the Volusia County area has become so competitive and everyone is so busy, the Contractors and subcontractors alike have become very selective in the projects that they pursue. This project is a challenging project that will require a tremendous amount of supervision and quite frankly, there isn't a lot of money to be made. Many contractors would figure it isn't worth the headaches for the small amount of profit.

The responsive bidder on the project, A.G. Pifer Construction, is a well known, established Volusia County contractor with relevant experience working in Port Orange with a successful track record. Our firm has done many successful projects with their firm, and would have no hesitancy in working with them on the YMCA project.

JOHN E. HALL

DAVID D. OGLE

Therefore, it is my professional opinion, based on the amount of the base bid when compared to the original scope of work and the YMCA's budget, there is no reason why the contract should not be awarded to A.G. Pifer Construction, Inc. I don't believe that there would be any benefit in bidding the project again just to get one or two more bidders, if that. The numbers are what they are, and they will not change much on the second go around. If the YMCA has the available funds to complete this project, I believe the base bid is a very fair number for the value that they will be receiving. Please let me know if you require anything further or if you have any additional questions.

Respectfully,

A handwritten signature in black ink, appearing to read "David D. Ogle". The signature is fluid and cursive, with the first name "David" being the most prominent.

David D. Ogle, Principal/Vice President



YMCA Remodel Phase III – Men’s Locker Room and Ladies Lobby Restroom Project

Scope of Services:

Men’s Locker Room Renovation: YMCA management estimated construction cost @ \$135,000, exclusive of architectural fees, permits, etc.

- A. Patch and repaint all walls in the men’s locker room as specified in the architectural drawings.
- B. Replace all ceramic tile in the men’s locker room floor including base.
- C. Demo all existing tile walls and replace all the shower stalls and tiles in the showers.
- D. Replace all ceiling tiles throughout facility.
- E. Prime and paint all ceiling grids prior to installation.
- F. Toilet partitions to remain.
- G. Replace all millwork three sinks and hardware (faucets).
- H. Replace all shower handles, heads and valves.
- I. Upgrade lighting.
- J. Paint all door frames, doors, doors inside and out in locker room and add kick plates.
- K. Price additional alternate to replace lockers throughout facility.
- L. Replace sauna floor and benches and stain wood interior and exterior, price and as an add alternate.
- M. Replace shower tile on walls and floors throughout shower area.
- N. Upgrade all toilet flush valves for water efficiency.
- O. Replace lockers as an add alternate.
- P. Replace mirrors (3 areas) in the locker room.
- Q. Replace toilet paper dispensers and soap dispensers.

Ladies Lobby Restroom: YMCA management estimated construction cost @ \$10,000, exclusive of architectural fees, permits, etc.

- A. Repair and repaint entire bathroom.
- B. Replace millwork, sink and faucet.
- C. Replace mirrors (2).
- D. Paint door frame, door, add kick plates.
- E. Replace baby changer.
- F. Demo Floor and retile.
- G. Replace toilets and flush valves.
- H. Paint ceiling grid and replace all ceiling tiles.
- I. Replace toilet paper dispensers.
- J. Upgrade lighting.
- K. Replace toilet partitions.

The total remodel for both the Men’s Locker Room and Ladies Lobby Restroom should take 80 days from notice to proceed to substantial completion.



City of Port Orange
1000 City Center Circle
Port Orange, FL 32129

BID Opening Tabulation Total

Bid Opening, Thursday October 22 at 2:30 p.m.
Council Chambers

BID # 15-33: YMCA REMODEL PHASE III

Bid Release Date: September 18, 2015

Mandatory Pre-Bid Meeting Date & Time: September 29, 2015 at 8:30 a.m.

Last Day for Questions: October 6, 2015 by 5:00 p.m.

Bid Due Date & Time: October 22, 2015 at 2:30 p.m.

Bid packages shall be submitted using a one (1) envelope system. The envelope shall contain all required, technical, and price forms. The envelope will be opened and evaluated by the City's Purchasing Manager on the bid due date and time.

Bidder's Submittal Checklist:

Envelope: (1) original, (2) copies and (1) CD or flash drive version of the bid tabbed, indexed, and placed in the following order:

1. Bidder Acknowledgement Form: (Section 00030)
2. Insurance certificates: Submit a copy (Section 00080)
3. Statement of Bidder's Qualifications (Section 00130)
4. Listing of Previous Experience: (Section 00140)
5. Subcontractors List: (Section 00150)
6. Bid Bond (Section 00160)
7. Public Entity Crime Statement: (Section 00170)
8. Anti-Collusion Statement (Section 00180)
9. Drug Free/Tie Preference Statement (Section 00190)
10. Florida Certified Contractor's License
11. Verification to do business in Florida (Sunbiz)
12. Total Base Bid: (Section 00120)
13. Local Business Affidavit (Section 00125 -optional)



BID # 15-33: YMCA REMODEL PHASE III

Bid/Proposal Receipt List

AKN ADD

15-33 Requirements		1 Original, 2 Copies, 1 CD or Flash			
1	Bidder Acknowledgement Form		A.G. PFER	✓	
2	Insurance Certificates			✓	
3	Statement of Bidder's Qualifications			✓	
4	Listing of Previous Experience			✓	
5	Subcontractor's List			✓	
6	Bid Bond			✓	
7	Public Entity Crime Statement			✓	
8	Anti-Collusion Statement			✓	
9	Florida Certified Contractor's License			✓	
10	Verification to do Business in Florida (Sunbiz)				
11	Total Base Bid		\$189,969.00		
	Alternate #1: Fiberglass Doors		\$11,863		
	Alternate #2: Z-Style Lockers		\$7,568		
	Alternate #3: Electric Hand Dryers		\$1,250		
12	Local Business Affidavit			✓	

The following information is a record of the submitters as received at the time of opening. All proposals are subject to review by the City and award requires a formal contract and approval by City Council. Opened & Tabulated By: Joseph A. Gomez, Purchasing Manager



AIA[®] Document A101[™] – 2007

Standard Form of Agreement Between Owner and Contractor where the basis of payment is a Stipulated Sum

AGREEMENT made as of the _____ day of _____ in the year _____
(In words, indicate day, month and year)

BETWEEN the Owner:
(Name, address and other information)

and the Contractor:
(Name, address and other information)

for the following Project:
(Name, location and detailed description)

The Architect:
(Name, address and other information)

The Owner and Contractor agree as follows.

ADDITIONS AND DELETIONS:

The author of this document has added information needed for its completion. The author may also have revised the text of the original AIA standard form. An *Additions and Deletions Report* that notes added information as well as revisions to the standard form text is available from the author and should be reviewed. A vertical line in the left margin of this document indicates where the author has added necessary information and where the author has added to or deleted from the original AIA text.

This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.

AIA Document A201[™]–2007, General Conditions of the Contract for Construction, is adopted in this document by reference. Do not use with other general conditions unless this document is modified.

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(945115729)

TABLE OF ARTICLES

1	THE CONTRACT DOCUMENTS
2	THE WORK OF THIS CONTRACT
3	DATE OF COMMENCEMENT AND SUBSTANTIAL COMPLETION
4	CONTRACT SUM
5	PAYMENTS
6	DISPUTE RESOLUTION
7	TERMINATION OR SUSPENSION
8	MISCELLANEOUS PROVISIONS
9	ENUMERATION OF CONTRACT DOCUMENTS
10	INSURANCE AND BONDS

ARTICLE 1 THE CONTRACT DOCUMENTS

The Contract Documents consist of this Agreement, Conditions of the Contract (General, Supplementary and other Conditions), Drawings, Specifications, Addenda issued prior to execution of this Agreement, other documents listed in this Agreement and Modifications issued after execution of this Agreement, all of which form the Contract, and are as fully a part of the Contract as if attached to this Agreement or repeated herein. The Contract represents the entire and integrated agreement between the parties hereto and supersedes prior negotiations, representations or agreements, either written or oral. An enumeration of the Contract Documents, other than a Modification, appears in Article 9.

ARTICLE 2 THE WORK OF THIS CONTRACT

The Contractor shall fully execute the Work described in the Contract Documents, except as specifically indicated in the Contract Documents to be the responsibility of others.

ARTICLE 3 DATE OF COMMENCEMENT AND SUBSTANTIAL COMPLETION

§ 3.1 The date of commencement of the Work shall be the date of this Agreement unless a different date is stated below or provision is made for the date to be fixed in a notice to proceed issued by the Owner.

(Insert the date of commencement if it differs from the date of this Agreement or, if applicable, state that the date will be fixed in a notice to proceed.)

If, prior to the commencement of the Work, the Owner requires time to file mortgages and other security interests, the Owner's time requirement shall be as follows:

§ 3.2 The Contract Time shall be measured from the date of commencement.

§ 3.3 The Contractor shall achieve Substantial Completion of the Work not later than _____ and Final Completion on _____.

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(Insert number of calendar days. Alternatively, a calendar date may be used when coordinated with the date of commencement. If appropriate, insert requirements for earlier Substantial Completion of certain portions of the Work.)

Portion of Work

Substantial Completion Date

, subject to adjustments of this Contract Time as provided in the Contract Documents.

(Insert provisions, if any, for liquidated damages relating to failure to achieve Substantial Completion on time or for bonus payments for early completion of the Work.)

ARTICLE 4 CONTRACT SUM

§ 4.1 The Owner shall pay the Contractor the Contract Sum in current funds for the Contractor's performance of the Contract. The Contract Sum shall be _____ (\$ _____), subject to additions and deductions as provided in the Contract Documents.

§ 4.2 The Contract Sum is based upon the following alternates, if any, which are described in the Contract Documents and are hereby accepted by the Owner:

(State the numbers or other identification of accepted alternates. If the bidding or proposal documents permit the Owner to accept other alternates subsequent to the execution of this Agreement, attach a schedule of such other alternates showing the amount for each and the date when that amount expires.)

§ 4.3 Unit prices, if any:

(Identify and state the unit price, state quantity limitations, if any, to which the unit price will be applicable.)

Item

Units and Limitations

Price Per Unit

§ 4.4 Allowances included in the Contract Sum, if any:

(Identify allowance and state exclusions, if any, from the allowance price.)

Item

Price

ARTICLE 5 PAYMENTS

§ 5.1 PROGRESS PAYMENTS

§ 5.1.1 Contractor shall provide to the Owner fully executed *Waiver and Partial Release from Contractor, Waiver and Partial Releases from Contractor's Subcontractors, Sub-subcontractors, suppliers and materialmen or any party with lien rights*, and *Contractor's Affidavit of Outstanding Accounts* at the time each Application for Payment is submitted. Based upon Applications for Payment submitted to the Architect by the Contractor in the form attached as Exhibit "D" and Certificates for Payment issued by the Architect, the Owner shall make progress payments on account of the Contract Sum to the Contractor as provided below and elsewhere in the Contract Documents. Copies of

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the required *Waiver and Partial Release from Contractor, Waiver and Partial Releases from Contractor's Subcontractors, Sub-subcontractors, suppliers and materialmen or any party with lien rights, and Contractor's Affidavit of Outstanding Accounts* are attached as Composite Exhibit "E".

§ 5.1.2 The period covered by each Application for Payment shall be one calendar month ending on the last day of the month, or as follows:

§ 5.1.3 Provided that an Application for Payment is received by the Architect not later than the 10th day of a month, the Owner shall make payment of the certified amount to the Contractor not later than the 15th day of the following month. If an Application for Payment is received by the Architect after the application date fixed above, payment shall be made by the Owner not later than thirty (30) days after the Architect receives the Application for Payment. *(Federal, state or local laws may require payment within a certain period of time.)*

§ 5.1.4 Each Application for Payment shall be based on the most recent schedule of values submitted by the Contractor in accordance with the Contract Documents. The schedule of values shall allocate the entire Contract Sum among the various portions of the Work. The schedule of values shall be prepared in such form and supported by such data to substantiate its accuracy as the Architect may require. This schedule, unless objected to by the Architect, shall be used as a basis for reviewing the Contractor's Applications for Payment.

§ 5.1.5 Applications for Payment shall show the percentage of completion of each portion of the Work as of the end of the period covered by the Application for Payment.

§ 5.1.6 Subject to other provisions of the Contract Documents, the amount of each progress payment shall be computed as follows:

- .1 Take that portion of the Contract Sum properly allocable to completed Work as determined by multiplying the percentage completion of each portion of the Work by the share of the Contract Sum allocated to that portion of the Work in the schedule of values, less retainage of ten percent (10%). Pending final determination of cost to the Owner of changes in the Work, amounts not in dispute shall be included as provided in Section 7.3.9 of AIA Document A201™-2007, General Conditions of the Contract for Construction, as modified by Owner;
- .2 Add that portion of the Contract Sum properly allocable to materials and equipment delivered and suitably stored at the site for subsequent incorporation in the completed construction (or, if approved in advance by the Owner, suitably stored off the site at a location agreed upon in writing), less retainage of ten percent (10%);
- .3 Subtract the aggregate of previous payments made by the Owner; and
- .4 Subtract amounts, if any, for which the Architect has withheld or nullified a Certificate for Payment as provided in Section 9.5 of AIA Document A201-2007, as modified by Owner.

§ 5.1.7 The progress payment amount determined in accordance with Section 5.1.6 shall be further modified under the following circumstances:

- .1 Add, upon Substantial Completion of the Work, a sum sufficient to increase the total payments to ninety-five percent (95%) of the Contract Sum, less such amounts as the Architect shall determine for incomplete Work, retainage applicable to such work and unsettled claims; and *(Section 9.8.5 of AIA Document A201-2007, as modified by Owner, requires release of applicable retainage upon Substantial Completion of Work with consent of surety, if any.)*
- .2 Add, if final completion of the Work is thereafter materially delayed through no fault of the Contractor, any additional amounts payable in accordance with Section 9.10.3 of AIA Document A201-2007, as modified by Owner.

§ 5.1.8 Reduction or limitation of retainage, if any, shall be as follows:

(If it is intended, prior to Substantial Completion of the entire Work, to reduce or limit the retainage resulting from the percentages inserted in Sections 5.1.6.1 and 5.1.6.2 above, and this is not explained elsewhere in the Contract Documents, insert here provisions for such reduction or limitation.)

No reduction of retainage below ten percent (10%) before Substantial Completion.

§ 5.1.9 Except with the Owner's prior approval, the Contractor shall not make advance payments to suppliers for materials or equipment which have not been delivered and stored at the site.

§ 5.2 FINAL PAYMENT

§ 5.2.1 Final payment, constituting the entire unpaid balance of the Contract Sum, shall be made by the Owner to the Contractor when

- .1 the Contractor has fully performed the Contract except for the Contractor's responsibility to correct Work as provided in Section 12.2.2 of AIA Document A201-2007, as modified by Owner, and to satisfy other requirements, if any, which extend beyond final payment; and the Contractor provides to the Owner fully executed *Contractor's Final Payment Affidavit, Contractor's Affidavit of Outstanding Accounts, Final Waiver and Release of Lien from Contractor and Final Waivers and Releases of Liens from Contractor's Subcontractors, Sub-subcontractors, suppliers and materialmen or any party with lien rights*.and
- .2 a final Certificate for Payment has been issued by the Architect.

Copies of the required *Contractor's Final Payment Affidavit, Contractor's Affidavit of Outstanding Accounts, Final Waiver and Release of Lien from Contractor and Final Waivers and Releases of Liens from Contractor's Subcontractors, Sub-subcontractors, suppliers and materialmen or any party with lien rights* are attached as Composite Exhibit "E".

§ 5.2.2 The Owner's final payment to the Contractor shall be made within thirty (30) days of compliance with all Contract requirements.

§ 5.2.3 At closeout, Contractor shall complete the *Contract Completion Checklist*, a copy of which is attached hereto as Exhibit "F", and shall provide to the Owner all items required thereon as a condition precedent to final payment being due from the Owner.

ARTICLE 6 DISPUTE RESOLUTION

§ 6.1 INITIAL DECISION MAKER

The Architect will serve as Initial Decision Maker pursuant to Section 15.2 of AIA Document A201-2007, as modified by Owner, unless the parties appoint below another individual, not a party to this Agreement, to serve as Initial Decision Maker.

(If the parties mutually agree, insert the name, address and other contact information of the Initial Decision Maker, if other than the Architect.)

§ 6.2 BINDING DISPUTE RESOLUTION

The method of dispute resolution shall be as follows:

- √ Litigation in a court of competent jurisdiction
(Paragraphs deleted)

ARTICLE 7 TERMINATION OR SUSPENSION

§ 7.1 The Contract may be terminated by the Owner or the Contractor as provided in Article 14 of AIA Document A201-2007, as modified by Owner.

§ 7.2 The Work may be suspended by the Owner as provided in Article 14 of AIA Document A201-2007, as modified by Owner.

ARTICLE 8 MISCELLANEOUS PROVISIONS

§ 8.1 Where reference is made in this Agreement to a provision of AIA Document A201–2007, as modified by Owner, or another Contract Document, the reference refers to that provision as amended or supplemented by other provisions of the Contract Documents.

§ 8.2

(Paragraphs deleted)

Interest on payments due and unpaid under the Contract: N/A

§ 8.3 The Owner's representative:

(Name, address and other information)

§ 8.4 The Contractor's representative:

(Name, address and other information)

§ 8.5 The Contractor's representative shall not be changed without ten days written notice to the other party.

§ 8.6 OTHER PROVISIONS

§ 8.6.1 FINANCIAL DISCLOSURES

During the term of this Contract, Contractor covenants and agrees that it will keep adequate books and records of accounts in accordance with Generally Accepted Accounting Principles (GAAP). Contractor further covenants and agrees that, upon request from Owner, Contractor shall provide to Owner financial statements of Contractor, including current income and expense statements of Contractor, consolidated balance sheets signed by a financial officer of Contractor, and audited reports provided to Contractor's Surety, audited financial statements certified by a Certified Public Accountant concerning the financial affairs of Contractor and all affiliates of Contractor, and such other financial information requested by Owner. All such financial information shall comply with GAAP.

In the event that Contractor becomes insolvent and/or fails to pay its current obligations when they become due, Contractor shall so advise Owner of such situation. Contractor hereby authorizes its sureties, lenders, financial institutions and other third parties to release to Owner financial information requested by Owner, including, but not limited to, the financial information described in the preceding paragraph.

§ 8.6.2 WAIVER OF JURY TRIAL

All parties hereby waive any and all right to any trial by jury in any action or proceeding arising directly or indirectly hereunder.

§ 8.6.3 CORRECTION OF WORK

In the event that Contractor fails to timely take corrective action, Owner may correct, remove and/or replace the non-conforming work at Contractor's expense using the specified materials or such other materials which the Owner, in its sole discretion, deems appropriate.

§ 8.6.4 SCHEDULING

Contractor shall utilize Primavera (P3) or Suretrac as its scheduling software.

§ 8.6.5 VENDOR DIVERSITY/MINORITY

Provided that prices are competitive and that the quality, quantity and timeliness of the Work will not be prejudiced or compromised, Contractor is encouraged, but not required, to utilize where reasonably practical a reasonable number of minority owned and/or controlled companies for the Project. In the event that Contractor utilizes a minority owned and/or controlled company, Contractor shall submit to the Owner the name of the company, the scope of the work and

Init.

the contract sum of the work being performed by the minority owned and/or controlled company. Contractor shall retain in its sole discretion the final decision on the selection and use of subcontractors and other vendors and shall remain fully responsible for their work, material and services as called for by the Contract Documents.

§ 8.6.6 The Contractor's use of local (in state) laborers, subcontractors, material suppliers, and equipment suppliers is encouraged by Owner and may influence the Owner's selection process.

ARTICLE 9 ENUMERATION OF CONTRACT DOCUMENTS

§ 9.1 The Contract Documents, except for Modifications issued after execution of this Agreement, are enumerated in the sections below.

§ 9.1.1 The Agreement is this executed AIA Document A101-2007, Standard Form of Agreement Between Owner and Contractor, as modified by Owner with attached Exhibits "A" to "G".

§ 9.1.2 The General Conditions are AIA Document A201-2007, General Conditions of the Contract for Construction, as modified by Owner.

§ 9.1.3 The Supplementary and other Conditions of the Contract are those contained on the Scope of Work, List of Contract Drawings and Specifications attached as Exhibit "A".

(Table deleted)

§ 9.1.4 The

(Paragraphs deleted)

Specifications are those contained on the Scope of Work, List of Contract Drawings and Specifications attached as Exhibit "A".

(Table deleted)

§ 9.1.5 The

(Paragraphs deleted)

Drawings are those contained on the Scope of Work, List of Contract Drawings and Specifications attached as Exhibit "A".

(Table deleted)

§ 9.1.6 The Addenda, if any:

Number

Date

Pages

Portions of Addenda relating to bidding requirements are not part of the Contract Documents unless the bidding requirements are also enumerated in this Article 9.

§ 9.1.7 Additional documents, if any, forming part of the Contract Documents:

.1

(Paragraphs deleted)

Other documents, if any, listed below:

(List here any additional documents that are intended to form part of the Contract Documents. AIA Document A201-2007, as modified by Owner, provides that bidding requirements such as advertisement or invitation to bid, Instructions to Bidders, sample forms and the Contractor's bid are not part of the Contract Documents unless enumerated in this Agreement. They should be listed here only if intended to be part of the Contract Documents.)

Exhibit "A" – Scope of Work, List of Contract Drawings and Specifications

Exhibit "B" – Start and Completion Schedule

Exhibit "C" – Confidentiality Agreement

Exhibit "D" – Application for Payment

Exhibit "E" – Waiver and Partial Releases, Final Waivers and Releases of Liens,

Contractor's Affidavit of Outstanding Accounts, Contractor's Final Payment

Affidavit

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Exhibit "F" – Contract Completion Checklist
Exhibit "G" – Performance Bond and Payment Bond

ARTICLE 10 INSURANCE AND BONDS

If required by Owner, the Contractor shall purchase and maintain insurance and provide bonds as set forth in Article 11 of AIA Document A201–2007, as modified by Owner.

(State bonding requirements, if any, and limits of liability for insurance required in Article 11 of AIA Document A201–2007, as modified by Owner.)

Type of insurance or bond	Limit of liability or bond amount (\$ 0.00)
Comprehensive General Liability Policy, including but not limited to owners and contractors protective liability and products and completed operations coverage	Minimum of \$1,000,000 per occurrence; \$2,000,000 general aggregate, combined single limit
Business Auto Policy	Minimum of \$1,000,000 per occurrence, combined single limit
Workers' Compensation Insurance	\$500,000 per occurrence
Payment and Performance Bonds	

This Agreement entered into as of the day and year first written above.

OWNER *(Signature)*

CONTRACTOR *(Signature)*

(Printed name and title)

(Printed name and title)

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AIA[®] Document A201[™] – 2007

General Conditions of the Contract for Construction

for the following PROJECT:
(Name and location or address)

THE OWNER:
| (Name and address)

THE ARCHITECT:
| (Name and address)

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| 5 | SUBCONTRACTORS |
| 6 | CONSTRUCTION BY OWNER OR BY SEPARATE CONTRACTORS |
| 7 | CHANGES IN THE WORK |
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| 9 | PAYMENTS AND COMPLETION |
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| 11 | INSURANCE AND BONDS |
| 12 | UNCOVERING AND CORRECTION OF WORK |
| 13 | MISCELLANEOUS PROVISIONS |
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| 15 | CLAIMS AND DISPUTES |

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User Notes:

(1431270764)

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ARTICLE 1 GENERAL PROVISIONS

§ 1.1 BASIC DEFINITIONS

§ 1.1.1 THE CONTRACT DOCUMENTS

The Contract Documents are enumerated in the Agreement between the Owner and Contractor (hereinafter the Agreement) and consist of the Agreement, Conditions of the Contract (General, Supplementary and other Conditions), Drawings, Specifications, Addenda issued prior to execution of the Contract, other documents listed in the Agreement and Modifications issued after execution of the Contract. A Modification is (1) a written amendment to the Contract signed by both parties, (2) a Change Order, (3) a Construction Change Directive or (4) a written order for a minor change in the Work issued by the Architect. Unless specifically enumerated in the Agreement, the Contract Documents do not include the advertisement or invitation to bid, Instructions to Bidders, sample forms, other information furnished by the Owner in anticipation of receiving bids or proposals, the Contractor's bid or proposal, or portions of Addenda relating to bidding requirements.

§ 1.1.2 THE CONTRACT

The Contract Documents form the Contract for Construction. The Contract represents the entire and integrated agreement between the parties hereto and supersedes prior negotiations, representations or agreements, either written or oral. The Contract may be amended or modified only by a Modification. The Contract Documents shall not be construed to create a contractual relationship of any kind (1) between the Contractor and the Architect or the Architect's consultants, (2) between the Owner and a Subcontractor or a Sub-subcontractor, (3) between the Owner and the Architect or the Architect's consultants or (4) between any persons or entities other than the Owner and the Contractor. The Architect shall, however, be entitled to performance and enforcement of obligations under the Contract intended to facilitate performance of the Architect's duties.

§ 1.1.3 THE WORK

The term "Work" means the construction and services required by the Contract Documents, whether completed or partially completed, and includes all other labor, materials, equipment and services provided or to be provided by the Contractor to fulfill the Contractor's obligations. The Work may constitute the whole or a part of the Project.

§ 1.1.4 THE PROJECT

The Project is the total construction of which the Work performed under the Contract Documents may be the whole or a part and which may include construction by the Owner and by separate contractors.

§ 1.1.5 THE DRAWINGS

The Drawings are the graphic and pictorial portions of the Contract Documents showing the design, location and dimensions of the Work, generally including plans, elevations, sections, details, schedules and diagrams.

§ 1.1.6 THE SPECIFICATIONS

The Specifications are that portion of the Contract Documents consisting of the written requirements for materials, equipment, systems, standards and workmanship for the Work, and performance of related services.

§ 1.1.7 INSTRUMENTS OF SERVICE

Instruments of Service are representations, in any medium of expression now known or later developed, of the tangible and intangible creative work performed by the Architect and the Architect's consultants under their respective professional services agreements. Instruments of Service may include, without limitation, studies, surveys, models, sketches, drawings, specifications, and other similar materials.

§ 1.1.8 INITIAL DECISION MAKER

The Initial Decision Maker is the person identified in the Agreement to render initial decisions on Claims in accordance with Section 15.2 and certify termination of the Agreement under Section 14.2.2.

§ 1.2 CORRELATION AND INTENT OF THE CONTRACT DOCUMENTS

§ 1.2.1 The intent of the Contract Documents is to include all items necessary for the proper execution and completion of the Work by the Contractor. The Contract Documents are complementary, and what is required by one shall be as binding as if required by all; performance by the Contractor shall be required only to the extent consistent with the Contract Documents and reasonably inferable from them as being necessary to produce the indicated results.

§ 1.2.2 Organization of the Specifications into divisions, sections and articles, and arrangement of Drawings shall not control the Contractor in dividing the Work among Subcontractors or in establishing the extent of Work to be performed by any trade.

§ 1.2.3 Unless otherwise stated in the Contract Documents, words that have well-known technical or construction industry meanings are used in the Contract Documents in accordance with such recognized meanings.

§ 1.3 CAPITALIZATION

Terms capitalized in these General Conditions include those that are (1) specifically defined, (2) the titles of numbered articles or (3) the titles of other documents published by the American Institute of Architects.

§ 1.4 INTERPRETATION

In the interest of brevity the Contract Documents frequently omit modifying words such as "all" and "any" and articles such as "the" and "an," but the fact that a modifier or an article is absent from one statement and appears in another is not intended to affect the interpretation of either statement.

§ 1.5 OWNERSHIP AND USE OF DRAWINGS, SPECIFICATIONS AND OTHER INSTRUMENTS OF SERVICE

§ 1.5.1 The Contractor shall provide to the Owner two (2) copies of all electronic drawing files of all as-built drawings in a format compatible with the AutoCAD release version designated by Owner. This shall include an organized, rational file/drawing naming system that refers directly to the actual hard copy drawings. For example, drawings shall be named A-1.dwg, A-2.dwg, M-1.dwg, M-2.dwg etc. Each drawing file shall be processed through AutoCad's XREF Manager utilizing the "bind process" prior to submittal to the Owner to combine the files and eliminate the need for attached files. Text documents such as specification books shall be presented in Microsoft Word or pdf format. Such electronic files shall be delivered to the Owner within ten (10) days after requested by the Owner or, if not specifically requested, prior to final payment from Owner.

§ 1.5.2 The Drawings, Specifications and Instruments of Service, including those in electronic form, prepared by the Architect and its consultants and other consultants retained by the Owner are and shall remain the property of the Owner, and Owner shall retain all common law, statutory and other reserved rights, in addition to copyrights, with respect thereto. The Contractor may retain one record set. They shall not be used on any other project without the prior written consent of the Owner, and Contractor shall take such action as may be necessary to prevent their use on any other project or for additions to the Project outside the scope of the Work by any Subcontractor, Sub-subcontractor or material or equipment supplier. The Contractor, Subcontractors, Sub-subcontractors and material and equipment suppliers are granted a limited license to use and reproduce applicable portions of the Drawings, Specifications and Instruments of Service prepared by the Architect appropriate to and for use in the execution of their Work under the Contract Documents. All copies made under this license, except the Contractor's record set, shall be returned or suitably accounted for to the Owner upon completion of the Work and shall bear the statutory copyright notice, if any, shown on the Drawings, Specifications and Instruments of Service prepared by the Architect, its consultants and Owner's consultants. Submittals or distributions necessary to meet official regulatory requirements or for other purposes relating to completion of the Project are not to be construed as a publication in derogation of the Owner's copyright or other reserved rights.

§ 1.6 TRANSMISSION OF DATA IN DIGITAL FORM

If the parties intend to transmit Instruments of Service or any other information or documentation in digital form, they shall endeavor to establish necessary protocols governing such transmissions, unless otherwise already provided in the Agreement or the Contract Documents.

§ 1.7 REQUIRED PROJECT FORMS

The following project forms shall be used by the Contractor for submissions and other general requirements of the Contract Documents if required by Owner or Architect:

Title	Document Number
Contractor's Qualification Statement	AIA Doc. A-305
Bid Bond	AIA Doc. A-310
Change Order	AIA Doc. G-701
Application & Certificate for Payment	AIA Doc. G-702

Application & Certificate for Payment	AIA Doc. G-703
Certificate of Substantial Completion	AIA Doc. G-704
Contractor's Affidavit for Payment of Debts and Claims	AIA Doc. G-706
Consent of Surety Company to Final Payment	AIA Doc. G-707
Proposal Request	AIA Doc. G-709
Architect's Supplemental Instructions	AIA Doc. G-710

ARTICLE 2 OWNER

§ 2.1 GENERAL

§ 2.1.1 The Owner is the person or entity identified as such in the Agreement and is referred to throughout the Contract Documents as if singular in number. The Owner shall designate in writing a representative who shall have express authority to bind the Owner with respect to all matters requiring the Owner's approval or authorization. Except as otherwise provided in Section 4.2.1, the Architect does not have such authority. The term "Owner" means the Owner or the Owner's authorized representative.

§ 2.1.2 The Owner shall furnish to the Contractor within fifteen days after receipt of a written request, information necessary and relevant for the Contractor to evaluate, give notice of or enforce mechanic's lien rights. Such information shall include a correct statement of the record legal title to the property on which the Project is located, usually referred to as the site, and the Owner's interest therein.

§ 2.2 INFORMATION AND SERVICES REQUIRED OF THE OWNER

§ 2.2.1 Information or services required of the Owner by the Contract Documents shall be furnished by the Owner with reasonable promptness. Any other information or services relevant to the Contractor's performance of the Work under the Owner's control shall be furnished by the Owner after receipt from the Contractor of a written request for such information or services.

§ 2.2.2 Except for permits and fees that are the responsibility of the Contractor under the Contract Documents, including those required under Section 3.7.1, the Owner shall secure and pay for necessary approvals, easements, assessments and charges required for construction, use or occupancy of permanent structures or for permanent changes in existing facilities.

§ 2.2.3 The Owner shall furnish surveys describing physical characteristics, legal limitations and utility locations for the site of the Project, and a legal description of the site. The Contractor shall be entitled to rely on the accuracy of information furnished by the Owner but shall exercise proper precautions relating to the safe performance of the Work.

§ 2.2.4 (Intentionally Omitted)

§ 2.2.5 (Intentionally Omitted)

§ 2.3 OWNER'S RIGHT TO STOP THE WORK

§ 2.3.1 If the Contractor fails to correct Work that is not in accordance with the requirements of the Contract Documents as required by Section 12.2 or repeatedly fails to carry out Work in accordance with the Contract Documents, the Owner may issue a written order to the Contractor to stop the Work, or any portion thereof, until the cause for such order has been eliminated; however, the right of the Owner to stop the Work shall not give rise to a duty on the part of the Owner to exercise this right for the benefit of the Contractor or any other person or entity, except to the extent required by Section 6.1.3.

§ 2.3.2 If, after consultation with the Architect, suspension of the Work is warranted by reason of unforeseen conditions which may adversely affect the quality of the Work if such Work were continued, the Owner may suspend the Work by written notice to the Contractor. In such event, the Contract Time shall be adjusted accordingly, and the Contract Sum shall be adjusted to the extent, if any, that additional costs are incurred by reason of such suspension. If the Contractor, in its reasonable judgment, believes that a suspension is warranted by reason of unforeseen circumstances which may adversely affect the quality of the Work if the Work were continued, the Contractor shall immediately notify the Owner and the Architect of such belief and describe with particularity the reasons therefor.

§ 2.4 OWNER'S RIGHT TO CARRY OUT THE WORK

If the Contractor defaults or neglects to carry out the Work in accordance with the Contract Documents and fails within a ten-day period after receipt of written notice from the Owner to commence and continue correction of such default or neglect with diligence and promptness, the Owner may, without prejudice to other remedies the Owner may have, commence and continue to carry out the Work. In such case an appropriate Change Order shall be issued deducting from payments then or thereafter due the Contractor the cost of correcting such deficiencies, including Owner's expenses and compensation for the Architect's additional services made necessary by such default, neglect or failure. If payments then or thereafter due the Contractor are not sufficient to cover such amounts, the Contractor shall pay the difference to the Owner. The right of Owner to stop the Work pursuant to this Subparagraph 2.4.1 shall not give rise to any duty on the part of the Owner to exercise this right for the benefit of the Contractor or any other person or entity.

ARTICLE 3 CONTRACTOR

§ 3.1 GENERAL

§ 3.1.1 The Contractor is the person or entity identified as such in the Agreement and is referred to throughout the Contract Documents as if singular in number. The Contractor shall be lawfully licensed, if required in the jurisdiction where the Project is located. The Contractor shall designate in writing a representative who shall have express authority to bind the Contractor with respect to all matters under this Contract. The term "Contractor" means the Contractor or the Contractor's authorized representative.

§ 3.1.2 The Contractor shall perform the Work in accordance with the Contract Documents.

§ 3.1.3 The Contractor shall not be relieved of obligations to perform the Work in accordance with the Contract Documents either by activities or duties of the Architect in the Architect's administration of the Contract, or by tests, inspections or approvals required or performed by persons or entities other than the Contractor.

§ 3.2 REVIEW OF CONTRACT DOCUMENTS AND FIELD CONDITIONS BY CONTRACTOR

§ 3.2.1 Execution of the Contract by the Contractor is a representation that the Contractor has visited the site, become generally familiar with local conditions under which the Work is to be performed and correlated personal observations with requirements of the Contract Documents.

§ 3.2.2 Because the Contract Documents are complementary, the Contractor shall, before starting each portion of the Work, carefully study and compare the various Contract Documents relative to that portion of the Work, as well as the information furnished by the Owner pursuant to Section 2.2.3, and shall take field measurements of any existing conditions related to that portion of the Work, and shall observe any conditions at the site affecting it. These obligations are for the purpose of facilitating coordination and construction by the Contractor and bringing to the attention of the Architect errors, omissions, or inconsistencies in the Contract Documents. The Contractor shall promptly report to the Architect any errors, inconsistencies or omissions discovered by or made known to the Contractor as a request for information in such form as the Architect may require. Any design errors or omissions noted by the Contractor during this review shall be reported promptly to the Architect.

§ 3.2.3 The Contractor is required to ascertain that the Contract Documents are in accordance with applicable laws, statutes, ordinances, codes, rules and regulations.

§ 3.2.4 If the Contractor believes that additional cost or time is involved because of clarifications or instructions the Architect issues in response to the Contractor's notices or requests for information pursuant to Sections 3.2.2 or 3.2.3, the Contractor shall make Claims as provided in Article 15. If the Contractor fails to perform the obligations of Sections 3.2.2 or 3.2.3, the Contractor shall pay such costs and damages to the Owner as would have been avoided if the Contractor had performed such obligations.

§ 3.3 SUPERVISION AND CONSTRUCTION PROCEDURES

§ 3.3.1 The Contractor shall supervise and direct the Work, using the Contractor's best skill and attention. The Contractor shall be solely responsible for, and have control over, construction means, methods, techniques, sequences and procedures and for coordinating all portions of the Work under the Contract, unless the Contract Documents give other specific instructions concerning these matters. If the Contract Documents give specific instructions concerning construction means, methods, techniques, sequences or procedures, the Contractor shall evaluate the jobsite safety thereof and, except as stated below, shall be fully and solely responsible for the jobsite safety of such means, methods,

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techniques, sequences or procedures. If the Contractor determines that such means, methods, techniques, sequences or procedures may not be safe, the Contractor shall give timely written notice to the Owner and Architect and shall not proceed with that portion of the Work without further written instructions from the Architect. If the Contractor is then instructed to proceed with the required means, methods, techniques, sequences or procedures without acceptance of changes proposed by the Contractor, the Owner shall be solely responsible for any loss or damage arising solely from those Owner-required means, methods, techniques, sequences or procedures.

§ 3.3.2 The Contractor shall be responsible to the Owner for acts and omissions of the Contractor's employees, Subcontractors and their agents and employees, and other persons or entities performing portions of the Work for, or on behalf of, the Contractor or any of its Subcontractors.

§ 3.3.3 The Contractor shall be responsible for inspection of portions of Work already performed to determine that such portions are in proper condition to receive subsequent Work.

§ 3.3.4 At the earliest possible time after the commencement of the Work on the Project site, the Contractor shall have all property corners and benchmarks verified or established by a state-licensed land surveyor, shall locate the Project on the Project site, establishing necessary reference marks and axes from which the Work accurately can progress, shall furnish Architect evidence of such verification and shall report at once any errors discovered during the process of such verification.

§ 3.3.5 If any of the Work is required to be inspected or approved by any public authority, the Contractor shall cause such inspection or approval to be performed. No inspection performed or failed to be performed by the Owner hereunder shall be a waiver of any of the Contractor's obligations hereunder or be construed as an approval or acceptance of the Work or any part thereof.

§ 3.3.6 The Contractor acknowledges that it is the Contractor's responsibility to hire all personnel for the proper and diligent prosecution of the Work and the Contractor shall use its best efforts to maintain labor peace for the duration of the Project. In the event of a labor dispute of the Contractor, its subcontractors or suppliers, the Contractor shall not be entitled to any increase in the Contract Sum.

§ 3.4 LABOR AND MATERIALS

§ 3.4.1 Unless otherwise provided in the Contract Documents, the Contractor shall provide and pay for labor, materials, equipment, tools, construction equipment and machinery, water, heat, utilities, transportation, and other facilities and services necessary for proper execution and completion of the Work, whether temporary or permanent and whether or not incorporated or to be incorporated in the Work.

§ 3.4.2 The Contractor may make substitutions only with the consent of the Owner, after evaluation by the Architect and in accordance with a Change Order or Construction Change Directive.

§ 3.4.3 The Contractor shall enforce strict discipline and good order among the Contractor's employees and other persons carrying out the Work. The Contractor shall not permit employment of unfit persons or persons not properly skilled in tasks assigned to them.

§ 3.5 WARRANTY

The Contractor warrants to the Owner and Architect that materials and equipment furnished under the Contract will be of good quality and new unless the Contract Documents require or permit otherwise. The Contractor further warrants that the Work will conform to the requirements of the Contract Documents and will be free from defects, except for those inherent in the quality of the Work the Contract Documents require or permit. Work, materials, or equipment not conforming to these requirements may be considered defective. The Contractor's warranty excludes remedy for damage or defect caused by abuse, alterations to the Work not executed by the Contractor, improper or insufficient maintenance, improper operation, or normal wear and tear and normal usage. If required by the Architect or Owner, the Contractor shall furnish satisfactory evidence as to the kind and quality of materials and equipment.

§ 3.6 TAXES

The Contractor shall pay sales, consumer, use and similar taxes for the Work provided by the Contractor that are legally enacted when bids are received or negotiations concluded, whether or not yet effective or merely scheduled to go into effect.

§ 3.7 PERMITS, FEES, NOTICES, AND COMPLIANCE WITH LAWS

§ 3.7.1 Unless otherwise provided in the Contract Documents, the Contractor shall secure and pay for the building permit as well as for other permits, fees, licenses, and inspections by government agencies necessary for proper execution and completion of the Work that are customarily secured after execution of the Contract and legally required at the time bids are received or negotiations concluded. The Contractor shall procure all certificates of inspection, use, occupancy, permits and licenses, pay all charges and fees and give all notices necessary and incidental to the due and lawful prosecution of the Work. Certificates of inspection, use and occupancy shall be delivered to the Owner upon completion of the Work in sufficient time for occupation of the Project in accordance with the approved schedule for the Work. The costs of such procurement, payment and delivery are included within the Contract Sum.

§ 3.7.2 The Contractor shall comply with and give notices required by applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities applicable to performance of the Work. Contractor shall comply with all applicable federal, state and county, and city statutes, safety regulations, codes, ordinances and orders, including the Occupational Safety and Health Administration Act of 1970 (OSHA).

§ 3.7.3 If the Contractor performs Work knowing it to be contrary to applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities, the Contractor shall assume appropriate responsibility for such Work and shall bear the costs attributable to correction.

§ 3.7.4 **Concealed or Unknown Conditions.** If the Contractor encounters conditions at the site that are (1) subsurface or otherwise concealed physical conditions that differ materially from those indicated in the Contract Documents or (2) unknown physical conditions of an unusual nature, that differ materially from those ordinarily found to exist and generally recognized as inherent in construction activities of the character provided for in the Contract Documents, the Contractor shall promptly provide notice to the Owner and the Architect before conditions are disturbed and in no event later than 21 days after first observance of the conditions. The Architect will promptly investigate such conditions and, if the Architect determines that they differ materially and cause an increase or decrease in the Contractor's cost of, or time required for, performance of any part of the Work, will recommend an equitable adjustment in the Contract Sum or Contract Time, or both. If the Architect determines that the conditions at the site are not materially different from those indicated in the Contract Documents and that no change in the terms of the Contract is justified, the Architect shall promptly notify the Owner and Contractor in writing, stating the reasons. If either party disputes the Architect's determination or recommendation, that party may proceed as provided in Article 15.

§ 3.7.5 If, in the course of the Work, the Contractor encounters human remains or recognizes the existence of burial markers, archaeological sites or wetlands not indicated in the Contract Documents, the Contractor shall immediately suspend any operations that would affect them and shall notify the Owner and Architect. Upon receipt of such notice, the Owner shall promptly take any action necessary to obtain governmental authorization required to resume the operations. The Contractor shall continue to suspend such operations until otherwise instructed by the Owner but shall continue with all other operations that do not affect those remains or features. Requests for adjustments in the Contract Sum and Contract Time arising from the existence of such remains or features may be made as provided in Article 15.

§ 3.8 ALLOWANCES

§ 3.8.1 The Contractor shall include in the Contract Sum all allowances stated in the Contract Documents. Items covered by allowances shall be supplied for such amounts and by such persons or entities as the Owner may direct, but the Contractor shall not be required to employ persons or entities to whom the Contractor has reasonable objection.

§ 3.8.2 Unless otherwise provided in the Contract Documents,

- .1 allowances shall cover the cost to the Contractor of materials and equipment delivered at the site and all required taxes, less applicable trade discounts;
- .2 Contractor's costs for unloading and handling at the site, labor, installation costs, overhead, profit and other expenses contemplated for stated allowance amounts shall be included in the Contract Sum but not in the allowances; and
- .3 whenever costs are more than or less than allowances, the Contract Sum shall be adjusted accordingly by Change Order. The amount of the Change Order shall reflect (1) the difference between actual costs and the allowances under Section 3.8.2.1 and (2) changes in Contractor's costs under Section 3.8.2.2.

§ 3.8.3 Materials and equipment under an allowance shall be selected by the Owner with reasonable promptness.

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§ 3.9 SUPERINTENDENT

§ 3.9.1 The Contractor shall employ a competent superintendent and necessary assistants who shall be in attendance at the Project site during performance of the Work. The superintendent shall represent the Contractor, and communications given to the superintendent shall be as binding as if given to the Contractor. The superintendent shall be satisfactory to the Owner in all respects, and Owner shall have the right to require Contractor to dismiss from the Project any superintendent whose performance is not satisfactory to Owner, and to replace such superintendent with a superintendent satisfactory to Owner. The Contractor shall not replace the superintendent without the written consent of the Owner.

§ 3.9.2 The Contractor, as soon as practicable after award of the Contract, shall furnish in writing to the Owner through the Architect the name and qualifications of a proposed superintendent. The Architect may reply within 14 days to the Contractor in writing stating (1) whether the Owner or the Architect has reasonable objection to the proposed superintendent or (2) that the Architect requires additional time to review. Failure of the Architect to reply within the 14 day period shall constitute notice of no reasonable objection.

§ 3.9.3 The Contractor shall not employ a proposed superintendent to whom the Owner or Architect has made reasonable and timely objection. The Contractor shall not change the superintendent without the Owner's consent, which shall not unreasonably be withheld or delayed.

§ 3.9.4 The list of all supervisory personnel, including the project manager and superintendent, that the Contractor intends to use on the Project and a chain-of-command organizational chart shall be submitted to the Owner for approval. The Contractor shall not engage supervisory personnel or utilize an organization and chain-of-command other than as approved by Owner in writing, and shall not change such personnel or form of organization without the written approval of the Owner.

§ 3.10 CONTRACTOR'S CONSTRUCTION SCHEDULES

§ 3.10.1 The Contractor, immediately after being awarded the Contract, shall prepare in consultation with the Owner and Architect and submit for the Owner's and Architect's approval a Contractor's construction schedule for the Work. The construction schedule shall not exceed time limits current under the Contract Documents, shall be updated and revised at appropriate intervals as required by the conditions of the Work and Project, shall be related to the entire Project to the extent required by the Contract Documents, shall provide for expeditious and practicable execution of the Work and shall not be modified or extended without the prior approval of the Owner in each instance.

§ 3.10.2 The Contractor shall prepare a submittal schedule, promptly after being awarded the Contract and thereafter as necessary to maintain a current submittal schedule, and shall submit the schedule(s) for the Owner's and Architect's approval. The Owner's and Architect's approval shall not unreasonably be delayed or withheld. The submittal schedule shall (1) be coordinated with the Contractor's construction schedule, and (2) allow the Owner and Architect reasonable time to review submittals. If the Contractor fails to submit a submittal schedule, the Contractor shall not be entitled to any increase in Contract Sum or extension of Contract Time based on the time required for review of submittals.

The Contractor shall prepare at least monthly a progress report in a form, in sufficient detail, and of a character approved by the Owner and Owner's lender, if any, for the Project. The progress report shall specify, among other things, an estimated percentage of completion, whether the Project is on schedule, and if not, the reasons therefor and the new schedule, as well as the number of man-days worked for each category of labor and the projected Work to be completed in the next succeeding month. Accompanying the progress report shall be an updated current Project schedule, and a listing and the status of all Change Orders, Modifications, bulletins and other relevant documents.

The Contractor also shall prepare not later than 30 days after the Contract is awarded a materials report which shall include a complete list of suppliers and fabricators, items to be purchased from the suppliers or fabricators, time required for fabrication and the scheduled delivery dates for each item to be purchased. As soon as available, the Contractor shall furnish copies of purchase orders to the Owner.

The Contractor shall prepare such additional reports as the Owner or Owner's lender for the Project, if any, may request. The Contractor shall hold weekly progress meetings at the Project site, or at such other time and frequency as the Owner requests. Progress of the Work shall be reported in detail with reference to construction schedules. Each

interested Subcontractor shall have present a competent representative to report the condition of its work and to receive information.

§ 3.10.3 The Contractor shall perform the Work in general accordance with the most recent schedules submitted to the Owner and Architect.

§ 3.10.4 The Contractor acknowledges that the Owner may retain the services of a scheduling consultant at the Owner's expense. The Contractor shall cooperate with any such scheduling consultant at the Owner's direction, including, without limitation, with regard to the preparation of the Project schedule.

§ 3.10.5 Contractor shall utilize Primavera (P3) or Suretrac as its scheduling software.

§ 3.11 DOCUMENTS AND SAMPLES AT THE SITE

§ 3.11.1 The Contractor shall maintain at the site for the Owner one copy of the Drawings, Specifications, Addenda, Change Orders and other Modifications, in good order and marked currently to indicate field changes and selections made during construction, and one copy of approved Shop Drawings, Product Data, Samples and similar required submittals. These shall be available to the Architect and shall be delivered to the Architect for submittal to the Owner upon completion of the Work as a record of the Work as constructed, signed by the Contractor, certifying that they show complete and exact "as-built" conditions, including, but not limited to, specific locations and types of materials, piping, conduit, utilities and other "as-built" conditions.

§ 3.11.2 The Contractor shall maintain all approved permit drawings in a manner so as to make them accessible to governmental inspectors and other authorized agencies. All approved drawings shall be wrapped, marked with appropriate identification and delivered to the Owner within sixty (60) days of final completion of the Work.

§ 3.12 SHOP DRAWINGS, PRODUCT DATA AND SAMPLES

§ 3.12.1 Shop Drawings are drawings, diagrams, schedules and other data specially prepared for the Work by the Contractor or a Subcontractor, Sub-subcontractor, manufacturer, supplier or distributor to illustrate some portion of the Work.

§ 3.12.2 Product Data are illustrations, standard schedules, performance charts, instructions, brochures, diagrams and other information furnished by the Contractor to illustrate materials or equipment for some portion of the Work.

§ 3.12.3 Samples are physical examples that illustrate materials, equipment or workmanship and establish standards by which the Work will be judged.

§ 3.12.4 Shop Drawings, Product Data, Samples and similar submittals are not Contract Documents. Their purpose is to demonstrate the way by which the Contractor proposes to conform to the information given and the design concept expressed in the Contract Documents for those portions of the Work for which the Contract Documents require submittals. Review by the Architect is subject to the limitations of Section 4.2.7. Informational submittals upon which the Architect is not expected to take responsive action may be so identified in the Contract Documents. Submittals that are not required by the Contract Documents may be returned by the Architect without action.

§ 3.12.5 The Contractor shall review for compliance with the Contract Documents, approve and submit to the Architect Shop Drawings, Product Data, Samples and similar submittals required by the Contract Documents in accordance with the submittal schedule approved by the Architect or, in the absence of an approved submittal schedule, with reasonable promptness and in such sequence as to cause no delay in the Work or in the activities of the Owner or of separate contractors.

§ 3.12.6 By submitting Shop Drawings, Product Data, Samples and similar submittals, the Contractor represents to the Owner and Architect that the Contractor has (1) reviewed and approved them, (2) determined and verified materials, field measurements and field construction criteria related thereto, or will do so and (3) checked and coordinated the information contained within such submittals with the requirements of the Work and of the Contract Documents.

§ 3.12.7 The Contractor shall perform no portion of the Work for which the Contract Documents require submittal and review of Shop Drawings, Product Data, Samples or similar submittals until the respective submittal has been approved by the Architect.

§ 3.12.8 The Work shall be in accordance with approved submittals except that the Contractor shall not be relieved of responsibility for deviations from requirements of the Contract Documents by the Architect's approval of Shop Drawings, Product Data, Samples or similar submittals unless the Contractor has specifically informed the Architect in writing of such deviation at the time of submittal and (1) the Architect has given written approval to the specific deviation as a minor change in the Work, or (2) a Change Order or Construction Change Directive has been issued authorizing the deviation. The Contractor shall not be relieved of responsibility for errors or omissions in Shop Drawings, Product Data, Samples or similar submittals by the Architect's approval thereof.

§ 3.12.9 The Contractor shall direct specific attention, in writing or on resubmitted Shop Drawings, Product Data, Samples or similar submittals, to revisions other than those requested by the Architect on previous submittals. In the absence of such written notice, the Architect's approval of a resubmission shall not apply to such revisions.

§ 3.12.10 The Contractor shall not be required to provide professional services that constitute the practice of architecture or engineering unless such services are specifically required by the Contract Documents for a portion of the Work or unless the Contractor needs to provide such services in order to carry out the Contractor's responsibilities for construction means, methods, techniques, sequences and procedures. The Contractor shall not be required to provide professional services in violation of applicable law. If professional design services or certifications by a design professional related to systems, materials or equipment are specifically required of the Contractor by the Contract Documents, the Owner and the Architect will specify all performance and design criteria that such services must satisfy. The Contractor shall cause such services or certifications to be provided by a properly licensed design professional, whose signature and seal shall appear on all drawings, calculations, specifications, certifications, Shop Drawings and other submittals prepared by such professional. Shop Drawings and other submittals related to the Work designed or certified by such professional, if prepared by others, shall bear such professional's written approval when submitted to the Architect. The Owner and the Architect shall be entitled to rely upon the adequacy, accuracy and completeness of the services, certifications and approvals performed or provided by such design professionals, provided the Owner and Architect have specified to the Contractor all performance and design criteria that such services must satisfy. Pursuant to this Section 3.12.10, the Architect will review, approve or take other appropriate action on submittals only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents. The Contractor shall not be responsible for the adequacy of the performance and design criteria specified in the Contract Documents.

§ 3.12.11 Shop drawings for Architectural, Structural, Mechanical and Electrical work shall be submitted for approval to the Architect.

§ 3.12.12 The Contractor shall assemble for the Architect's approval three complete copies in looseleaf binders of all operating and maintenance data from all manufacturers whose equipment is or will be installed in the Work. The Contractor shall also prepare a checklist and schedule showing the type of lubricant to be used at each point of application, and the intervals between lubrication for each item of equipment.

§ 3.12.13 The Contractor shall submit to Owner one copy of all submissions made to the Architect pursuant to this Paragraph 3.12.

§ 3.13 USE OF SITE

§ 3.13.1 The Contractor shall confine operations at the site to areas permitted by applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities and the Contract Documents and shall not unreasonably encumber the site with materials or equipment.

§ 3.13.2 The Contractor shall assure free, convenient, unencumbered and direct access to properties neighboring the Project site for the owners of such properties and their respective tenants, agents, invitees and guests.

§ 3.14 CUTTING AND PATCHING

§ 3.14.1 The Contractor shall be responsible for cutting, fitting or patching required to complete the Work or to make its parts fit together properly. All areas requiring cutting, fitting and patching shall be restored to the condition existing prior to the cutting, fitting and patching, unless otherwise required by the Contract Documents.

§ 3.14.2 The Contractor shall not damage or endanger a portion of the Work or fully or partially completed construction of the Owner or separate contractors by cutting, patching or otherwise altering such construction, or by excavation. The Contractor shall not cut or otherwise alter such construction by the Owner or a separate contractor except with written consent of the Owner and of such separate contractor; such consent shall not be unreasonably withheld. The Contractor shall not unreasonably withhold from the Owner or a separate contractor the Contractor's consent to cutting or otherwise altering the Work.

§ 3.15 CLEANING UP

§ 3.15.1 The Contractor shall keep the premises and surrounding area free from accumulation of waste materials or rubbish caused by operations under the Contract. At completion of the Work, the Contractor shall remove waste materials, rubbish, the Contractor's tools, construction equipment, machinery and surplus materials from and about the Project.

§ 3.15.2 If the Contractor fails to clean up as provided in the Contract Documents, the Owner may do so and Owner shall be entitled to reimbursement from the Contractor.

§ 3.15.3 The Contractor shall be responsible for broken and scratched glass, which finished product does not meet industry standards ("damaged glass"). At the completion of the Work, Contractor shall replace such damaged glass. After damaged glass has been replaced, the Contractor shall remove all labels, wash and polish both sides of all glass.

In addition to general broom cleaning, the Contractor shall perform the following final cleaning for all trades at completion of the Work:

- .1 remove temporary protections;
- .2 remove marks, stains, fingerprints and other soil or dirt from painted, decorated and natural-finished woodwork and other Work;
- .3 remove spots, plaster, soil and paint from ceramic tile, marble and other finished materials, and wash or wipe clean;
- .4 clean fixtures, cabinet work and equipment, removing stains, paint, dirt and dust, and leave same in undamaged, new condition;
- .5 clean aluminum in accordance with recommendations of the manufacturer; and,
- .6 clean resilient floors thoroughly with a well rinsed mop containing only enough moisture to clean off any surface dirt or dust and buff dry by machine to bring the surfaces to sheen.

§ 3.16 ACCESS TO WORK

The Contractor shall provide the Owner and Architect access to the Work in preparation and progress wherever located.

§ 3.17 ROYALTIES, PATENTS AND COPYRIGHTS

The Contractor shall pay all royalties and license fees. The Contractor shall defend suits or claims for infringement of copyrights and patent rights and shall hold the Owner and Architect harmless from loss on account thereof, but shall not be responsible for such defense or loss when a particular design, process or product of a particular manufacturer or manufacturers is required by the Contract Documents, or where the copyright violations are contained in Drawings, Specifications or Instruments of Service prepared by the Owner or Architect. However, if the Contractor has reason to believe that the required design, process or product is an infringement of a copyright or a patent, the Contractor shall be responsible for such loss unless such information is promptly furnished to the Architect.

§ 3.18 INDEMNIFICATION

§ 3.18.1 To the fullest extent permitted by law the Contractor shall defend, indemnify and hold harmless the Owner, Architect, Architect's consultants, and agents and employees of any of them from and against claims, damages, losses

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and expenses, including but not limited to attorneys' fees, arising out of or resulting from performance of the Work, provided that such claim, damage, loss or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the Work itself), but only to the extent caused by the negligent acts or omissions of the Contractor, a Subcontractor, anyone directly or indirectly employed by them or anyone for whose acts they may be liable, regardless of whether or not such claim, damage, loss or expense is caused in part by a party indemnified hereunder. Such obligation shall not be construed to negate, abridge, or reduce other rights or obligations of indemnity which would otherwise exist as to a party or person described in this Section 3.18.

§ 3.18.2 In claims against any person or entity indemnified under this Section 3.18 by an employee of the Contractor, a Subcontractor, anyone directly or indirectly employed by them or anyone for whose acts they may be liable, the indemnification obligation under Section 3.18.1 shall not be limited by a limitation on amount or type of damages, compensation or benefits payable by or for the Contractor or a Subcontractor under workers' compensation acts, disability benefit acts or other employee benefit acts.

§ 3.18.3 If any of the indemnification provisions recited in this Agreement and/or these General Conditions are deemed to fall within the provisions of the indemnity statutes of the state where the project is located, then the extent of indemnification for each of those provisions under this Agreement and/or these General Conditions shall each be limited to the sum of \$1,000,000. It is further acknowledged and agreed that this provision is hereby incorporated into and shall constitute part of the project specifications and bid documents. The parties further agree that \$1,000.00 of the Contract Sum shall constitute consideration for the indemnity obligation set forth herein.

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§ 3.19.1 The Contractor shall provide all documents, reports and other information requested by any lender, escrowee under any construction loan escrow or title insurer and shall cooperate with such lender, escrowee or insurer to the fullest extent possible.

§ 3.19.2 If Owner's lender shall designate an inspecting architect or other representative, the Contractor shall cooperate with such inspecting architect or representative to the fullest extent possible.

ARTICLE 4 ARCHITECT

§ 4.1 GENERAL

§ 4.1.1 If an Architect is identified on page one of this Agreement, Article 4 shall apply. The Architect is the person lawfully licensed to practice architecture. The term "Architect" means the Architect or the Architect's authorized representative.

§ 4.1.2 Duties, responsibilities and limitations of authority of the Architect as set forth in the Contract Documents shall not be restricted, modified or extended without written consent of the Owner, Contractor and Architect. Consent shall not be unreasonably withheld.

§ 4.1.3 If the employment of the Architect is terminated, the Owner shall employ a successor architect.

§ 4.2 ADMINISTRATION OF THE CONTRACT

§ 4.2.1 The Architect will provide administration of the Contract as described in the Contract Documents and will be an Owner's representative during construction until the date the Architect issues the final Certificate For Payment. The Architect will have authority to act on behalf of the Owner only to the extent provided in the Contract Documents.

§ 4.2.2 The Architect will visit the site at intervals appropriate to the stage of construction, or as otherwise agreed with the Owner, to become generally familiar with the progress and quality of the portion of the Work completed, and to determine in general if the Work observed is being performed in a manner indicating that the Work, when fully completed, will be in accordance with the Contract Documents. However, the Architect will not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the Work. The Architect will not have control over, charge of, or responsibility for, the construction means, methods, techniques, sequences or procedures, or for the safety precautions and programs in connection with the Work, since these are solely the Contractor's rights and responsibilities under the Contract Documents, except as provided in Section 3.3.1.

§ 4.2.3 On the basis of the site visits, the Architect will keep the Owner reasonably informed about the progress and quality of the portion of the Work completed, and report to the Owner (1) deviations from the Contract Documents and

from the most recent construction schedule submitted by the Contractor, and (2) defects and deficiencies in the Work. The Architect will not be responsible for the Contractor's failure to perform the Work in accordance with the requirements of the Contract Documents. The Architect will not have control over or charge of and will not be responsible for acts or omissions of the Contractor, Subcontractors, or their agents or employees, or any other persons or entities performing portions of the Work.

§ 4.2.4 COMMUNICATIONS FACILITATING CONTRACT ADMINISTRATION

Except as otherwise provided in the Contract Documents or when direct communications have been specially authorized, the Owner and Contractor shall endeavor to communicate with each other through the Architect about matters arising out of or relating to the Contract. Communications by and with the Architect's consultants shall be through the Architect. Communications by and with Subcontractors and material suppliers shall be through the Contractor. Communications by and with separate contractors shall be through the Owner.

§ 4.2.5 Based on the Architect's evaluations of the Contractor's Applications for Payment, the Architect will review and certify the amounts due the Contractor and will issue Certificates for Payment in such amounts.

§ 4.2.6 The Architect has authority to reject Work that does not conform to the Contract Documents. Whenever the Architect considers it necessary or advisable, the Architect will have authority to require inspection or testing of the Work in accordance with Sections 13.5.2 and 13.5.3, whether or not such Work is fabricated, installed or completed. However, neither this authority of the Architect nor a decision made in good faith either to exercise or not to exercise such authority shall give rise to a duty or responsibility of the Architect to the Contractor, Subcontractors, material and equipment suppliers, their agents or employees, or other persons or entities performing portions of the Work.

§ 4.2.7 The Architect will review and approve, or take other appropriate action upon, the Contractor's submittals such as Shop Drawings, Product Data and Samples, but only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents. The Architect's action will be taken in accordance with the submittal schedule approved by the Architect or, in the absence of an approved submittal schedule, with reasonable promptness while allowing sufficient time in the Architect's professional judgment to permit adequate review. Review of such submittals is not conducted for the purpose of determining the accuracy and completeness of other details such as dimensions and quantities, or for substantiating instructions for installation or performance of equipment or systems, all of which remain the responsibility of the Contractor as required by the Contract Documents. The Architect's review of the Contractor's submittals shall not relieve the Contractor of the obligations under Sections 3.3, 3.5 and 3.12. The Architect's review shall not constitute approval of safety precautions or, unless otherwise specifically stated by the Architect, of any construction means, methods, techniques, sequences or procedures. The Architect's approval of a specific item shall not indicate approval of an assembly of which the item is a component.

§ 4.2.8 The Architect will prepare Change Orders and Construction Change Directives, and may authorize minor changes in the Work as provided in Section 7.4. The Architect will investigate and make determinations and recommendations regarding concealed and unknown conditions as provided in Section 3.7.4.

§ 4.2.9 The Architect will conduct inspections to determine the date or dates of Substantial Completion and the date of final completion; issue Certificates of Substantial Completion pursuant to Section 9.8; receive and forward to the Owner, for the Owner's review and records, written warranties and related documents required by the Contract and assembled by the Contractor pursuant to Section 9.10; and issue a final Certificate for Payment pursuant to Section 9.10.

§ 4.2.10 If the Owner and Architect agree, the Architect will provide one or more project representatives to assist in carrying out the Architect's responsibilities at the site. The duties, responsibilities and limitations of authority of such project representatives shall be as set forth in an exhibit to be incorporated in the Contract Documents.

§ 4.2.11 The Architect will interpret and decide matters concerning performance under, and requirements of, the Contract Documents on written request of either the Owner or Contractor. The Architect's response to such requests will be made in writing within any time limits agreed upon or otherwise with reasonable promptness.

§ 4.2.12 Interpretations and decisions of the Architect will be consistent with the intent of, and reasonably inferable from, the Contract Documents and will be in writing or in the form of drawings. When making such interpretations and

decisions, the Architect will endeavor to secure faithful performance by both Owner and Contractor, will not show partiality to either and will not be liable for results of interpretations or decisions rendered in good faith.

§ 4.2.13 The Architect's decisions on matters relating to aesthetic effect will be final if consistent with the intent expressed in the Contract Documents.

§ 4.2.14 The Architect will review and respond to requests for information about the Contract Documents. The Architect's response to such requests will be made in writing within any time limits agreed upon or otherwise with reasonable promptness. If appropriate, the Architect will prepare and issue supplemental Drawings and Specifications in response to the requests for information.

§ 4.2.15 Upon request of the Owner, claims, disputes and other matters in question relating to the execution or progress of the Work or the interpretation of the Contract Documents may be referred to the Architect for initial decision, which the Architect shall render in writing within a reasonable time, not to exceed 15 days after the date on which such request is made.

ARTICLE 5 SUBCONTRACTORS

§ 5.1 DEFINITIONS

§ 5.1.1 A Subcontractor is a person or entity who has a direct contract with the Contractor to perform a portion of the Work at the site. The term "Subcontractor" is referred to throughout the Contract Documents as if singular in number and means a Subcontractor or an authorized representative of the Subcontractor. The term "Subcontractor" does not include a separate contractor or subcontractors of a separate contractor.

§ 5.1.2 A Sub-subcontractor is a person or entity who has a direct or indirect contract with a Subcontractor to perform a portion of the Work at the site. The term "Sub-subcontractor" is referred to throughout the Contract Documents as if singular in number and means a Sub-subcontractor or an authorized representative of the Sub-subcontractor.

§ 5.2 AWARD OF SUBCONTRACTS AND OTHER CONTRACTS FOR PORTIONS OF THE WORK

§ 5.2.1 Unless otherwise stated in the Contract Documents or the bidding requirements, the Contractor, as soon as practicable after award of the Contract, shall furnish in writing to the Owner through the Architect the names of persons or entities (including those who are to furnish materials or equipment fabricated to a special design) proposed for each principal portion of the Work. The Architect may reply within 14 days to the Contractor in writing stating (1) whether the Owner or the Architect has reasonable objection to any such proposed person or entity or (2) that the Architect requires additional time for review. Failure of the Owner or Architect to reply within the 14 day period shall constitute notice of no reasonable objection. Copies of all bids or other proposals from Subcontractors and Sub-subcontractors shall, upon the request of the Owner, be submitted to the Owner for review. All Subcontractors and Sub-subcontractors shall be subject to the approval of Owner's lender, if any.

§ 5.2.2 The Contractor shall not contract with a proposed person or entity to whom the Owner or Architect has made reasonable and timely objection. The Contractor shall not be required to contract with anyone to whom the Contractor has made reasonable objection.

§ 5.2.3 If the Owner or Architect has reasonable objection to a person or entity proposed by the Contractor, the Contractor shall propose another to whom the Owner or Architect has no reasonable objection. If the proposed but rejected Subcontractor was reasonably capable of performing the Work, the Contract Sum and Contract Time shall be increased or decreased by the difference, if any, occasioned by such change, and an appropriate Change Order shall be issued before commencement of the substitute Subcontractor's Work. However, no increase in the Contract Sum or Contract Time shall be allowed for such change unless the Contractor has acted promptly and responsively in submitting names as required.

§ 5.2.4 The Contractor shall not substitute a Subcontractor, person or entity previously selected if the Owner or Architect makes reasonable objection to such substitution. The Owner may require the Contractor to change any Subcontractor or Sub-subcontractor previously approved and, if at such time the Contractor is not in default hereunder, the Contract Sum shall be increased or decreased by the difference in cost occasioned by such change.

§ 5.3 SUBCONTRACTUAL RELATIONS

§ 5.3.1 By appropriate agreement, written where legally required for validity, the Contractor shall require each Subcontractor, to the extent of the Work to be performed by the Subcontractor, to be bound to the Contractor by terms of the Contract Documents, and to assume toward the Contractor all the obligations and responsibilities, including the responsibility for safety of the Subcontractor's Work, which the Contractor, by these Documents, assumes toward the Owner and Architect. Each subcontract agreement shall preserve and protect the rights of the Owner and Architect under the Contract Documents with respect to the Work to be performed by the Subcontractor so that subcontracting thereof will not prejudice such rights, and shall allow to the Subcontractor, unless specifically provided otherwise in the subcontract agreement, the benefit of all rights, remedies and redress against the Contractor that the Contractor, by the Contract Documents, has against the Owner. Where appropriate, the Contractor shall require each Subcontractor to enter into similar agreements with Sub-subcontractors. The Contractor shall make available to each proposed Subcontractor, prior to the execution of the subcontract agreement, copies of the Contract Documents to which the Subcontractor will be bound, and, upon written request of the Subcontractor, identify to the Subcontractor terms and conditions of the proposed subcontract agreement that may be at variance with the Contract Documents. Subcontractors will similarly make copies of applicable portions of such documents available to their respective proposed Sub-subcontractors.

§ 5.3.2 Notwithstanding any provision of Subparagraph 5.3.1, any part of the Work performed for the Contractor by a Subcontractor or its Sub-subcontractor shall be pursuant to a written Subcontract between the Contractor and such Subcontractor, which shall be prepared on a form of subcontract satisfactory to the Owner in all respects. Each such subcontract shall, where the context so requires, contain provisions that:

- .1 require that such Work be performed in accordance with the requirements of the Contract Documents;
- .2 waive all rights the contracting parties may have against one another or that the Subcontractor may have against the Owner for damages caused by fire or other perils covered by the Contractor's insurance described in the Contract Documents;
- .3 require the Subcontractor to carry and maintain insurance coverage in accordance with the Contract Documents, and to file certificates of such coverage with the Contractor;
- .4 require the Subcontractor to submit certificates and waivers of liens for work completed by it and by its Sub-subcontractors as a condition to the disbursement of the progress payment next due and owing;
- .5 require submission to Contractor or Subcontractor, as the case may be, of applications for payment in a form approved by the Owner;
- .6 report, so far as practicable, unit prices and any other feasible formula for use in the determination of costs of changes in the Work;
- .7 require each Subcontractor to furnish to the Contractor in a timely fashion all information necessary for the preparation and submission of the reports required herein;
- .8 require that each Subcontractor continue to perform under its subcontract in the event the Contract is terminated and the Owner shall take an assignment of said subcontract and request such Subcontractor to continue such performance;
- .9 require each Subcontractor to remove all debris created by its activities; and,
- .10 require each Subcontractor to represent that it is an equal opportunity employer as described in state statutes and local ordinances.

§ 5.3.3 The Contractor shall not enter into any subcontract, contract, agreement, purchase order or other arrangement ("Arrangement") for the furnishing of any portion of the materials, services, equipment of Work with any party or entity if such party or entity is an Affiliated Entity (as defined below), unless such Arrangement has been approved by the Owner, after full disclosure in writing by the Contractor to the Owner of such affiliation or relationship and all details relating to the proposed Arrangement. The term "Affiliated Entity" means any entity related to or affiliated with the Contractor or with respect to which the Contractor has direct or indirect ownership or control, including, without limitation, any entity owned in whole or part by the Contractor; any holder of more than 10% of the issued and outstanding shares of, or the holder of any interest in, the Contractor; any entity in which any officer, director, employee, partner or shareholder (or member of the family of any of the foregoing persons) of the Contractor or any entity owned by the Contractor has a direct or indirect interest, which interest includes, but is not limited to, that of a partner, employee, agent or shareholder.

§ 5.4 CONTINGENT ASSIGNMENT OF SUBCONTRACTS

§ 5.4.1 Each subcontract agreement for a portion of the Work is assigned by the Contractor to the Owner, provided that

- .1 assignment is effective only after termination of the Contract by the Owner for cause pursuant to Section 14.2 and only for those subcontract agreements that the Owner accepts by notifying the Subcontractor and Contractor in writing; and
- .2 assignment is subject to the prior rights of the surety, if any, obligated under bond relating to the Contract.

When the Owner accepts the assignment of a subcontract agreement, the Owner assumes the Contractor's rights and obligations under the subcontract.

§ 5.4.2 Upon such assignment, if the Work has been suspended for more than 30 days, the Subcontractor's compensation shall be equitably adjusted for increases in cost resulting from the suspension.

§ 5.4.3 Upon such assignment to the Owner under this Section 5.4, the Owner may further assign the subcontract to a successor contractor or other entity. If the Owner assigns the subcontract to a successor contractor or other entity, the Owner shall nevertheless remain legally responsible for all of the successor contractor's obligations under the subcontract.

ARTICLE 6 CONSTRUCTION BY OWNER OR BY SEPARATE CONTRACTORS

§ 6.1 OWNER'S RIGHT TO PERFORM CONSTRUCTION AND TO AWARD SEPARATE CONTRACTS

§ 6.1.1 The Owner reserves the right to perform construction or operations related to the Project with the Owner's own forces, and to award separate contracts in connection with other portions of the Project or other construction or operations on the site under Conditions of the Contract identical or substantially similar to these including those portions related to insurance and waiver of subrogation.

§ 6.1.2 When separate contracts are awarded for different portions of the Project or other construction or operations on the site, the term "Contractor" in the Contract Documents in each case shall mean the Contractor who executes each separate Owner-Contractor Agreement.

§ 6.1.3 The Owner, at its option, shall either (i) provide for coordination of the activities of the Owner's own forces and of each separate contractor with the Work of the Contractor, who shall cooperate with them or (ii) shall require that the Contractor provide for such coordination, which the Contractor shall perform when directed by Owner to do so. The Contractor shall participate with other separate contractors and the Owner in reviewing their construction schedules. The Contractor shall make any revisions to the construction schedule deemed necessary after a joint review and mutual agreement. The construction schedules shall then constitute the schedules to be used by the Contractor, separate contractors and the Owner until subsequently revised.

§ 6.1.4 Unless otherwise provided in the Contract Documents, when the Owner performs construction or operations related to the Project with the Owner's own forces, the Owner shall be deemed to be subject to the same obligations and to have the same rights that apply to the Contractor under the Conditions of the Contract, including, without excluding others, those stated in Article 3, this Article 6 and Articles 10, 11 and 12.

§ 6.2 MUTUAL RESPONSIBILITY

§ 6.2.1 The Contractor shall afford the Owner and separate contractors reasonable opportunity for introduction and storage of their materials and equipment and performance of their activities, and shall connect and coordinate the Contractor's construction and operations with theirs as required by the Contract Documents.

§ 6.2.2 If part of the Contractor's Work depends for proper execution or results upon construction or operations by the Owner or a separate contractor, the Contractor shall, prior to proceeding with that portion of the Work, promptly report to the Architect apparent discrepancies or defects in such other construction that would render it unsuitable for such proper execution and results. Failure of the Contractor so to report shall constitute an acknowledgment that the Owner's or separate contractor's completed or partially completed construction is fit and proper to receive the Contractor's Work, except as to defects not then reasonably discoverable.

§ 6.2.3 The Contractor shall reimburse the Owner for costs the Owner incurs that are payable to a separate contractor because of the Contractor's delays, improperly timed activities or defective construction. The Owner shall be responsible to the Contractor for costs the Contractor incurs because of a separate contractor's delays, improperly timed activities, damage to the Work or defective construction.

§ 6.2.4 The Contractor shall promptly remedy damage the Contractor wrongfully causes to completed or partially completed construction or to property of the Owner or separate contractors as provided in Section 10.2.5.

§ 6.2.5 The Owner and each separate contractor shall have the same responsibilities for cutting and patching as are described for the Contractor in Section 3.14.

§ 6.2.6 If any Subcontractor initiates legal or any other proceedings against the Owner on account of any damage alleged to have been caused by the Contractor, the Owner shall notify the Contractor, who shall defend such proceedings at its own expense, and if any judgment or award against the Owner arises therefrom, the Contractor shall pay or satisfy it and shall reimburse the Owner for all attorneys' fees and court or other costs which the Owner has incurred over and above those paid for directly by the Contractor.

§ 6.3 OWNER'S RIGHT TO CLEAN UP

If a dispute arises among the Contractor, separate contractors and the Owner as to the responsibility under their respective contracts for maintaining the premises and surrounding area free from waste materials and rubbish, the Owner may clean up and the Architect will allocate the cost among those responsible.

ARTICLE 7 CHANGES IN THE WORK

§ 7.1 GENERAL

§ 7.1.1 Changes in the Work may be accomplished after execution of the Contract, and without invalidating the Contract, by Change Order, Construction Change Directive or order for a minor change in the Work, subject to the limitations stated in this Article 7 and elsewhere in the Contract Documents.

§ 7.1.2 A Change Order shall be based upon agreement among the Owner, Contractor and Architect; a Construction Change Directive requires agreement by the Owner and Architect and may or may not be agreed to by the Contractor; an order for a minor change in the Work may be issued by the Architect alone.

§ 7.1.3 Changes in the Work shall be performed under applicable provisions of the Contract Documents, and the Contractor shall proceed promptly, unless otherwise provided in the Change Order, Construction Change Directive or order for a minor change in the Work.

§ 7.2 CHANGE ORDERS

§ 7.2.1 A Change Order is a written instrument prepared by the Architect and signed by the Owner, Contractor and Architect stating their agreement upon all of the following:

- .1 The change in the Work;
- .2 The amount of the adjustment, if any, in the Contract Sum; and
- .3 The extent of the adjustment, if any, in the Contract Time.

§ 7.3 CONSTRUCTION CHANGE DIRECTIVES

§ 7.3.1 A Construction Change Directive is a written order prepared by the Architect and signed by the Owner and Architect, directing a change in the Work prior to agreement on adjustment, if any, in the Contract Sum or Contract Time, or both. The Owner may by Construction Change Directive, without invalidating the Contract, order changes in the Work within the general scope of the Contract consisting of additions, deletions or other revisions, the Contract Sum and Contract Time being adjusted accordingly.

§ 7.3.2 A Construction Change Directive shall be used in the absence of total agreement on the terms of a Change Order.

§ 7.3.3 If the Construction Change Directive provides for an adjustment to the Contract Sum, the adjustment shall be based on one of the following methods:

- .1 Mutual acceptance of a lump sum properly itemized and supported by sufficient substantiating data to permit evaluation;
- .2 Unit prices stated in the Contract Documents or subsequently agreed upon;
- .3 Cost to be determined in a manner agreed upon by the parties and a mutually acceptable fixed or percentage fee; or
- .4 As provided in Section 7.3.7.

§ 7.3.4 If unit prices are stated in the Contract Documents or subsequently agreed upon, and if quantities originally contemplated are materially changed in a proposed Change Order or Construction Change Directive so that application of such unit prices to quantities of Work proposed will cause substantial inequity to the Owner or Contractor, the applicable unit prices shall be equitably adjusted.

§ 7.3.5 Upon receipt of a Construction Change Directive, the Contractor shall promptly proceed with the change in the Work involved and advise the Architect of the Contractor's agreement or disagreement with the method, if any, provided in the Construction Change Directive for determining the proposed adjustment in the Contract Sum or Contract Time.

§ 7.3.6 A Construction Change Directive signed by the Contractor indicates the Contractor's agreement therewith, including adjustment in Contract Sum and Contract Time or the method for determining them. Such agreement shall be effective immediately and shall be recorded as a Change Order.

§ 7.3.7 If the Contractor does not respond promptly or disagrees with the method for adjustment in the Contract Sum, the Architect shall determine the method and the adjustment on the basis of reasonable expenditures and savings of those performing the Work attributable to the change, including, in case of an increase in the Contract Sum, an amount for overhead and profit as set forth in the Agreement, or if no such amount is set forth in the Agreement, a reasonable amount. In such case, and also under Section 7.3.3.3, the Contractor shall keep and present, in such form as the Architect may prescribe, an itemized accounting together with appropriate supporting data. Unless otherwise provided in the Contract Documents, costs for the purposes of this Section 7.3.7 shall be limited to the following:

- .1 Costs of labor, including social security, old age and unemployment insurance, fringe benefits required by agreement or custom, and workers' compensation insurance;
- .2 Costs of materials, supplies and equipment, including cost of transportation, whether incorporated or consumed;
- .3 Rental costs of machinery and equipment, exclusive of hand tools, whether rented from the Contractor or others;
- .4 Costs of premiums for all bonds and insurance, permit fees, and sales, use or similar taxes related to the Work; and
- .5 Additional costs of supervision and field office personnel directly attributable to the change.

§ 7.3.8 The amount of credit to be allowed by the Contractor to the Owner for a deletion or change that results in a net decrease in the Contract Sum shall be actual net cost as confirmed by the Architect. When both additions and credits covering related Work or substitutions are involved in a change, the allowance for overhead and profit shall be figured on the basis of net increase, if any, with respect to that change.

§ 7.3.9 Pending final determination of the total cost of a Construction Change Directive to the Owner, the Contractor may request payment for Work completed under the Construction Change Directive in Applications for Payment. The

Architect will make an interim determination for purposes of monthly certification for payment for those costs and certify for payment the amount that the Architect determines, in the Architect's professional judgment, to be reasonably justified. The Architect's interim determination of cost shall adjust the Contract Sum on the same basis as a Change Order, subject to the right of either party to disagree and assert a Claim in accordance with Article 15.

§ 7.3.10 When the Owner and Contractor agree with a determination made by the Architect concerning the adjustments in the Contract Sum and Contract Time, or otherwise reach agreement upon the adjustments, such agreement shall be effective immediately and the Architect will prepare a Change Order. Change Orders may be issued for all or any part of a Construction Change Directive.

§ 7.3.11 When either the Owner or the Contractor or both do not agree with the determination made by the Architect concerning the adjustments in the Contract Sum and Contract Time, such disagreement shall be resolved in the manner prescribed in Paragraph 8.3.

§ 7.4 MINOR CHANGES IN THE WORK

The Architect has authority to order minor changes in the Work not involving adjustment in the Contract Sum or extension of the Contract Time and not inconsistent with the intent of the Contract Documents. Such changes will be effected by written order signed by the Architect and shall be binding on the Owner and Contractor. The Contractor shall receive no additional compensation therefor, nor shall there be any change in the Contract Time as a result thereof.

ARTICLE 8 TIME

§ 8.1 DEFINITIONS

§ 8.1.1 Unless otherwise provided, Contract Time is the period of time, including authorized adjustments, allotted in the Contract Documents for Substantial Completion of the Work.

§ 8.1.2 The date of commencement of the Work is the date established in the Agreement.

§ 8.1.3 The date of Substantial Completion is the date certified by the Architect in accordance with Section 9.8.

§ 8.1.4 The term "day" as used in the Contract Documents shall mean calendar day unless otherwise specifically defined.

§ 8.2 PROGRESS AND COMPLETION

§ 8.2.1 Time limits stated in the Contract Documents are of the essence of the Contract. By executing the Agreement the Contractor confirms that the Contract Time is a reasonable period for performing the Work.

§ 8.2.2 The Contractor shall not knowingly, except by agreement or instruction of the Owner in writing, prematurely commence operations on the site or elsewhere prior to the effective date of insurance required by Article 11 to be furnished by the Contractor and Owner. The date of commencement of the Work shall not be changed by the effective date of such insurance.

§ 8.2.3 The Contractor shall proceed expeditiously with adequate forces and shall achieve Substantial Completion within the Contract Time. To ensure that Substantial Completion of the Work is achieved within the Contract Time, the Contractor will, before commencing the Work, submit to Owner a progress schedule showing milestone dates for completion of major portions of the Work which, if the milestone dates are met, will achieve Substantial Completion of the Work within the Contract Time. In the event any milestone date is missed, the Contractor will immediately accelerate the progress of the Work by taking those steps necessary to ensure that the next milestone date is achieved as originally planned including, without limitation, working seven days a week and overtime and employing additional employees or subcontractors. Unless the failure to meet a milestone date is caused by act of the Owner, the additional cost resulting from such acceleration shall not increase the Contract Sum.

§ 8.3 DELAYS AND EXTENSIONS OF TIME

§ 8.3.1 The Contractor shall delay or suspend the progress of the Work, or of any part thereof, whenever he shall be so required by written order of the Owner, and for such periods of time as the Owner may order, providing that in the event of such delay or delays or of such suspension or suspensions of the progress of the Work, or any part thereof, the Contract Time for the Work so suspended or of Work delayed by such suspension shall be extended for a period

equivalent to the time lost by reason of the suspension(s), except when the Contractor is notified to suspend Work on account of faulty construction or construction methods that endanger the Work. Such order of the Owner shall not otherwise modify or invalidate in any way any of the provisions of this Contract, and the Contractor shall not be entitled to any damages or compensation from the Owner on account of such delay or delays, suspension or suspensions, except as provided below.

§ 8.3.2 When alterations or additions on the critical path are made to the Work, and such alterations or additions increase the overall completion date, the Contractor shall submit to the Architect in writing any resultant claim for an extension in the Contract Time, and shall deliver such claims to the Architect within ten (10) days after the occurrence of the event giving rise to the claim. The recommendation of the Architect regarding extension of Contract Time shall be submitted to the Owner for approval.

Any approved changes in Contract Time shall be incorporated in a Change Order. No changes in Contract Time shall be made for any alterations or additions to the Work which are not demonstrated to affect the overall completion of the job. The provision of this Article shall in no way alter, change or invalidate the provisions of the Contract Documents with respect to liquidated damages. The Contractor shall not be entitled to any delay damages or other compensation solely on account of an increase in Contract Time except in accordance with 8.3.4 below.

§ 8.3.3 Should the Contractor be obstructed or delayed in the commencement, prosecution or completion of any part of the Work by any act or delay of the Owner; or by any acts or neglect by any separate contractor employed by the Owner; material or appurtenances for the Work; or by riot, insurrection, war (excluding wars involving the United States in the Mid-Eastern portion of the World), pestilence, fire, earthquakes, cyclones, floods, epidemics; or through any act, default or delay of other parties under contract with the Owner; then the Contract Time for the Work so delayed shall be extended for a period equivalent to the time lost. Such allowance shall not be made unless a claim for extension of time is made by the Contractor to the Owner and Architect in writing within ten (10) days from the time when the alleged cause for delay occurs.

§ 8.3.4 It is further expressly agreed that the Contractor shall not be entitled to any damages or compensation from the Owner on account of any delays resulting from any of the causes specified above except those circumstances where delays are caused by the Owner or by parties under contract with the Owner, in which circumstances the Contractor shall be entitled to compensation (1) for Contractor's actual costs of increased direct jobsite wages resulting from the extended completion date caused by Owner; and (2) for extra premiums on bonds actually paid by the Contractor on account of the additional time required to complete all Work hereunder. Any change in the Contract Time resulting from any claims for delays shall be incorporated in a signed Change Order upon approval of the change by the Owner.

§ 8.3.5 Contractor expressly assumes the risk for all weather delays of every kind and nature.

ARTICLE 9 PAYMENTS AND COMPLETION

§ 9.1 CONTRACT SUM

The Contract Sum is stated in the Agreement and, including authorized adjustments, is the total amount payable by the Owner to the Contractor for performance of the Work under the Contract Documents.

§ 9.2 SCHEDULE OF VALUES

Where the Contract is based on a stipulated sum or Guaranteed Maximum Price, the Contractor shall submit to the Architect, before the first Application for Payment, a schedule of values allocating the entire Contract Sum to the various portions of the Work and prepared in such form and supported by such data to substantiate its accuracy as the Architect may require. The schedule of values shall be prepared in such a manner that each major item of the Work and each subcontracted item of the Work is shown as a separate line item on AIA Document G703, Application and Certificate for Payment, Continuation Sheet, or other form acceptable to the Architect. This schedule, unless objected to by the Architect, shall be used as a basis for reviewing the Contractor's Applications for Payment.

§ 9.3 APPLICATIONS FOR PAYMENT

§ 9.3.1 At least ten days before the date established for each progress payment, the Contractor shall submit to the Architect an itemized Application for Payment prepared in accordance with the schedule of values, if required under Section 9.2., for completed portions of the Work. Such application shall be notarized, if required, and supported by such data substantiating the Contractor's right to payment as the Owner or Architect may require, such as copies of

requisitions from Subcontractors and material suppliers, and shall reflect retainage if provided for in the Contract Documents. Such Application for Payment shall be certified as correct by Contractor and shall be accompanied by waivers of liens and other documentation from Subcontractors and Sub-subcontractors as reasonably may be required by the Owner or Owner's lender, if any, under its Loan agreement with Owner or title insurer. In addition, such Application for Payment shall contain a certification by the Contractor that there are no written claims of construction, mechanics' or materialmen's liens submitted to the Contractor at the date of such Application for Payment, that the Contractor has no knowledge of any filed construction, mechanics' or materialmen's liens with respect to the Work, that all due and payable bills with respect to the Work have been paid to date or shall be paid from the proceeds of such Application for Payment, that there is no known basis for the filing of any construction, mechanics' or materialmen's liens on the Work, and that waivers from all Subcontractors constitute an effective waiver of lien under the laws of the jurisdiction in which the Project is located to the extent of payments that have been made or are to be made concurrently with payment pursuant to such Application for Payment. Upon request by Owner, copies of all Applications for Payment shall be submitted by Contractor directly to Owner's lender for the Project.

§ 9.3.1.1 As provided in Section 7.3.9, such applications may include requests for payment on account of changes in the Work that have been properly authorized by Construction Change Directives, or by interim determinations of the Architect, but not yet included in Change Orders.

§ 9.3.1.2 Applications for Payment shall not include requests for payment for portions of the Work for which the Contractor does not intend to pay a Subcontractor or material supplier, unless such Work has been performed by others whom the Contractor intends to pay.

§ 9.3.2 Unless otherwise provided in the Contract Documents, payments shall be made on account of materials and equipment delivered and suitably stored at the site for subsequent incorporation in the Work. If approved in advance by the Owner, payment may similarly be made for materials and equipment suitably stored off the site at a location agreed upon in writing. Payment for materials and equipment stored on or off the site shall be conditioned upon compliance by the Contractor with procedures satisfactory to the Owner to establish the Owner's title to such materials and equipment or otherwise protect the Owner's interest, and shall include the costs of applicable insurance, storage and transportation to the site for such materials and equipment stored off the site. The Contractor shall submit, within 30 days after the date of commencement of the Work and thereafter as the Owner requires, schedules of materials and equipment for each category or subcontract for which application for payment under Subparagraph 9.3.2 will be made, which schedules shall include items, quantities, value of unit prices with extensions and the month in which Application for Payment with respect thereto is expected to occur. Schedules shall be updated on a monthly basis and submitted as an attachment to the Contractor's Application for Payment.

§ 9.3.3 The Contractor warrants that title to all Work covered by an Application for Payment will pass to the Owner no later than the time of payment. The Contractor further warrants that upon submittal of an Application for Payment all Work for which Certificates for Payment have been previously issued and payments received from the Owner shall, to the best of the Contractor's knowledge, information and belief, be free and clear of liens, claims, security interests or encumbrances in favor of the Contractor, Subcontractors, material suppliers, or other persons or entities making a claim by reason of having provided labor, materials and equipment relating to the Work.

§ 9.4 CERTIFICATES FOR PAYMENT

§ 9.4.1 The Architect will, within seven days after receipt of the Contractor's Application for Payment, either issue to the Owner a Certificate for Payment, with a copy to the Contractor, for such amount as the Architect determines is properly due, or notify the Contractor and Owner in writing of the Architect's reasons for withholding certification in whole or in part as provided in Section 9.5.1.

§ 9.4.2 The issuance of a Certificate for Payment will constitute a representation by the Architect to the Owner, based on the Architect's evaluation of the Work and the data comprising the Application for Payment, that, to the best of the Architect's knowledge, information and belief, the Work has progressed to the point indicated and that the quality of the Work is in accordance with the Contract Documents. The foregoing representations are subject to an evaluation of the Work for conformance with the Contract Documents upon Substantial Completion, to results of subsequent tests and inspections, to correction of minor deviations from the Contract Documents prior to completion and to specific qualifications expressed by the Architect. The issuance of a Certificate for Payment will further constitute a representation that the Contractor is entitled to payment in the amount certified. However, the issuance of a Certificate for Payment will not be a representation that the Architect has (1) made exhaustive or continuous on-site inspections to

check the quality or quantity of the Work, (2) reviewed construction means, methods, techniques, sequences or procedures, (3) reviewed copies of requisitions received from Subcontractors and material suppliers and other data requested by the Owner to substantiate the Contractor's right to payment, or (4) made examination to ascertain how or for what purpose the Contractor has used money previously paid on account of the Contract Sum.

§ 9.5 DECISIONS TO WITHHOLD CERTIFICATION

§ 9.5.1 The Architect may withhold a Certificate for Payment in whole or in part, to the extent reasonably necessary to protect the Owner, if in the Architect's opinion the representations to the Owner required by Section 9.4.2 cannot be made. If the Architect is unable to certify payment in the amount of the Application, the Architect will notify the Contractor and Owner as provided in Section 9.4.1. If the Contractor and Architect cannot agree on a revised amount, the Architect will promptly issue a Certificate for Payment for the amount for which the Architect is able to make such representations to the Owner. The Architect may also withhold a Certificate for Payment or, because of subsequently discovered evidence, may nullify the whole or a part of a Certificate for Payment previously issued, to such extent as may be necessary in the Architect's opinion to protect the Owner from loss for which the Contractor is responsible, including loss resulting from acts and omissions described in Section 3.3.2, because of

- .1 defective Work not remedied;
- .2 third party claims filed or reasonable evidence indicating probable filing of such claims unless security acceptable to the Owner is provided by the Contractor;
- .3 failure of the Contractor to make payments properly to Subcontractors or for labor, materials or equipment;
- .4 reasonable evidence that the Work cannot be completed for the unpaid balance of the Contract Sum;
- .5 damage to the Owner or a separate contractor;
- .6 reasonable evidence that the Work will not be completed within the Contract Time, and that the unpaid balance would not be adequate to cover actual or liquidated damages for the anticipated delay; or
- .7 repeated failure to carry out the Work in accordance with the Contract Documents.

§ 9.5.2 When the above reasons for withholding certification are removed, certification will be made for amounts previously withheld.

§ 9.5.3 If the Architect withholds certification for payment under Section 9.5.1.3, the Owner may, at its sole option, issue joint checks to the Contractor and to any Subcontractor or material or equipment suppliers to whom the Contractor failed to make payment for Work properly performed or material or equipment suitably delivered. If the Owner makes payments by joint check, the Owner shall notify the Architect and the Architect will reflect such payment on the next Certificate for Payment.

§ 9.5.4 If the Contractor disputes any determination by the Architect with respect to any Certificate of Payment, the Contractor nevertheless expeditiously shall continue to prosecute the Work.

§ 9.6 PROGRESS PAYMENTS

§ 9.6.1 Contractor shall provide to the Owner fully executed *Waiver and Partial Release from Contractor, Waiver and Partial Releases from Contractor's Subcontractors, Sub-subcontractors, suppliers and materialmen or any party with lien rights, and Contractor's Affidavit of Outstanding Accounts* at the time each Application for Payment is submitted. After the Architect has issued a Certificate for Payment, the Owner shall make payment in the manner and within the time provided in the Contract Documents, and shall so notify the Architect. Copies of the required *Waiver and Partial Release from Contractor, Waiver and Partial Releases from Contractor's Subcontractors, Sub-subcontractors, suppliers and materialmen or any party with lien rights, and Contractor's Affidavit of Outstanding Accounts* shall be set forth in an exhibit to be incorporated in the Contract Documents.

§ 9.6.2 The Contractor shall pay each Subcontractor no later than seven days after receipt of payment from the Owner the amount to which the Subcontractor is entitled, reflecting percentages actually retained from payments to the Contractor on account of the Subcontractor's portion of the Work. The Contractor shall, by appropriate agreement with each Subcontractor, require each Subcontractor to make payments to Sub-subcontractors in a similar manner. If required by the Owner or its lender, if any, within five days of receipt of payment from the Owner, the Contractor shall send to the Owner copies of checks paid for all items of the Contractor's costs listed in the Application for Payment that were not paid prior to the date on which the Application for Payment was submitted.

§ 9.6.3 The Architect will, on request, furnish to a Subcontractor, if practicable, information regarding percentages of completion or amounts applied for by the Contractor and action taken thereon by the Architect and Owner on account of portions of the Work done by such Subcontractor.

§ 9.6.4 The Owner has the right to request written evidence from the Contractor that the Contractor has properly paid Subcontractors and material and equipment suppliers amounts paid by the Owner to the Contractor for subcontracted Work. If the Contractor fails to furnish such evidence within seven days, the Owner shall have the right to contact Subcontractors to ascertain whether they have been properly paid. Neither the Owner nor Architect shall have an obligation to pay or to see to the payment of money to a Subcontractor, except as may otherwise be required by law.

§ 9.6.5 Contractor payments to material and equipment suppliers shall be treated in a manner similar to that provided in Sections 9.6.2, 9.6.3 and 9.6.4.

§ 9.6.6 A Certificate for Payment, a progress payment, or partial or entire use or occupancy of the Project by the Owner shall not constitute acceptance of Work not in accordance with the Contract Documents.

§ 9.6.7 Unless the Contractor provides the Owner with a payment bond in the full penal sum of the Contract Sum, payments received by the Contractor for Work properly performed by Subcontractors and suppliers shall be held by the Contractor for those Subcontractors or suppliers who performed Work or furnished materials, or both, under contract with the Contractor for which payment was made by the Owner.

§ 9.7 FAILURE OF PAYMENT

If the Owner does not pay the Contractor within seven days after the date established in the Contract Documents the amount certified by the Architect, then the Contractor may, upon seven additional days' written notice to the Owner and Architect, stop the Work until payment of the amount not in dispute has been received. The Contract Time shall be extended appropriately and the Contract Sum shall be increased by the amount of the Contractor's reasonable costs of shut-down and start-up, plus interest as provided for in the Contract Documents. Notwithstanding the preceding sentence, the Contractor shall not stop the Work during the pendency of a bona fide dispute between the Owner and the Contractor, provided all sums not in dispute claimed by the Contractor are paid.

§ 9.8 SUBSTANTIAL COMPLETION

§ 9.8.1 Substantial Completion is the stage in the progress of the Work when the Work or designated portion thereof is sufficiently complete in accordance with the Contract Documents so that the Owner can occupy or utilize the Work for its intended use.

§ 9.8.2 When the Contractor considers that the Work, or a portion thereof which the Owner agrees to accept separately, is substantially complete, the Contractor shall prepare and submit to the Architect a comprehensive list of items to be completed or corrected prior to final payment. Failure to include an item on such list does not alter the responsibility of the Contractor to complete all Work in accordance with the Contract Documents.

§ 9.8.3 Upon receipt of the Contractor's list, the Architect will make an inspection to determine whether the Work or designated portion thereof is substantially complete. If the Architect's inspection discloses any item, whether or not included on the Contractor's list, which is not sufficiently complete in accordance with the Contract Documents so that the Owner can occupy or utilize the Work or designated portion thereof for its intended use, the Contractor shall, before issuance of the Certificate of Substantial Completion, complete or correct such item upon notification by the Architect. In such case, the Contractor shall then submit a request for another inspection by the Architect to determine Substantial Completion.

§ 9.8.4 When the Work or designated portion thereof is substantially complete, the Architect will prepare a Certificate of Substantial Completion that shall establish the date of Substantial Completion, shall establish responsibilities of the Owner and Contractor for security, maintenance, heat, utilities, damage to the Work and insurance, and shall fix the time within which the Contractor shall finish all items on the list accompanying the Certificate. Warranties required by the Contract Documents shall commence on the date of Substantial Completion of the Work or designated portion thereof unless otherwise provided in the Certificate of Substantial Completion.

§ 9.8.5 The Certificate of Substantial Completion shall be submitted to the Owner and Contractor for their written acceptance of responsibilities assigned to them in such Certificate. Upon such acceptance and consent of surety, if any,

the Owner shall make payment of retainage applying to such Work or designated portion thereof. Such payment shall be adjusted for Work that is incomplete or not in accordance with the requirements of the Contract Documents.

§ 9.8.6 The Owner shall have the right to take possession of and use any completed or partially completed portions of the Work, notwithstanding that the time for completing the entire Work or such portions of the Work may not yet have expired. However, such action on the part of the Owner shall not be deemed to be an acceptance of any Work not completed in accordance with the Contract Documents. Likewise, absent the issuance of a Certificate of Substantial Completion by the Project Architect, no portion of the Work shall be subject to the running of the Contractor's bonded one (1) year guarantee on workmanship and materials, despite the fact that the building may be partially utilized. Where mechanical equipment is used prior to final inspection, the Owner shall perform routine maintenance and furnish those supplies that normally wear out in use, such as seals, packings, lubricants, etc. However, any major failure or breakdown of equipment not attributable to lack of maintenance or improper use or abuse of the equipment by Owner shall be made good by the Contractor under terms of its contract warranty, guaranty, bonds, etc.

§ 9.9 PARTIAL OCCUPANCY OR USE

§ 9.9.1 The Owner may occupy or use any completed or partially completed portion of the Work at any stage when such portion is designated by separate agreement with the Contractor, provided such occupancy or use is consented to by the insurer as required under Section 11.3.1.5 and authorized by public authorities having jurisdiction over the Project. Such partial occupancy or use may commence whether or not the portion is substantially complete, provided the Owner and Contractor have accepted in writing the responsibilities assigned to each of them for payments, retainage, if any, security, maintenance, heat, utilities, damage to the Work and insurance, and have agreed in writing concerning the period for correction of the Work and commencement of warranties required by the Contract Documents. When the Contractor considers a portion substantially complete, the Contractor shall prepare and submit a list to the Architect as provided under Section 9.8.2. Consent of the Contractor to partial occupancy or use shall not be unreasonably withheld. The stage of the progress of the Work shall be determined by written agreement between the Owner and Contractor or, if no agreement is reached, by decision of the Architect.

§ 9.9.2 Immediately prior to such partial occupancy or use, the Owner, Contractor and Architect shall jointly inspect the area to be occupied or portion of the Work to be used in order to determine and record the condition of the Work. A reasonable sum may be withheld until the Contractor delivers to the Owner record Drawings, Specifications, Addenda, Change Orders and other Modifications maintained at the site; the warranties, instructions and maintenance manuals required to be furnished; and a final statement of the cost of the Work allocated in accordance with the budget and in a form approved by Owner's lender.

§ 9.9.3 Unless otherwise agreed upon, partial occupancy or use of a portion or portions of the Work shall not constitute acceptance of Work not complying with the requirements of the Contract Documents.

§ 9.10 FINAL COMPLETION AND FINAL PAYMENT

§ 9.10.1 Upon receipt of the Contractor's written notice that the Work is ready for final inspection and acceptance and upon receipt of a final Application for Payment, the Architect will promptly make such inspection and, when the Architect finds the Work acceptable under the Contract Documents and the Contract fully performed, the Architect will promptly issue a final Certificate for Payment stating that to the best of the Architect's knowledge, information and belief, and on the basis of the Architect's on-site visits and inspections, the Work has been completed in accordance with terms and conditions of the Contract Documents and that the entire balance found to be due the Contractor and noted in the final Certificate is due and payable. The Architect's final Certificate for Payment will constitute a further representation that conditions listed in Section 9.10.2 as precedent to the Contractor's being entitled to final payment have been fulfilled.

§ 9.10.2 Neither final payment nor any remaining retained percentage shall become due until the Contractor submits to the Architect and/or Owner (1) an affidavit that payrolls, bills for materials and equipment, and other indebtedness connected with the Work for which the Owner or the Owner's property might be responsible or encumbered (less amounts withheld by Owner) have been paid or otherwise satisfied, (2) a certificate evidencing that insurance required by the Contract Documents to remain in force after final payment is currently in effect and will not be canceled or allowed to expire until at least 30 days' prior written notice has been given to the Owner, (3) a written statement that the Contractor knows of no substantial reason that the insurance will not be renewable to cover the period required by the Contract Documents, (4) consent of surety, if any, to final payment and (5) ***Contractor's Final Payment Affidavit, Contractor's Affidavit of Outstanding Accounts, Final Waiver and Release of Lien from Contractor and Final***

Waivers and Releases of Liens from Contractor's Subcontractors, Sub-subcontractors, suppliers and materialmen or any party with lien rights, to the extent and in such form as may be designated by the Owner. If a Subcontractor refuses to furnish a release or waiver required by the Owner, the Contractor may furnish a bond satisfactory to the Owner to indemnify the Owner against such lien. If such lien remains unsatisfied after payments are made, the Contractor shall refund to the Owner all money that the Owner may be compelled to pay in discharging such lien, including all costs and reasonable attorneys' fees. Copies of the required ***Contractor's Final Payment Affidavit, Contractor's Affidavit of Outstanding Accounts, Final Waiver and Release of Lien from Contractor and Final Waivers and Releases of Liens from Contractor's Subcontractors, Sub-subcontractors, suppliers and materialmen or any party with lien rights*** shall be set forth in an exhibit to be incorporated in the Contract Documents.

§ 9.10.3 If, after Substantial Completion of the Work, final completion thereof is materially delayed through no fault of the Contractor or by issuance of Change Orders affecting final completion, and the Architect so confirms, the Owner shall, upon application by the Contractor and certification by the Architect, and without terminating the Contract, make payment of the balance due for that portion of the Work fully completed and accepted. If the remaining balance for Work not fully completed or corrected is less than retainage stipulated in the Contract Documents, and if bonds have been furnished, the written consent of surety to payment of the balance due for that portion of the Work fully completed and accepted shall be submitted by the Contractor to the Architect prior to certification of such payment. Such payment shall be made under terms and conditions governing final payment, except that it shall not constitute a waiver of claims.

§ 9.10.4 The making of final payment shall constitute a waiver of Claims by the Owner except those arising from

- .1 liens, Claims, security interests or encumbrances arising out of the Contract and unsettled;
- .2 failure of the Work to comply with the requirements of the Contract Documents; or
- .3 terms of special warranties required by the Contract Documents.

§ 9.10.5 Acceptance of final payment by the Contractor, a Subcontractor or material supplier shall constitute a waiver of claims by that payee except those previously made in writing and identified by that payee as unsettled at the time of final Application for Payment.

§ 9.10.6 If the Owner has furnished to the Contractor a construction loan agreement or similar agreement between the Owner and any lender for the Project, the Contractor agrees fully to cooperate with the Owner in complying with the provisions thereof and agrees to timely furnish any and all information, reports and certificates which are required or helpful thereunder. Interim and final payments may be withheld by Owner until such provisions have been complied with.

§ 9.10.7 After execution of the Certificate of Substantial Completion, and prior to the submittal of the Final Certificate and Application for Payment, the Contractor shall submit to the Architect, along with the affidavits and other documents set forth in Paragraph 9.10.2 above:

- .1 Validated warranties and notarized copies of all guarantees for equipment and materials as required by the Construction Documents, and as referred to in the Supplementary Conditions;
- .2 Copies of all approved Shop Drawings or installation diagrams and three (3) copies of all brochures, manuals, etc. of all equipment as offered by the manufacturers;
- .3 List of subcontractors and major material suppliers (shall include address, telephone number and name of individual to contact regarding this Project);
- .4 As-built drawings of the completed Project. The Contractor shall provide to the Owner two (2) copies of all electronic drawing files of all as-built drawings in a format compatible with the AutoCAD release version designated by Owner. This shall include an organized, rational file/drawing naming system that would refer directly to the actual hard copy drawings. For example, drawings shall be named A-1.dwg, A-2.dwg, M-1.dwg, M-2.dwg etc. Each drawing file shall be processed through AutoCad's XREF Manager utilizing the "bind process" prior to submittal to the Owner to combine the files and eliminate the need for attached files. Text documents such as specification books shall be presented in Microsoft Word or pdf format.

Such electronic files shall be delivered to the Owner within ten (10) days after requested by the Owner or, if not specifically requested, prior to final payment from Owner; and

- .5 The Contractor shall obtain an electronic version of the Site Master Survey from the Owner and insert an as-built survey of the project into the Site Master Survey via the addition of another CADD layer added to the file in a format compatible with the AutoCAD release version designated by Owner. The CADD layer shall include an organized, rational file/drawing naming system that refers specifically to the precise name of the project constructed. For example, the layer must be named 2008 Media Center, 2009 DePalma restrooms, etc. The Contractor will establish permanent control monuments (hub set in concrete, iron pin in ground, etc.), or use existing monuments when approved by the Owner, to tie the location of the project to the overall facility Site Master Survey. The permanent control monument(s) shall be identified in the CADD layer such that the Owner will be able to utilize the monument for future design and development projects. Such electronic files shall be delivered to the Owner within ten (10) days after requested by the Owner or, if not specifically requested, prior to final payment from Owner.

These items shall be packaged in a suitable metal file box, supplied for the Project as approved by the Architect, and shall be properly indexed. Individual submission of these items will not be acceptable.

§ 9.10.8 Prior to submission of the Final Certificate and Application for Payment, Contractor and manufacturer's representatives shall provide free instruction in the proper use of installed equipment to representatives of the Owner as designated by the Architect. Instruction shall be given in presence of the Architect.

Instruction of the Owner's designated Maintenance Supervisor in the proper methods of cleaning and maintaining all of the finished surfaces and the proper methods of replacement of the consumable items such as filters, light bulbs, washers, etc. shall be the responsibility of the Contractor.

§ 9.10.9 Prior to submission of the Final Certificate and Application for Payment, the Contractor shall start up, test, adjust, balance and otherwise place in a satisfactory working condition all items of mechanical and electrical systems and shall fully instruct representatives of the Owner in the care and operation of such systems.

Contractor shall submit to the Architect, along with final requisition for payment, three (3) copies of a manual for the Project, assembled and bound, presenting for the Owner's guidance full details for care and maintenance of equipment included in the Contract.

Contractor shall, for this manual, obtain from subcontractors literature of manufacturers relating to equipment, including motors; also furnish cuts, wiring diagrams, instruction sheets and other information pertaining to same in overall operation and maintenance.

§ 9.10.10 During a valid warranty period, if the Contractor is unable or unwilling to respond immediately to make emergency repairs under conditions which the Owner may determine to be an emergency situation, the Owner reserves the right to make such emergency repairs and then to bill the Contractor for a fair and reasonable amount in the reimbursement for such repair.

§ 9.10.11 At closeout, Contractor shall complete the *Contract Completion Checklist*, a copy of which is to be incorporated as an exhibit to the Contract Documents, and shall provide to the Owner all items required thereon as a condition precedent to final payment being due from the Owner.

ARTICLE 10 PROTECTION OF PERSONS AND PROPERTY

§ 10.1 SAFETY PRECAUTIONS AND PROGRAMS

The Contractor shall be responsible for initiating, maintaining and supervising all safety precautions and programs in connection with the performance of the Contract.

§ 10.2 SAFETY OF PERSONS AND PROPERTY

§ 10.2.1 The Contractor shall take reasonable precautions for safety of, and shall provide reasonable protection to prevent damage, injury or loss to

- .1 employees on the Work and other persons who may be affected thereby;
- .2 the Work and materials and equipment to be incorporated therein, whether in storage on or off the site, under care, custody or control of the Contractor or the Contractor's Subcontractors or Sub-subcontractors; and
- .3 other property at the site or adjacent thereto, such as trees, shrubs, lawns, walks, pavements, roadways, structures and utilities not designated for removal, relocation or replacement in the course of construction.

§ 10.2.2 The Contractor shall comply with and give notices required by applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities bearing on safety of persons or property or their protection from damage, injury or loss. Contractor shall comply with all applicable federal, state and county, and city statutes, safety regulations, codes, ordinances and orders, including the Occupational Safety and Health Administration Act of 1970 (OSHA).

§ 10.2.3 The Contractor shall erect and maintain, as required by existing conditions and performance of the Contract, reasonable safeguards for safety and protection, including posting danger signs and other warnings against hazards, promulgating safety regulations and notifying owners and users of adjacent sites and utilities.

§ 10.2.4 When use or storage of explosives or other hazardous materials or equipment or unusual methods are necessary for execution of the Work, the Contractor shall exercise utmost care and carry on such activities under supervision of properly qualified personnel.

§ 10.2.5 The Contractor shall promptly remedy damage and loss (other than damage or loss insured under property insurance required by the Contract Documents) to property referred to in Sections 10.2.1.2 and 10.2.1.3 caused in whole or in part by the Contractor, a Subcontractor, a Sub-subcontractor, or anyone directly or indirectly employed by any of them, or by anyone for whose acts they may be liable and for which the Contractor is responsible under Sections 10.2.1.2 and 10.2.1.3, except damage or loss attributable to acts or omissions of the Owner or Architect or anyone directly or indirectly employed by either of them, or by anyone for whose acts either of them may be liable, and not attributable to the fault or negligence of the Contractor. The foregoing obligations of the Contractor are in addition to the Contractor's obligations under Section 3.18.

§ 10.2.6 The Contractor shall designate a responsible member of the Contractor's organization at the site whose duty shall be the prevention of accidents. This person shall be the Contractor's superintendent unless otherwise designated by the Contractor in writing to the Owner and Architect.

§ 10.2.7 The Contractor shall not permit any part of the construction or site to be loaded so as to cause damage or create an unsafe condition.

§ 10.2.8 INJURY OR DAMAGE TO PERSON OR PROPERTY

If either party suffers injury or damage to person or property because of an act or omission of the other party, or of others for whose acts such party is legally responsible, written notice of such injury or damage, whether or not insured, shall be given to the other party within a reasonable time not exceeding 21 days after discovery. The notice shall provide sufficient detail to enable the other party to investigate the matter.

§ 10.2.9 Contractor shall protect adjoining private or municipal property and shall provide barricades, temporary fences, and covered walkways required to protect the safety of passers-by, as required by prudent construction practices, local building codes, ordinances or other laws, or the Contract Documents.

§ 10.2.10 Contractor shall maintain Work, materials and apparatus free from injury or damage from rain, wind, storms, frost or heat. If adverse weather makes it impossible to continue operations safely in spite of weather precautions, the Contractor shall cease Work and notify the Owner and the Architect of such cessation. The Contractor shall not permit open fires on the Project site.

§ 10.2.11 In addition to its other obligations pursuant to this Article 10, the Contractor shall, at its sole cost and expense, promptly repair any damage or disturbance to walls, utilities, sidewalks, curbs and the property of third parties (including municipalities) resulting from the performance of the Work, whether by it or by its Subcontractors at any tier. The Contractor shall maintain streets in good repair and traversable condition.

§ 10.3 HAZARDOUS MATERIALS

§ 10.3.1 The Contractor is responsible for compliance with any requirements included in the Contract Documents regarding hazardous materials. If the Contractor encounters a hazardous material or substance not addressed in the Contract Documents and if reasonable precautions will be inadequate to prevent foreseeable bodily injury or death to persons resulting from a material or substance, including but not limited to asbestos or polychlorinated biphenyl (PCB), encountered on the site by the Contractor, the Contractor shall, upon recognizing the condition, immediately stop Work in the affected area and report the condition to the Owner and Architect in writing.

§ 10.3.2 Upon receipt of the Contractor's written notice, the Owner shall obtain the services of a licensed laboratory to verify the presence or absence of the material or substance reported by the Contractor and, in the event such material or substance is found to be present, to cause it to be rendered harmless. Unless otherwise required by the Contract Documents, the Owner shall furnish in writing to the Contractor and Architect the names and qualifications of persons or entities who are to perform tests verifying the presence or absence of such material or substance or who are to perform the task of removal or safe containment of such material or substance. The Contractor and the Architect will promptly reply to the Owner in writing stating whether or not either has reasonable objection to the persons or entities proposed by the Owner. If either the Contractor or Architect has an objection to a person or entity proposed by the Owner, the Owner shall propose another to whom the Contractor and the Architect have no reasonable objection. When the material or substance has been rendered harmless, Work in the affected area shall resume upon written agreement of the Owner and Contractor. By Change Order, the Contract Time shall be extended appropriately and the Contract Sum shall be increased in the amount of the Contractor's reasonable additional costs of shut-down, delay and start-up.

§ 10.3.3 To the fullest extent permitted by law, the Owner shall indemnify and hold harmless the Contractor, Subcontractors, Architect, Architect's consultants and agents and employees of any of them from and against claims, damages, losses and expenses, including but not limited to attorneys' fees, arising out of or resulting from performance of the Work in the affected area if in fact the material or substance presents the risk of bodily injury or death as described in Section 10.3.1 and has not been rendered harmless, provided that such claim, damage, loss or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the Work itself), except to the extent that such damage, loss or expense is due to the fault or negligence of the party seeking indemnity.

§ 10.3.4 The Owner shall not be responsible under this Section 10.3 for materials or substances the Contractor brings to the site unless such materials or substances are required by the Contract Documents.

§ 10.3.5 The Contractor shall indemnify the Owner for the cost and expense the Owner incurs (1) for remediation of a material or substance the Contractor brings to the site and negligently handles, or (2) where the Contractor fails to perform its obligations under Section 10.3.1, except to the extent that the cost and expense are due to the Owner's fault or negligence.

§ 10.3.6 If, without negligence on the part of the Contractor, the Contractor is held liable by a government agency for the cost of remediation of a hazardous material or substance solely by reason of performing Work as required by the Contract Documents, the Owner shall indemnify the Contractor for all cost and expense thereby incurred.

§ 10.4 EMERGENCIES

In an emergency affecting safety of persons or property, the Contractor shall act, at the Contractor's discretion, to prevent threatened damage, injury or loss. Additional compensation or extension of time claimed by the Contractor on account of an emergency shall be determined as provided in Article 15 and Article 7.

ARTICLE 11 INSURANCE AND BONDS

§ 11.1 CONTRACTOR'S LIABILITY INSURANCE

§ 11.1.1 The Contractor shall purchase from and maintain in a company or companies lawfully authorized to do business in the jurisdiction in which the Project is located and reasonably acceptable to Owner such insurance as will protect the Contractor from claims set forth below which may arise out of or result from the Contractor's operations and completed operations under the Contract and for which the Contractor may be legally liable, whether such operations be by the Contractor or by a Subcontractor or by anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable. City of Port Orange and its agents, employees, City Council

members, Architect and Architect's consultants ("additional insureds") shall be named as additional insureds on all insurance policies.

- .1 Claims under workers' compensation, disability benefit and other similar employee benefit acts that are applicable to the Work to be performed;
- .2 Claims for damages because of bodily injury, occupational sickness or disease, or death of the Contractor's employees;
- .3 Claims for damages because of bodily injury, sickness or disease, or death of any person other than the Contractor's employees;
- .4 Claims for damages insured by usual personal injury liability coverage;
- .5 Claims for damages, other than to the Work itself, because of injury to or destruction of tangible property, including loss of use resulting therefrom;
- .6 Claims for damages because of bodily injury, death of a person or property damage arising out of ownership, maintenance or use of a motor vehicle;
- .7 Claims for bodily injury or property damage arising out of completed operations; and
- .8 Claims involving contractual liability insurance applicable to the Contractor's obligations under Section 3.18.

§ 11.1.2 The insurance required by Section 11.1.1 shall be written for not less than limits of liability specified in the Contract Documents or required by law, whichever coverage is greater, but in any event, the following minimum coverages and conditions are required: Contractor shall furnish upon acceptance of the Contract an occurrence form, \$1,000,000 per occurrence; \$2,000,000 general aggregate combined single limit, comprehensive general liability policy; including but not limited to owners and contractors protective liability and products and completed operations coverage. A \$1,000,000 per occurrence, combined single limit, business auto policy covering all owned and non-owned autos used by the Contractor is required. Coverages, whether written on an occurrence or claims-made basis, shall be maintained without interruption from the date of commencement of the Work until the date of final payment and termination of any coverage required to be maintained after final payment, and, with respect to the Contractor's completed operations coverage, until the expiration of the period for correction of Work or for such other period for maintenance of completed operations coverage as specified in the Contract Documents.

§ 11.1.3 Contractor shall provide to Owner a copy of its Commercial General Liability policy and an additional insured endorsement for the additional insureds listed in this Paragraph 11 prior to commencement of the Work and thereafter upon renewal or replacement of each required policy of insurance. The insurance policies required by this Section 11.1 shall contain a provision that coverages afforded under the policies will not be canceled or allowed to expire until at least 30 days' prior written notice has been given to the Owner. Evidence of continuation of liability coverage, including coverage for completed operations, shall be submitted with the final Application for Payment as required by Section 9.10.2 and thereafter upon renewal or replacement of such coverage until the expiration of the time required by Section 11.1.2. Information concerning reduction of coverage on account of revised limits or claims paid under the General Aggregate, or both, shall be furnished by the Contractor with reasonable promptness.

§ 11.1.4 The Contractor shall cause the commercial liability coverage required by the Contract Documents to include the additional insureds listed in this Paragraph 11 for claims caused in whole or in part by the Contractor's negligent acts or omissions during the Contractor's operations and for claims caused in whole or in part by the Contractor's negligent acts or omissions during the Contractor's completed operations.

§ 11.1.5 The Contractor shall be responsible for purchasing and maintaining workers' compensation insurance in the amount of \$500,000 per occurrence.

§ 11.1.6 (Intentionally omitted)

§ 11.2 OWNER'S LIABILITY INSURANCE

The Owner shall be responsible for purchasing and maintaining the Owner's usual liability insurance.

§ 11.3 PROPERTY INSURANCE

§ 11.3.1 Owner and Contractor specifically agree that the risk of loss in ownership of the materials delivered to the building site for incorporation into the structure shall remain with the Contractor until such time as the material is fully incorporated into the structure. The Contractor may not recover from the Owner's insurance proceeds, if any, funds for loss of materials supplied to the site or fully incorporated into the structure.

§ 11.3.1.1 Contractor shall purchase and maintain property insurance on an "all-risk" or equivalent policy form and shall include, without limitation, insurance against the perils of fire (with extended coverage) and physical loss or damage including, without duplication of coverage, theft, vandalism, malicious mischief, collapse, earthquake, flood, windstorm, falsework, testing and startup, temporary buildings and debris removal including demolition occasioned by enforcement of any applicable legal requirements to the full insurable value thereof on a replacement cost basis without optional deductibles, and shall cover reasonable compensation for Architect's and Contractor's services and expenses required as a result of such insured loss. The additional insureds listed in this Paragraph 11 shall be named as additional insureds on all insurance policies.

§ 11.3.1.2 This property insurance shall cover portions of the Work stored off the site, and also portions of the Work in transit.

§ 11.3.1.3 Partial occupancy or use in accordance with Section 9.9 shall not commence until the insurance company or companies providing property insurance have consented to such partial occupancy or use by endorsement or otherwise. The Owner and the Contractor shall take reasonable steps to obtain consent of the insurance company or companies and shall, without mutual written consent, take no action with respect to partial occupancy or use that would cause cancellation, lapse or reduction of insurance.

§ 11.3.1.4 (Intentionally omitted)

§ 11.3.1.5 (Intentionally omitted)

§ 11.3.2 BOILER AND MACHINERY INSURANCE

The Owner shall purchase and maintain boiler and machinery insurance required by the Contract Documents or by law, which shall specifically cover such insured objects during installation and until final acceptance by the Owner; this insurance shall include interests of the Owner, Contractor, Subcontractors and Sub-subcontractors in the Work, and the Owner and Contractor shall be named insureds.

§ 11.3.3 WAIVERS OF SUBROGATION

The Owner and Contractor waive all rights against (1) each other and any of their subcontractors, sub-subcontractors, agents and employees, each of the other, and (2) the Architect, Architect's consultants, separate contractors described in Article 6, if any, and any of their subcontractors, sub-subcontractors, agents and employees, for damages caused by fire or other causes of loss to the extent covered by property insurance obtained pursuant to this Section 11.3 or other property insurance applicable to the Work, except such rights as they have to proceeds of such insurance held by the Owner as fiduciary. The Owner or Contractor, as appropriate, shall require of the Architect, Architect's consultants, separate contractors described in Article 6, if any, and the subcontractors, sub-subcontractors, agents and employees of any of them, by appropriate agreements, written where legally required for validity, similar waivers each in favor of other parties enumerated herein. The policies shall provide such waivers of subrogation by endorsement or otherwise. A waiver of subrogation shall be effective as to a person or entity even though that person or entity would otherwise have a duty of indemnification, contractual or otherwise, did not pay the insurance premium directly or indirectly, and whether or not the person or entity had an insurable interest in the property damaged.

§ 11.3.4 A loss insured under Owner's property insurance shall be adjusted by the Owner as fiduciary and made payable to the Owner as fiduciary for the insureds, as their interests may appear, subject to requirements of any applicable mortgagee clause and of Section 11.3.6. The Contractor shall pay Subcontractors their just shares of insurance proceeds received by the Contractor, and by appropriate agreements, written where legally required for validity, shall require Subcontractors to make payments to their Sub-subcontractors in similar manner.

§ 11.3.5 If required in writing by a party in interest, the Owner as fiduciary shall, upon occurrence of an insured loss, give bond for proper performance of the Owner's duties. The cost of required bonds shall be charged against proceeds received as fiduciary. The Owner shall deposit in a separate account proceeds so received, which the Owner shall distribute in accordance with such agreement as the parties in interest may reach. If after such loss no other special agreement is made and unless the Owner terminates the Contract for convenience, replacement of damaged property shall be performed by the Contractor after notification of a Change in the Work in accordance with Article 7.

§ 11.3.6 The Owner as fiduciary shall have power to adjust and settle a loss with insurers unless one of the parties in interest shall object in writing within five days after occurrence of loss to the Owner's exercise of this power. If such objection be made, the Owner shall not make any settlement with respect to such loss until a resolution has been reached by agreement between such parties in interest and the insurers or by a court of competent jurisdiction.

§ 11.3.7 (Intentionally omitted)

§ 11.3.8 (Intentionally omitted)

§ 11.3.9 (Intentionally omitted)

§ 11.3.10 (Intentionally omitted)

§ 11.4 PERFORMANCE BOND AND PAYMENT BOND

§ 11.4.1 If required by Owner, Contractor shall furnish to Owner and keep in force during the term of the Contract performance and labor and material payment bonds guaranteeing that the Contractor will perform its obligations under the Contract and will pay for all labor and materials furnished for the Work. Such bonds shall be issued in a form and by a surety reasonably acceptable to the Owner, shall be submitted to Owner for approval as to form, shall name the Owner and its lender, if any, as obligees and shall be in an amount equal to at least 100% of the Contract Sum (as the same may be adjusted from time to time pursuant to the Contract). The Contractor shall deliver the executed, approved bonds to the Owner within seven days after execution of this Contract. The Contractor shall provide to Owner Performance Bond and Payment Bond substantially in the form attached as an exhibit to the Contract Documents.

§ 11.4.2 Upon the request of any person or entity appearing to be a potential beneficiary of bonds covering payment of obligations arising under the Contract, the Contractor shall promptly furnish a copy of the bonds or shall authorize a copy to be furnished.

§ 11.4.3 The costs of all bonds required under this Paragraph 11.4 shall be included in the Contract Sum.

§ 11.4.4 The Owner shall have the right to waive any bonds required to be provided under this Paragraph 11.4, in which event the amount of the premium of any such waived bond, if included in the Contract Sum, shall be deducted from the Contract Sum by appropriate Change Order.

§ 11.4.5 Upon the request of any person or entity appearing to be a potential beneficiary of any of the bonds required under this Paragraph 11.4, the Contractor promptly shall furnish a copy of the bonds or shall permit a copy thereof to be made and delivered to such person or entity.

ARTICLE 12 UNCOVERING AND CORRECTION OF WORK

§ 12.1 UNCOVERING OF WORK

§ 12.1.1 If a portion of the Work is covered contrary to the Architect's request or to requirements specifically expressed in the Contract Documents, it must, if requested in writing by the Architect, be uncovered for the Architect's examination and be replaced at the Contractor's expense without change in the Contract Time.

§ 12.1.2 If a portion of the Work has been covered that the Architect has not specifically requested to examine prior to its being covered, the Architect may request to see such Work and it shall be uncovered by the Contractor. If such Work is in accordance with the Contract Documents, costs of uncovering and replacement shall, by appropriate Change Order, be at the Owner's expense. If such Work is not in accordance with the Contract Documents, such costs and the cost of correction shall be at the Contractor's expense unless the condition was caused by the Owner or a separate contractor in which event the Owner shall be responsible for payment of such costs.

§ 12.2 CORRECTION OF WORK

§ 12.2.1 BEFORE OR AFTER SUBSTANTIAL COMPLETION

§ 12.2.1.1 The Contractor shall promptly correct Work rejected by the Architect for failing to conform to the requirements of the Contract Documents, whether discovered before or after Substantial Completion and whether or not fabricated, installed or completed. Costs of correcting such rejected Work, including additional testing and

inspections, the cost of uncovering and replacement, and compensation for the Architect's services and expenses made necessary thereby, shall be at the Contractor's expense.

§ 12.2.1.2 Contractor understands and agrees that corrective work and warranty work must be performed within 48 hours of notice from the Architect. If, in the opinion of Architect, the corrective and/or warranty work cannot be accomplished in sufficient time under contract specifications due to curing, testing, inspections or otherwise to meet Architect's requirements, then corrective and/or warranty work shall be accomplished on an emergency basis utilizing corrective specifications and/or procedures acceptable to the Architect to correct, repair and/or replace deficient and/or non-conforming work irrespective of whether the corrective measures are consistent with the initial contract plans and specifications. If the corrections are not completed within 48 hours of Architect's Notice, Architect may in its sole discretion complete or contract to complete the work necessary to correct or replace the deficient and/or non-conforming work and may use whatever means, methods, procedures and specifications are necessary or desirable to correct or replace the non-conforming or deficient work even though the Architect chosen method of correction or replacement is more expensive than the initially specified work. This provision supersedes all other provisions of the contract and performance bond (if a performance bond is required) and the Contractor and Surety waive all other notices, rights and options inconsistent with this provision.

§ 12.2.1.3 In the event that Contractor fails to timely take corrective action, Owner may correct, remove and/or replace the non-conforming work at Contractor's expense using the specified materials or such other materials which the Owner, in its sole discretion, deems appropriate.

§ 12.2.2 AFTER SUBSTANTIAL COMPLETION

§ 12.2.2.1 In addition to the Contractor's obligations under Section 3.5, if, within one year after the date of Substantial Completion of the Work or designated portion thereof or after the date for commencement of warranties established under Section 9.9.1, or by terms of an applicable special warranty required by the Contract Documents, any of the Work is found to be not in accordance with the requirements of the Contract Documents, the Contractor shall correct it promptly after receipt of written notice from the Owner to do so unless the Owner has previously given the Contractor a written acceptance of such condition. The Owner shall give such notice promptly after discovery of the condition. During the one-year period for correction of Work, if the Owner fails to notify the Contractor and give the Contractor an opportunity to make the correction, the Owner waives the rights to require correction by the Contractor and to make a claim for breach of warranty. If the Contractor fails to correct nonconforming Work within a reasonable time during that period after receipt of notice from the Owner or Architect, the Owner may correct it in accordance with Section 2.4.

§ 12.2.2.2 The one-year period for correction of Work shall be extended with respect to portions of Work first performed after Substantial Completion by the period of time between Substantial Completion and the actual completion of that portion of the Work.

§ 12.2.2.3 The one-year period for correction of Work shall not be extended by corrective Work performed by the Contractor pursuant to this Section 12.2.

§ 12.2.3 The Contractor shall remove from the site portions of the Work that are not in accordance with the requirements of the Contract Documents and are neither corrected by the Contractor nor accepted by the Owner.

§ 12.2.4 The Contractor shall bear the cost of correcting destroyed or damaged construction, whether completed or partially completed, of the Owner or separate contractors caused by the Contractor's correction or removal of Work that is not in accordance with the requirements of the Contract Documents.

§ 12.2.5 Nothing contained in this Section 12.2 shall be construed to establish a period of limitation with respect to other obligations the Contractor has under the Contract Documents. Establishment of the one-year period for correction of Work as described in Section 12.2.2 relates only to the specific obligation of the Contractor to correct the Work, and has no relationship to the time within which the obligation to comply with the Contract Documents may be sought to be enforced, nor to the time within which proceedings may be commenced to establish the Contractor's liability with respect to the Contractor's obligations other than specifically to correct the Work.

§ 12.3 ACCEPTANCE OF NONCONFORMING WORK

If the Owner prefers to accept Work that is not in accordance with the requirements of the Contract Documents, the Owner may do so instead of requiring its removal and correction, in which case the Contract Sum will be reduced as appropriate and equitable. Such adjustment shall be effected whether or not final payment has been made.

ARTICLE 13 MISCELLANEOUS PROVISIONS

§ 13.1 GOVERNING LAW

§ 13.1.1 The Contract shall be governed by the law of the place where the Project is located.

§ 13.1.2 Historical lack of enforcement of any local law shall not constitute a waiver of Contractor's responsibility for compliance with such law in a manner consistent with the Contract Documents unless and until the Contractor has received written consent for the waiver of such compliance from the Owner and the agency responsible for the local law enforcement.

§ 13.2 SUCCESSORS AND ASSIGNS

§ 13.2.1 The Owner and Contractor respectively bind themselves, their partners, successors, assigns and legal representatives to covenants, agreements and obligations contained in the Contract Documents. Contractor may not assign its rights or obligations under this Contract. If Contractor attempts to make such an assignment, it shall nevertheless remain legally responsible for all obligations under the Contract.

§ 13.2.2 The Owner may, without consent of the Contractor, assign the Contract to a lender providing construction financing for the Project, if the lender assumes the Owner's rights and obligations under the Contract Documents. The Contractor shall execute all consents reasonably required to facilitate such assignment.

§ 13.3 WRITTEN NOTICE

Written notice shall be deemed to have been duly served if delivered in person to the individual, to a member of the firm or entity, or to an officer of the corporation for which it was intended; or if delivered at, or sent by registered or certified mail or by courier service providing proof of delivery to, the last business address known to the party giving notice. At Owner's request, a copy of all written notices by the Contractor to it shall be delivered to the lender for the Project, if any.

§ 13.4 RIGHTS AND REMEDIES

§ 13.4.1 Duties and obligations imposed by the Contract Documents and rights and remedies available thereunder shall be in addition to and not a limitation of duties, obligations, rights and remedies otherwise imposed or available by law.

§ 13.4.2 No action or failure to act by the Owner, Architect or Contractor shall constitute a waiver of a right or duty afforded them under the Contract, nor shall such action or failure to act constitute approval of or acquiescence in a breach there under, except as may be specifically agreed in writing.

§ 13.4.3 The invalidity of any part or provision of the Contract Documents shall not impair or affect in any manner the validity, enforceability or effect of the remaining parts and provisions of the Contract Documents.

§ 13.5 TESTS AND INSPECTIONS

§ 13.5.1 Tests, inspections and approvals of portions of the Work shall be made as required by the Contract Documents and by applicable laws, statutes, ordinances, codes, rules and regulations or lawful orders of public authorities. Unless otherwise provided, the Contractor shall make arrangements for such tests, inspections and approvals with an independent testing laboratory or entity acceptable to the Owner, or with the appropriate public authority, and shall bear all related costs of tests, inspections and approvals. The Contractor shall give the Architect timely notice of when and where tests and inspections are to be made so that the Architect may be present for such procedures. The Owner shall bear costs of (1) tests, inspections or approvals that do not become requirements until after bids are received or negotiations concluded, and (2) tests, inspections or approvals where building codes or applicable laws or regulations prohibit the Owner from delegating their cost to the Contractor.

§ 13.5.2 If the Architect, Owner or public authorities having jurisdiction determine that portions of the Work require additional testing, inspection or approval not included under Section 13.5.1, the Architect will, upon written authorization from the Owner, instruct the Contractor to make arrangements for such additional testing, inspection or

approval by an entity acceptable to the Owner, and the Contractor shall give timely notice to the Architect of when and where tests and inspections are to be made so that the Architect may be present for such procedures. Such costs, except as provided in Section 13.5.3, shall be at the Owner's expense.

§ 13.5.3 If such procedures for testing, inspection or approval under Sections 13.5.1 and 13.5.2 reveal failure of the portions of the Work to comply with requirements established by the Contract Documents, all costs made necessary by such failure including those of repeated procedures and compensation for the Architect's services and expenses shall be at the Contractor's expense, including the cost of retesting for verification of compliance if necessary, until the Architect certifies that the Work in question does comply with the requirements of the Contract Documents, and all such costs shall not be included in computing the Contract Sum.

§ 13.5.4 Required certificates of testing, inspection or approval shall, unless otherwise required by the Contract Documents, be secured by the Contractor and promptly delivered to the Architect.

§ 13.5.5 If the Architect is to observe tests, inspections or approvals required by the Contract Documents, the Architect will do so promptly and, where practicable, at the normal place of testing.

§ 13.5.6 Tests or inspections conducted pursuant to the Contract Documents shall be made promptly to avoid unreasonable delay in the Work.

§ 13.6 INTEREST

Interest on payments due and unpaid under the Contract Documents – N/A.

§ 13.7 TIME LIMITS ON CLAIMS

The Owner and Contractor shall commence all claims and causes of action, whether in contract, tort, breach of warranty or otherwise, against the other arising out of or related to the Contract in accordance with the requirements of the final dispute resolution method selected in the Agreement within the time period specified by applicable law.

§ 13.8 FINANCIAL DISCLOSURES

During the term of this Contract, Contractor covenants and agrees that it will keep adequate books and records of accounts in accordance with Generally Accepted Accounting Principles (GAAP). Contractor further covenants and agrees that, upon request from Owner, Contractor shall provide to Owner financial statements of Contractor, including current income and expense statements of Contractor, consolidated balance sheets signed by a financial officer of Contractor, and audited reports provided to Contractor's Surety, audited financial statements certified by a Certified Public Accountant concerning the financial affairs of Contractor and all affiliates of Contractor, and such other financial information requested by Owner. All such financial information shall comply with GAAP.

In the event that Contractor becomes insolvent and/or fails to pay its current obligations when they become due, Contractor shall so advise Owner of such situation. Contractor hereby authorizes its sureties, lenders, financial institutions and other third parties to release to Owner financial information requested by Owner, including, but not limited to, the financial information described in the preceding paragraph.

§ 13.9 WAIVER OF JURY TRIAL

§ 13.9.1 All parties hereby waive any and all right to any trial by jury in any action or proceeding arising directly or indirectly hereunder.

§ 13.10 VENDOR DIVERSITY/MINORITY

§ 13.10.1 Provided that prices are competitive and that the quality, quantity and timeliness of the Work will not be prejudiced or compromised, Contractor is encouraged, but not required, to utilize where reasonably practical a reasonable number of minority owned and/or controlled companies for the Project. In the event that Contractor utilizes a minority owned and/or controlled company, Contractor shall submit to the Owner the name of the company, the scope of the work and the contract sum of the work being performed by the minority owned and/or controlled company. Contractor shall retain in its sole discretion the final decision on the selection and use of subcontractors and other vendors and shall remain fully responsible for their work, material and services as called for by the Contract Documents.

§ 13.11 The Contractor's use of local (in state) laborers, subcontractors, material suppliers, and equipment suppliers

is encouraged by Owner and may influence the Owner's selection process.

ARTICLE 14 TERMINATION OR SUSPENSION OF THE CONTRACT

§ 14.1 TERMINATION BY THE CONTRACTOR

§ 14.1.1 The Contractor may terminate the Contract if the Work is stopped for a period of 30 consecutive days through no act or fault of the Contractor or a Subcontractor, Sub-subcontractor or their agents or employees or any other persons or entities performing portions of the Work under direct or indirect contract with the Contractor, for any of the following reasons:

- .1 Issuance of an order of a court or other public authority having jurisdiction that requires all Work to be stopped;
- .2 An act of government, such as a declaration of national emergency that requires all Work to be stopped;
- .3 Because the Architect has not issued a Certificate for Payment and has not notified the Contractor of the reason for withholding certification as provided in Section 9.4.1, or because the Owner has not made payment on a Certificate for Payment within the time stated in the Contract Documents; or
- .4 The Owner has failed to furnish to the Contractor promptly, upon the Contractor's request, reasonable evidence as required by Section 2.2.1.

§ 14.1.2 The Contractor may terminate the Contract if, through no act or fault of the Contractor or a Subcontractor, Sub-subcontractor or their agents or employees or any other persons or entities performing portions of the Work under direct or indirect contract with the Contractor, repeated suspensions, delays or interruptions of the entire Work by the Owner as described in Section 14.3 constitute in the aggregate more than 100 percent of the total number of days scheduled for completion, or 120 days in any 365-day period, whichever is less.

§ 14.1.3 If one of the reasons described in Section 14.1.1 or 14.1.2 exists, the Contractor may, upon seven days' written notice to the Owner and Architect, terminate the Contract and recover from the Owner payment for Work executed, including reasonable overhead and profit, costs incurred by reason of such termination, and damages.

§ 14.1.4 If the Work is stopped for a period of 60 consecutive days through no act or fault of the Contractor or a Subcontractor or their agents or employees or any other persons performing portions of the Work under contract with the Contractor because the Owner has repeatedly failed to fulfill the Owner's obligations under the Contract Documents with respect to matters important to the progress of the Work, the Contractor may, upon seven additional days' written notice to the Owner and the Architect, terminate the Contract and recover from the Owner as provided in Section 14.1.3.

§ 14.2 TERMINATION BY THE OWNER FOR CAUSE

§ 14.2.1 The Owner may terminate the Contract if the Contractor

- .1 repeatedly refuses or fails to supply enough properly skilled workers or proper materials;
- .2 fails to make payment to Subcontractors for materials or labor in accordance with the respective agreements between the Contractor and the Subcontractors;
- .3 repeatedly disregards applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of a public authority;
- .4 otherwise is guilty of substantial breach of a provision of the Contract Documents; or
- .5 is adjudged a bankrupt or insolvent, or if it makes a general assignment for the benefit of its creditors, or if a trustee or receiver is appointed for the Contractor or for any of its property, or if it files a petition to take advantage of any debtor's loss, or to reorganize under the bankruptcy or similar laws.

§ 14.2.2 When any of the above reasons exist, the Owner may without prejudice to any other rights or remedies of the Owner and after giving the Contractor and the Contractor's surety, if any, seven days' written notice, terminate employment of the Contractor and may, subject to any prior rights of the surety:

- .1 Exclude the Contractor from the site and take possession of all materials, equipment, tools, and construction equipment and machinery thereon owned by the Contractor;
- .2 Accept assignment of subcontracts pursuant to Section 5.4; and
- .3 Finish the Work by whatever reasonable method the Owner may deem expedient. Upon written request of the Contractor, the Owner shall furnish to the Contractor a detailed accounting of the costs incurred by the Owner in finishing the Work.

§ 14.2.3 When the Owner terminates the Contract for one of the reasons stated in Section 14.2.1, the Contractor shall not be entitled to receive further payment until the Work is finished.

§ 14.2.4 If the unpaid balance of the Contract Sum exceeds costs of finishing the Work, including compensation for the Architect's services and expenses made necessary thereby, and other damages incurred by the Owner and not expressly waived, such excess shall be paid to the Contractor. If such costs and damages exceed the unpaid balance, the Contractor shall pay the difference to the Owner. The amount to be paid to the Contractor or Owner, as the case may be, shall be certified by the Initial Decision Maker, upon application, and this obligation for payment shall survive termination of the Contract.

§ 14.3 SUSPENSION BY THE OWNER FOR CONVENIENCE

§ 14.3.1 The Owner may, without cause, order the Contractor in writing to suspend, delay or interrupt the Work in whole or in part for such period of time as the Owner may determine.

§ 14.3.2 The Contract Sum and Contract Time shall be adjusted for increases in the cost and time caused by suspension, delay or interruption as described in Section 14.3.1. Adjustment of the Contract Sum shall include profit. No adjustment shall be made to the extent

- .1 that performance is, was or would have been so suspended, delayed or interrupted by another cause for which the Contractor is responsible; or
- .2 that an equitable adjustment is made or denied under another provision of the Contract.

§ 14.4 TERMINATION BY THE OWNER FOR CONVENIENCE

§ 14.4.1 The Owner may, at any time, terminate the Contract for the Owner's convenience and without cause.

§ 14.4.2 Upon receipt of written notice from the Owner of such termination for the Owner's convenience, the Contractor shall

- .1 cease operations as directed by the Owner in the notice;
- .2 take actions necessary, or that the Owner may direct, for the protection and preservation of the Work; and
- .3 except for Work directed to be performed prior to the effective date of termination stated in the notice, terminate all existing subcontracts and purchase orders and enter into no further subcontracts and purchase orders.

§ 14.4.3 In case of such termination for the Owner's convenience, the Contractor shall be entitled to receive payment for Work executed, and costs incurred by reason of such termination.

ARTICLE 15 CLAIMS AND DISPUTES

The parties expressly agree to opt out of the requirements of Section 558.005, Florida Statutes. The provisions of Chapter 558, Florida Statutes, shall not apply to this Agreement.

§ 15.1 CLAIMS

§ 15.1.1 DEFINITION

A Claim is a demand or assertion by one of the parties seeking, as a matter of right, payment of money, or other relief with respect to the terms of the Contract. The term "Claim" also includes other disputes and matters in question between the Owner and Contractor arising out of or relating to the Contract. The responsibility to substantiate Claims shall rest with the party making the Claim.

§ 15.1.2 NOTICE OF CLAIMS

Claims by either the Owner or Contractor must be initiated by written notice to the other party and to the Initial Decision Maker with a copy sent to the Architect, if the Architect is not serving as the Initial Decision Maker. Claims by either party must be initiated within 21 days after occurrence of the event giving rise to such Claim or within 21 days after the claimant first recognizes the condition giving rise to the Claim, whichever is later.

§ 15.1.3 CONTINUING CONTRACT PERFORMANCE

Pending final resolution of a Claim, except as otherwise agreed in writing or as provided in Section 9.7 and Article 14, the Contractor shall proceed diligently with performance of the Contract and the Owner shall continue to make

payments in accordance with the Contract Documents. The Architect will prepare Change Orders and issue Certificates for Payment in accordance with the decisions of the Initial Decision Maker.

§ 15.1.4 CLAIMS FOR ADDITIONAL COST

If the Contractor wishes to make a Claim for an increase in the Contract Sum, written notice as provided herein shall be given before proceeding to execute the Work. Prior notice is not required for Claims relating to an emergency endangering life or property arising under Section 10.4.

§ 15.1.5 CLAIMS FOR ADDITIONAL TIME

If the Contractor wishes to make a Claim for an increase in the Contract Time, written notice as provided herein shall be given. The Contractor's Claim shall include an estimate of cost and of probable effect of delay on progress of the Work. In the case of a continuing delay, only one Claim is necessary.

(Paragraphs deleted)

§ 15.1.6 CLAIMS FOR CONSEQUENTIAL DAMAGES

The Contractor and Owner waive Claims against each other for consequential damages, except for liquidated damages as provided for in the Contract Documents, arising out of or relating to this Contract. This mutual waiver includes

- .1 damages incurred by the Owner for rental expenses, for losses of use, income, profit, financing, business and reputation, and for loss of management or employee productivity or of the services of such persons; and
- .2 damages incurred by the Contractor for principal office expenses including the compensation of personnel stationed there, for losses of financing, business and reputation, and for loss of profit except anticipated profit arising directly from the Work.

This mutual waiver is applicable, without limitation, to all consequential damages due to either party's termination in accordance with Article 14. Nothing contained in this Section 15.1.6 shall be deemed to preclude an award of liquidated damages, when applicable, in accordance with the requirements of the Contract Documents.

§ 15.2 INITIAL DECISION

§ 15.2.1 Claims, excluding those arising under Sections 10.3, 10.4, 11.3.9, and 11.3.10, shall be referred to the Initial Decision Maker for initial decision. The Architect will serve as the Initial Decision Maker, unless otherwise indicated in the Agreement. Unless the Initial Decision Maker and all affected parties agree, the Initial Decision Maker will not decide disputes between the Contractor and persons or entities other than the Owner.

§ 15.2.2 The Initial Decision Maker will review Claims and within ten days of the receipt of a Claim take one or more of the following actions: (1) request additional supporting data from the claimant or a response with supporting data from the other party, (2) reject the Claim in whole or in part, (3) approve the Claim, (4) suggest a compromise, or (5) advise the parties that the Initial Decision Maker is unable to resolve the Claim if the Initial Decision Maker lacks sufficient information to evaluate the merits of the Claim or if the Initial Decision Maker concludes that, in the Initial Decision Maker's sole discretion, it would be inappropriate for the Initial Decision Maker to resolve the Claim.

§ 15.2.3 In evaluating Claims, the Initial Decision Maker may, but shall not be obligated to, consult with or seek information from either party or from persons with special knowledge or expertise who may assist the Initial Decision Maker in rendering a decision. The Initial Decision Maker may request the Owner to authorize retention of such persons at the Owner's expense.

§ 15.2.4 If the Initial Decision Maker requests a party to provide a response to a Claim or to furnish additional supporting data, such party shall respond, within ten days after receipt of such request, and shall either (1) provide a response on the requested supporting data, (2) advise the Initial Decision Maker when the response or supporting data will be furnished or (3) advise the Initial Decision Maker that no supporting data will be furnished. Upon receipt of the response or supporting data, if any, the Initial Decision Maker will either reject or approve the Claim in whole or in part.

§ 15.2.5 The Initial Decision Maker will render an initial decision approving or rejecting the Claim, or indicating that the Initial Decision Maker is unable to resolve the Claim. This initial decision shall (1) be in writing; (2) state the reasons therefor; and (3) notify the parties and the Architect, if the Architect is not serving as the Initial Decision

Maker, of any change in the Contract Sum or Contract Time or both. The initial decision shall be final and binding on the parties.

§ 15.2.6 (Intentionally omitted)

(Paragraph deleted)

§ 15.2.7 In the event of a Claim against the Contractor, the Owner may, but is not obligated to, notify the surety, if any, of the nature and amount of the Claim. If the Claim relates to a possibility of a Contractor's default, the Owner may, but is not obligated to, notify the surety and request the surety's assistance in resolving the controversy.

§ 15.2.8 If a Claim relates to or is the subject of a mechanic's lien, the party asserting such Claim may proceed in accordance with applicable law to comply with the lien notice or filing deadlines.

§ 15.3 MEDIATION

§ 15.3.1 Claims, disputes, or other matters in controversy arising out of or related to the Contract except those waived as provided for in Sections 9.10.4, 9.10.5, and 15.1.6 shall be subject to litigation.

§ 15.3.2 (Intentionally omitted)

§ 15.3.3 (Intentionally omitted)

§ 15.4 ARBITRATION

§ 15.4.1 (Intentionally omitted)

(Paragraph deleted)

§ 15.4.2 (Intentionally omitted)

§ 15.4.3 (Intentionally omitted)

§ 15.4.4 CONSOLIDATION OR JOINDER

§ 15.4.4.1 (Intentionally omitted)

§ 15.4.4.2 (Intentionally omitted)

§ 15.4.4.3 (Intentionally omitted)

Projected YMCA Analysis through 9/30/16

	Renovation Project Designated Funds	Renovation Project Unassigned Funds	YMCA Portion of 106 Fund	Other Recreational Facilities	Total 106 Fund
CAFR Balance 9/30/13	\$ 330,067				
Unassigned Portion of CAFR Balance 9/30/13		\$ 388,529			
Beginning Balance 10/1/13 FY14	\$ 330,067	\$ 388,529		935,181	\$ 1,653,777
Beginning Balance 10/1/14 FY14	\$ 330,067	\$ 388,529	\$ -	935,181	\$ 1,653,777
Allocated R&R rent portion per Contract			70,740		\$ 70,740
Additional Allocated R&R rent portion per verbal agreement			33,750		\$ 33,750
Interest			1,103	1,435	\$ 2,538
Misc. Revenue			103		\$ 103
Expenditures	\$ (227,806)	\$ (70,219)	(8,765)	(307,632)	\$ (614,422)
Ending Balance 9/30/14	102,261	318,310	96,931	628,984	\$ 1,146,486
Beginning Balance 10/1/14 FY15	\$ 102,261	\$ 318,310	\$ 96,931	\$ 628,984	\$ 1,146,486
Allocated R&R rent portion per Contract			70,740		\$ 70,740
Additional Allocated R&R rent portion per verbal agreement			33,750		\$ 33,750
Interest			3,559	4,325	7,884
Expenditures	(102,261)	(163,638)	(77,963)		\$ (343,862)
Unaudited Balance as of 09/30/2015	\$ -	\$ 154,672	\$ 127,017	\$ 633,309	\$ 914,998
Beginning Balance 10/1/15 FY16	\$ -	\$ 154,672	\$ 127,017	\$ 633,309	\$ 914,998
Projected R&R rent portion per Contract			70,740		\$ 70,740
Projected R&R rent portion per verbal agreement			33,750		\$ 33,750
Projected Interest					\$ -
Projected Maintenance & CIP Expenditures			(111,500)		\$ (111,500)
Projected Available Funding FY 2016	\$ -	\$ 154,672	\$ 120,007	633,309	\$ 907,988



CITY COUNCIL AGENDA ITEM

REQUESTED COUNCIL MEETING DATE 01/05/2016

Consent item: No

SUBJECT: City Attorney Comments - Howard Porter v. City of Port Orange

DEPARTMENT: City Attorney

GOAL:

OBJECTIVE:

RECOMMENDED MOTION: Move to authorize Patricia Chapman, Attorney for the City of Port Orange acting on behalf of the city, to accept service of process in the case of Porter v. City of Port Orange.

SUMMARY: Mr. Porter has filed suit against the city and several other entities and individuals alleging invasion of privacy, defamation, intentional infliction of emotional distress and tortious conspiracy. He is proceeding without the assistance of legal counsel, as a *pro se* plaintiff. The city has not been formally served with process pending Porter's request to the court for approval of his indigency status. The city's defense counsel is prepared to proceed with the city's legal response upon receipt of service of process. In order to move the city's defense forward, we recommend that the city council authorize Patricia Chapman, defense counsel, to accept service of process on the city's behalf.

Project	Funding Account
No.:	No.:

ATTACHMENTS:

Fenwick, Robin
Roberts, Margaret

Created/Initiated - 12/03/2015
Final Approval - 12/31/2015
