



REGULAR CITY COUNCIL MEETING

6:30 PM – COUNCIL CHAMBERS – CITY HALL

APRIL 5, 2022

AGENDA

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

A. OPENING

1. Invocation by Pastor Sheila Turner of A Touch of HIS Hem Ministries
2. Pledge of Allegiance
3. Roll Call

B. SPECIAL AWARDS, REPORTS, RECOGNITION AND PROCLAMATIONS

4. Water Conservation Month Proclamation
5. Autism Awareness Day Proclamation
6. Actuarial Report Presentations
 - a. Police Pension Plan
 - b. Fire Pension Plan
 - c. General Employees' Pension Plan
7. FY2021 Audit Discussion with James Moore & Co

C. CONSENT AGENDA

8. Public Comments on Consent Agenda Items Only
9. Agenda Approval
10. Approval of Minutes
 - a. March 15, 2022 - Regular City Council Meeting
 - b. March 22, 2022 - Special City Council Meeting
11. Bid Awards and Contract Items

- a. Intent to Award RFP #21-07 to Charter Communications Operating LLC for Internet and Voice-over-IP Services
- b. Request to waive formal bid requirements for Parks & Recreation uniforms until April 1, 2023
- c. Approval of the Intent to Award ITB 21-17 Police Department Duct/HVAC Mold Remediation

- 12. Resolution No. 22-12 - Authorizing the Mayor and City Clerk to execute documents related to the return of \$225,840 of CDBG-CV funding to the U.S. Department of Housing and Urban Development and closing out the grant award

D. MEETING OF CORPORATIONS

- 13. Port Orange Property Development, Inc. Joint Annual Meeting of the Members, Directors and Design Review Board
- 14. City Center Corporate Park Property Owner's Association, Inc. Joint Special Meeting of Directors and Members

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

F. COUNCIL COMMENTS

- 15. Comments/Concerns from Council Members

G. BOARD APPOINTMENTS, INTERVIEWS, REPORTS

- 16. Environmental Advisory Board Report

H. PUBLIC HEARING

- 17. First Reading - Ordinance No. 2022-6 - Approval of an Amendment to the Emergency Management Ordinance

I. REGULAR AGENDA

- 18. Second Reading - Ordinance No. 2022-5 - LDC Amendment/ Chapter 9, Article II, Section 19 (Case No. 22-25000002)
- 19. Request for Waiver of Bidding Requirements, Direction and Approval of the Type of Show, Date for the 4th of July Spectacular, and Award to Vendor

J. ADDITIONAL ITEMS

- 20. City Attorney
- 21. City Manager

K. COUNCIL COMMITTEE REPORTS

22. City Council Committee Reports

- a. River to Sea TPO - Council Member Reed Foley
- b. General Employees' Pension Board – Vice Mayor Scott Stiltner
- c. Arthaus – Council Member Chase Tramont
- d. Roundtable of Elected Officials – Mayor Don Burnette

L. ADJOURNMENT

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



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



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

IN ACCORDANCE WITH THE AMERICANS WITH DISABILITIES ACT (ADA), IF YOU ARE A PERSON WITH A DISABILITY WHO NEEDS AN ACCOMMODATION IN ORDER TO PARTICIPATE IN THIS PROCEEDING, YOU ARE ENTITLED, AT NO COST TO YOU, THE PROVISION OF CERTAIN ASSISTANCE. PLEASE CONTACT THE CITY CLERK FOR THE CITY OF PORT ORANGE, 1000 CITY CENTER CIRCLE, PORT ORANGE, FLORIDA 32129, TELEPHONE NUMBER 386-506-5563, CITYCLERK@PORT-ORANGE.ORG, AS FAR IN ADVANCE AS POSSIBLE, BUT PREFERABLY WITHIN 2 WORKING DAYS OF YOUR RECEIPT OF THIS NOTICE OR 5 DAYS PRIOR TO THE MEETING OR HEARING DATE. IF YOU ARE HEARING OR VOICE IMPAIRED, CONTACT THE RELAY OPERATOR AT 7-1-1 or 1-800-955-8771.

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

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



CITY COUNCIL AGENDA ITEM

COUNCIL MEETING DATE 4/5/2022

SUBJECT: (B6a) Police Pension Plan

DEPARTMENT: Finance

GOAL: 5 - Fiscal Sustainability

RECOMMENDED MOTION: Presentation only - no motion needed.

SUMMARY: Actuarial Report presentation to be provided by Freiman Little Actuaries, LLC.

PRESENTER: John McKinney

ATTACHMENTS:

1.	Port Orange Police Pension - Council Presentation April 5, 2022	Port Orange Police Pension - Council Presentation April 5, 2022.pdf
2.	Port Orange Police Actuarial Valuation 2021 (FINAL)	Port Orange Police Actuarial Valuation 2021 (FINAL).pdf

Robin Fenwick
John McKinney
Wayne Clark
Robin Fenwick

Created/Initiated - 3/21/2022
Approved - 3/22/2022
Approved - 3/24/2022
Final Approval - 3/25/2022

City of Port Orange Police Pension Fund

1

CURRENT STATUS

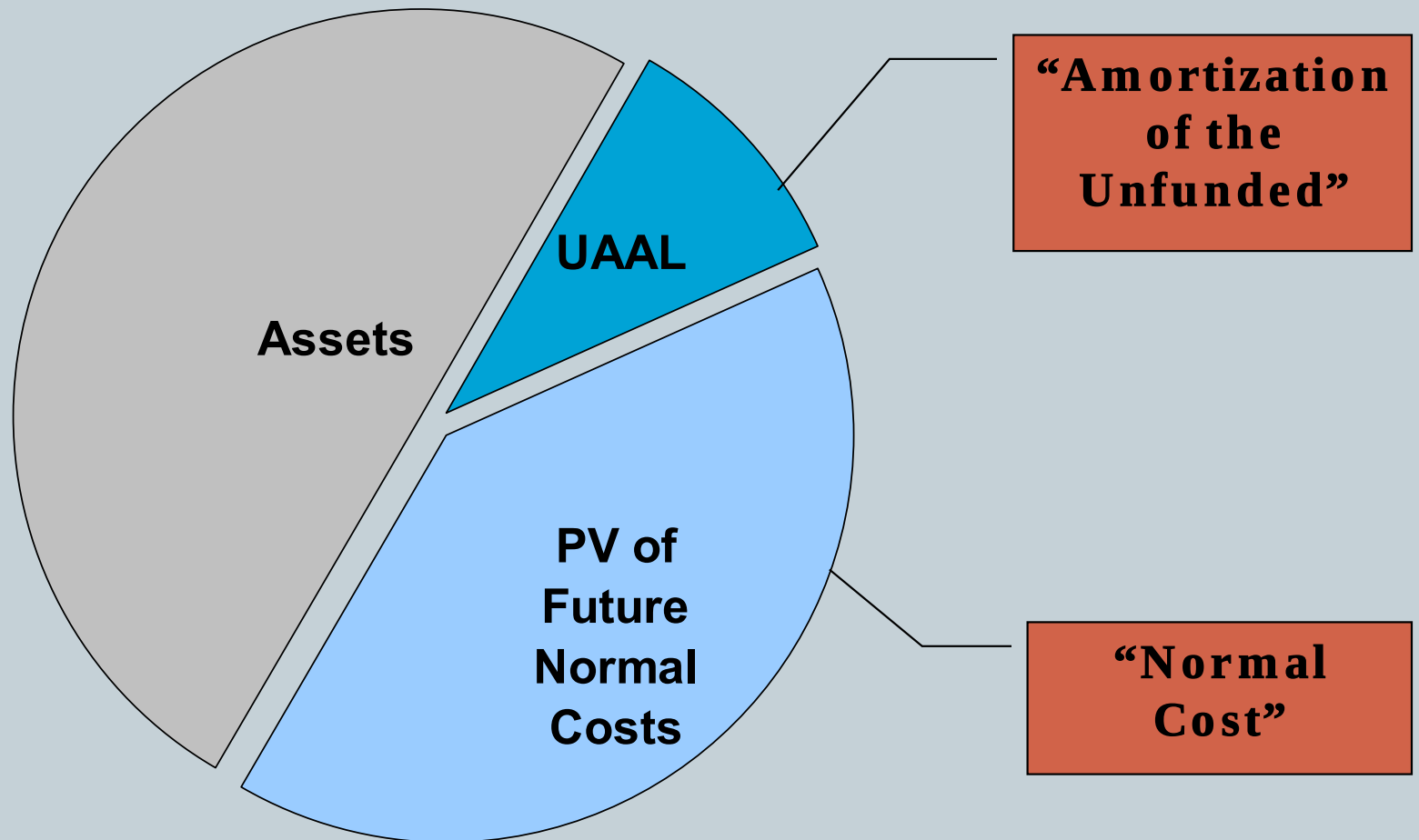
PRESENTED BY:
FREIMAN LITTLE ACTUARIES, LLC
APRIL 5, 2022

FLA

FREIMAN LITTLE ACTUARIES

Basic Pension Funding

2



Significant Events Since Prior Report

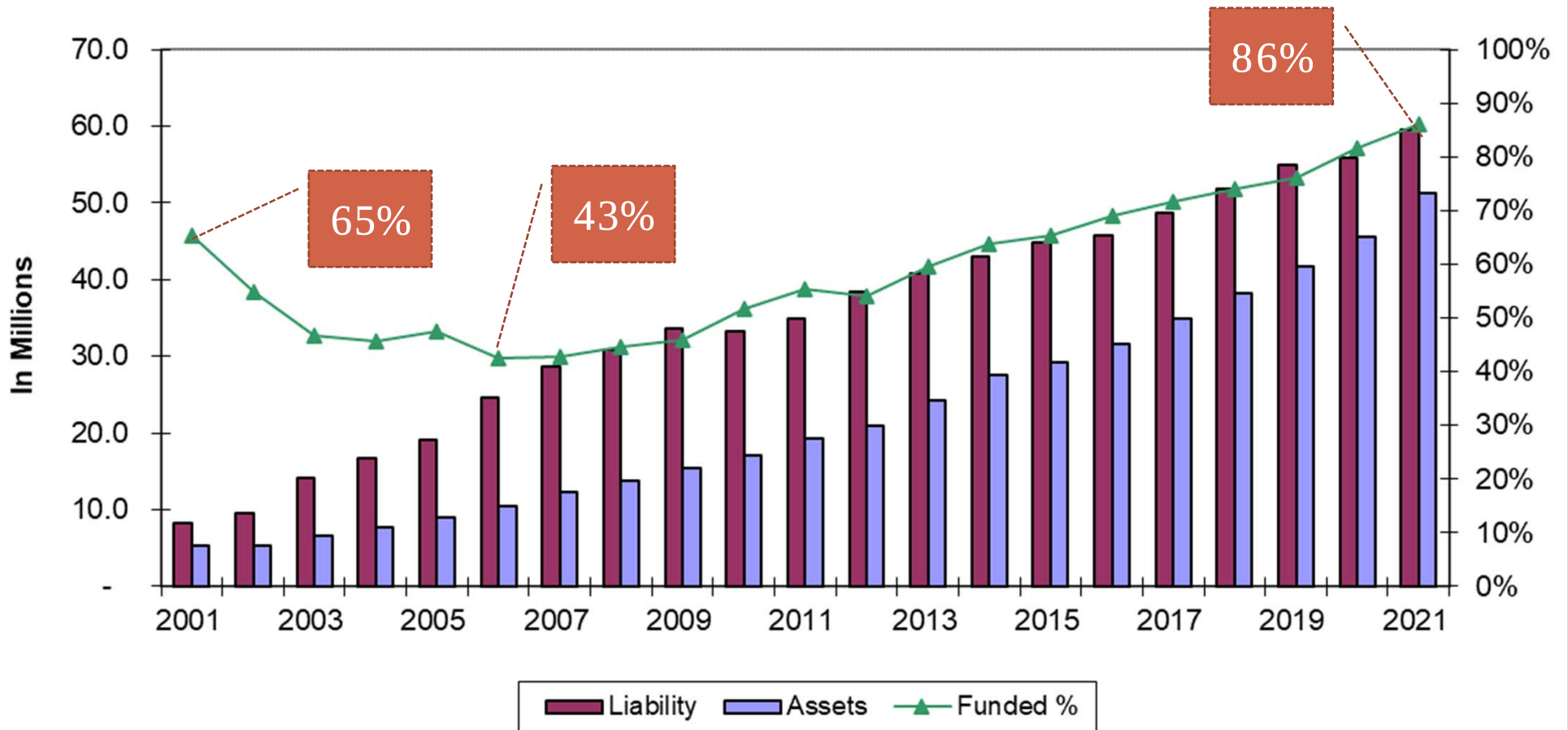
3

- **Demographic Experience**
 - One new DROP entrant
 - Two retirements
 - One disability retirement
 - Salary increases more than expected
 - Death of one active member.
- **Investment Experience**
 - 20.37% return on Market Value basis
 - 10.16% return on Actuarial Value Basis
- **Assumption Changes**
 - Net Assumed Return: from 7.15% to 7.05%

Historical Funded Percentage

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Historical Funded Percentage



October 1, 2021 Valuation Results

5

Fiscal Year Ending September 30,

2022

2023

As a Dollar Amount

Estimated Minimum Required City Contribution	\$2,480,182	\$2,341,369
Estimated State Contribution	<u>498,650</u>	<u>494,738</u>
Total Minimum Funding Requirement (City plus State)	\$2,978,832	\$2,836,107

As a Percentage of Payroll

Estimated Minimum Required City Contribution	52.46%	42.97%
Estimated State Contribution	<u>10.55%</u>	<u>9.08%</u>
Total Minimum Funding Requirement (City plus State)	63.01%	52.05%

Valuation Date October 1,

2020

2021

Accrued Liability (AL)	\$55,805,677	\$59,579,413
Actuarial Value of Assets	<u>45,640,819</u>	<u>51,292,502</u>
Unfunded Accrued Liability (UAL)	\$10,164,858	\$8,286,911
Funded Percentage	81.79%	86.09%

Valuation Date October 1,

2020

2021

Assumed Rate of Investment Return	7.15%	7.05%
Individual Salary Increases	7.25%	7.25%
Long-term Payroll Inflation	1.00%	1.00%
Payroll Inflation for Amortization of Unfunded	1.00%	1.00%
Funding Method	Entry Age	Entry Age

Reconciliation of Unfunded Liability

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	Unfunded Accrued Liability	Funded Percentage	Change in Unfunded Accrued Liability	Change in Funded Percentage
As of October 1, 2020:	\$10,164,858	81.79 %		
Changes due to:				
Normal Operation of Plan	\$8,245,529	85.82 %	\$(1,919,329)	4.03 %
Investment Experience	6,838,431	88.24 %	(1,407,098)	2.42 %
Demographic Experience	7,616,836	87.07 %	778,405	(1.17)%
Net Return 7.05%	8,286,911	86.09 %	<u>670,075</u>	<u>(0.98)%</u>
Total			\$(1,877,947)	4.30 %
As of October 1, 2021:	\$8,286,911	86.09 %		

Reconciliation of City Minimum

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	Dollar Amount	Percent of Pay
For Fiscal Year Ending September 30, 2022:	\$2,480,182	52.46 %
Changes due to:		
Normal Operation of Plan	\$(80,294)	(2.20)%
Administrative Expense Change	1,156	0.02 %
State Contribution Increase	3,772	0.08 %
Investment Experience	(116,125)	(2.43)%
Contributions Different Than Expected	(159,805)	(3.35)%
Demographic Experience	136,196	(3.01)%
Net Return 7.05%	<u>76,287</u>	<u>1.40 %</u>
 Total	 \$(138,813)	 (9.49)%
For Fiscal Year Ending September 30, 2023:	\$2,341,369	42.97 %



Freiman Little Actuaries, LLC
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Merritt Island, FL 32953

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City of Port Orange

Police Pension Fund

Actuarial Valuation as of October 1, 2021



The 2021 actuarial valuation was approved by the Port Orange Police Pension Board at its quarterly meeting on February 14, 2022.

February 9, 2022

REPORT TO DETERMINE MINIMUM FUNDING REQUIREMENTS
FOR THE PLAN AND FISCAL YEAR
ENDING SEPTEMBER 30, 2023



February 9, 2022

Board of Trustees
City of Port Orange Police Pension Fund
Port Orange, Florida

RE: Actuarial Valuation as of October 1, 2021

Dear Board Members:

We are pleased to present the actuarial valuation as of October 1, 2021 for the City of Port Orange Police Pension Fund (the Plan). This report provides a review of the current funded status of the Plan, establishes the minimum funding requirements for the fiscal year ending September 30, 2023 and provides an analysis of experience since the last valuation. In addition to providing the summary and derivation of actuarial findings, this report describes the data, assumptions, and methods used to create these results.

In producing our work product, we rely on various models, internal and external, which were used for their intended purposes. Underlying data, assumptions, methodologies, model inputs and resulting outputs have been reviewed. The 7.05% assumed net return is a prescribed assumption as defined by Actuarial Standard of Practice No. 27 (ASOP 27), as it is set by the Board. While we find all other inputs and outputs to be reasonable, the prescribed assumption significantly conflicts with our judgment regarding what would constitute a reasonable assumption for the purpose of the measurement as discussed in ASOP 27. We continue to recommend lowering the net assumed return.

Future actuarial measurements may differ significantly from the current measurements presented in this report due to such factors as the following: plan experience differing from that anticipated by the economic or demographic assumptions; changes in economic or demographic assumptions; increases or decreases expected as part of the natural operation of the methodology used for these measurements (such as the end of an amortization period or additional cost or contribution requirements based on the plan's funded status); and changes in plan provisions or applicable law.

Statement by Enrolled Actuary:

"This actuarial valuation and/or cost determination was prepared and completed by me or under my direct supervision, and I acknowledge responsibility for the results. To the best of my knowledge, the results are complete and accurate, and in my opinion, the techniques and assumptions used are reasonable and meet the requirements and intent of Part VII, Chapter 112, Florida Statutes. There is no benefit or expense to be provided by the plan and/or paid from the plan's assets for which liabilities or current costs have not been established or otherwise taken into account in the valuation. All known events or trends which may require a material increase in plan costs or required contribution rates have been taken into account in the valuation."

RE: Actuarial Valuation as of October 1, 2021
February 9, 2022
Page 2

We look forward to the presentation of these results to you in person and we are always available to answer any questions you may have.

Sincerely,



Chad M. Little, ASA, EA
Partner, Consulting Actuary
Enrollment Number 20-6619



Paula C. Freiman, ASA, EA
Partner, Consulting Actuary
Enrollment Number 20-5796

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Section

1

Board Summary

This report presents the results of the October 1, 2021 actuarial valuation of the City of Port Orange Police Pension Fund (the Plan).

Summary of Principal Valuation Results

A summary of the key valuation findings as of October 1, 2021 are compared with the results of the prior valuation below.

Fiscal Year Ending September 30,	2022	2023
As a Dollar Amount		
Estimated Minimum Required City Contribution	\$2,480,182	\$2,341,369
Estimated State Contribution	<u>498,650</u>	<u>494,738</u>
Total Minimum Funding Requirement (City plus State)	\$2,978,832	\$2,836,107
As a Percentage of Payroll		
Estimated Minimum Required City Contribution	52.46%	42.97%
Estimated State Contribution	<u>10.55%</u>	<u>9.08%</u>
Total Minimum Funding Requirement (City plus State)	63.01%	52.05%
Valuation Date October 1,		
	2020	2021
Accrued Liability (AL)	\$55,805,677	\$59,579,413
Actuarial Value of Assets	<u>45,640,819</u>	<u>51,292,502</u>
Unfunded Accrued Liability (UAL)	\$10,164,858	\$8,286,911
Funded Percentage	81.79%	86.09%
Valuation Date October 1,		
	2020	2021
Assumed Rate of Investment Return	7.15%	7.05%
Individual Salary Increases	7.25%	7.25%
Long-term Payroll Inflation	1.00%	1.00%
Payroll Inflation for Amortization of Unfunded	1.00%	1.00%
Funding Method	Entry Age	Entry Age

Note: We recommend the deposit of at least the minimum required contributions as a dollar amount shown above.

Summary of Significant Events

Determination of the funded status of the Plan and minimum funding requirements are based on participant data, asset information, Plan provisions, actuarial methods and assumptions, as well as contributions made to the Plan by the State of Florida. Any significant events associated with these items are discussed in the following.

In preparing our report we relied, without audit, on information (some oral and some written) supplied by the City and the Plan Administrator. This information includes, but is not limited to, statutory provisions, employee census, and financial information. In our examination of these data, we have found them to be reasonably consistent and comparable with data used for other purposes. Since the valuation results are dependent on the integrity of the data supplied, the results can be expected to differ if the underlying data is incomplete or missing. It should be noted that if any data or other information is inaccurate or incomplete, our calculations may need to be revised.

Participant Data

The number of active members increased from 78 to 79 with an average individual salary increase of 13.70% as compared to the 7.25% assumption used in the valuation. Actual total payroll increased 4.9% on average over the last 10 years as compared to the 1% payroll growth assumption used to amortize and to project total payroll to the funding year. The average annual payroll growth for the last ten years is shown below.

Fiscal Year	Payroll	Increase
2021	\$5,199,237	8.4 %
2020	4,798,318	(2.0%)
2019	4,893,948	0.8 %
2018	4,855,965	5.0 %
2017	4,622,671	8.1 %
2016	4,275,349	(0.4%)
2015	4,293,316	8.8 %
2014	3,944,464	10.3 %
2013	3,575,109	3.3 %
2012	3,460,703	7.7 %
2011	3,212,337	
10-Year Geometric Average		4.9 %

There was a demographic loss on an actuarial accrued liability basis primarily due to one DROP entrant, two retirements, one disability retirement and salary increases more than expected offset in part by the gain associated with death of an active member. A table of historical actuarial gains and losses by source since October 1, 2006 is included in Section 2 of this report. In general, should a pattern of consistent gains or losses develop, assumptions may require revision.

Assets

Whereas the assets were assumed to achieve a 7.15% investment return net of expenses for the year ending September 30, 2021, the return on the market value of assets was 20.37% producing a gain on a market value basis. Due to the smoothing method used to produce the actuarial value of assets which recognizes market value gains and losses over a five-year period, a 10.16% return was achieved on the actuarial value of assets such that a small actuarial investment related gain was experienced for the year ended September 30, 2021. The following provides a summary of the actual return on investments for the 12-month periods ending on the date specified.

	Year Ended 9/30	Market Investment Return	Actuarial Investment Return	Assumed Net Return
1	1996	13.1 %	13.1 %	8.50%
2	1997	18.4 %	18.4 %	8.50%
3	1998	3.7 %	3.7 %	8.50%
4	1999	8.2 %	8.2 %	8.50%
5	2000	11.4 %	11.4 %	8.50%
6	2001	(11.3%)	(11.3%)	8.50%
7	2002	(7.3%)	(7.3%)	8.50%
8	2003	21.0 %	21.0 %	8.50%
9	2004	8.1 %	8.1 %	8.50%
10	2005	7.7 %	7.7 %	8.50%
11	2006	6.2 %	6.2 %	8.50%
12	2007	10.6 %	10.6 %	8.00%
13	2008	(12.1%)	(12.1%)	8.00%
14	2009	8.2 %	3.3 %	8.00%
15	2010	8.4 %	4.2 %	8.00%
16	2011	(0.6%)	3.4 %	8.00%
17	2012	17.5 %	5.0 %	8.00%
18	2013	11.1 %	8.9 %	7.75%
19	2014	7.6 %	8.8 %	7.75%
20	2015	(0.1%)	7.0 %	7.75%
21	2016	6.0 %	7.1 %	7.65%
22	2017	10.0 %	6.4 %	7.55%
23	2018	8.5 %	6.4 %	7.45%
24	2019	3.6 %	5.8 %	7.35%
25	2020	10.0 %	7.3 %	7.25%
26	2021	20.4 %	10.2 %	7.15%
26-Year Average		6.9 %	6.0 %	8.04%
10-Year Average		9.3 %	7.3 %	7.56%

Net investment returns less than the assumed rate of return result in increased annual minimum required contributions.

Plan Provisions

Ordinance No. 2020-37 adopted effective November 4, 2020 regarding required minimum distributions at age 72 was deemed to have no significant impact on Plan liability.

Assumptions and Methods

The net assumed rate of investment return was revised from 7.15% used in the October 1, 2020 actuarial valuation to 7.05% for this October 1, 2021 actuarial valuation of the Plan as directed by the Board of Trustees. The 7.05% net assumed return is a prescribed assumption as defined by Actuarial Standard of Practice No. 27 (ASOP 27), as it is set by the Board. The prescribed assumption significantly conflicts with our judgment regarding what would constitute a reasonable assumption for the purpose of the measurement as discussed in ASOP 27. As discussed with the Board we recommend lowering the net assumed return.

The impact of any changes in assumptions and methods may be found in the reconciliation of the funded status and minimum funding requirements found near the end of Section 2 of this report. See "Reconciliation of Unfunded Accrued Liability" and "Reconciliation of City Minimum Required Contribution" in the table of contents.

State Contributions

The Estimated Minimum Required City Contribution assumes that the premium tax money received from the State will be in the same amount received in the prior year. Should the amount received from the State be less than expected, or if there are any changes related to the use of State money, the City will need to contribute any potential shortfall to the Plan.

Assessment and Disclosure of Risk

As described in Actuarial Standard of Practice No. 51 (ASOP 51), this section is meant to address the assessment and disclosure of risk in a pension funding valuation. This is not meant to be a comprehensive summary but should provide information regarding risks related to this plan. Additional historical information provided in this report also contain relevant information regarding asset size, asset mix, pay increases, benefits and contributions. This information can be used to understand the changes over time to identify trends.

Note that ASOP 51 defines risk as “The potential of actual future measurements deviating from expected future measurements resulting from actual future experience deviating from actuarially assumed experience....” The following provides examples of potential risk.

Investment Risk: As noted previously, investment returns less than the assumed rate of return result in increased annual minimum required contributions payable in a subsequent year.

Interest Rate Risk: Interest rates are used to discount the value of benefits. If the long-term expectation of returns is higher or lower than the assumed net investment return, the assumed net investment return should be adjusted. When the assumed net investment return is increased the estimated liability is decreased. When the assumed net investment return is decreased the estimated liability is increased. The chart below shows what the funded status of the plan is on a market value of assets basis after changing the net assumed return by 1% or 2%.

Funded Status on Market Value of Assets Basis						
As of 10/1	2% Decrease	1% Decrease	Valuation Net Assumed Return	1% Increase	2% Increase	Valuation Net Assumed Return Assumption
2021	74.00%	84.06%	94.58%	105.52%	116.83%	7.05%
2020	64.28%	73.12%	82.38%	92.03%	102.01%	7.15%
2019	57.87%	66.09%	74.72%	83.71%	93.03%	7.25%
2018	57.44%	65.62%	74.20%	83.14%	92.39%	7.35%
2017	54.55%	62.31%	70.50%	79.06%	87.98%	7.45%
2016	50.84%	58.08%	65.72%	73.71%	82.04%	7.55%
2015		55.75%	62.75%	70.06%		7.65%
2014		58.58%	65.72%	73.13%		7.75%

Longevity and Other Demographic Risks: The estimated liability of the Plan is based on assumptions related to mortality, retirement, disability and termination. To the extent that Plan experience is different than these assumptions the gains and losses affect future required contributions and estimated liability.

Contribution Risk: The possibility that the plan sponsor does not make contributions to the plan according to the funding policy.

Intergenerational equity risk: Intergenerational equity is the concept that resources do not belong to a specific generation and they must be preserved for future generations. One way to alleviate this risk is to pay for benefits over the average future service of the group receiving benefits. Members may feel there are inequities when one is paying more than others, receiving less than others, or paying more than others in relation to what they are receiving.

Plan maturity measures may help understand the risks associated with the plan. As the Plan matures, the ratio of the Market Value of Assets to the Covered Payroll increases. As this ratio gets larger, the impact of asset volatility has a larger effect on the volatility of the Minimum Required Contribution as a percentage of pay.

Year Ending <u>9/30</u>	Market Value of <u>Assets</u>	<u>Payroll</u>	Asset Volatility <u>Ratio</u>
2021	\$56,352,252	\$5,199,237	10.8
2020	45,974,445	4,798,318	9.6
2019	41,000,175	4,893,948	8.4
2018	38,423,960	4,855,965	7.9
2017	34,383,729	4,622,671	7.4
2016	30,105,688	4,275,349	7.0
2015	28,157,398	4,293,316	6.6
2014	28,294,900	3,944,464	7.2
2013	25,322,725	3,575,109	7.1
2012	21,378,509	3,460,703	6.2
2011	17,733,946	3,212,337	5.5
2010	16,252,286	4,211,533	3.9
2009	13,980,301	4,329,474	3.2
2008	11,830,484	4,032,313	2.9
2007	12,231,990	3,831,147	3.2
2006	10,496,916	3,765,408	2.8
2005	9,076,909	3,774,800	2.4

Another measure of a pension plan's maturity is the Ratio of Benefit Payments to Contributions. Over the life of a pension plan, it is expected that the majority of the benefits will be paid for by returns rather than contributions. For this to happen, as a plan matures, the plan will eventually pay out more in benefits than it receives in contributions. It is important to understand the magnitude of this difference so that steps can be taken, if necessary, to manage cash flows going forward. The table below provides the Ratio of Benefit Payments to Contributions. Note that there are other cash flows to be considered such as interest and dividends earned or expenses paid by a pension plan.

Year Ending 9/30	Benefit Payments	Contributions	Ratio of Benefit Payments to Contributions
2021	\$2,778,419	\$3,865,219	0.72
2020	2,736,407	3,716,902	0.74
2019	2,614,086	3,915,517	0.67
2018	2,425,157	3,632,913	0.67
2017	2,256,996	3,578,258	0.63
2016	3,151,653	3,527,880	0.89
2015	3,415,712	3,403,714	1.00
2014	2,165,565	3,303,037	0.66
2013	1,489,851	3,086,847	0.48
2012	2,057,209	2,655,001	0.77
2011	1,339,602	3,020,492	0.44
2010	1,484,345	2,622,049	0.57
2009	1,418,527	2,629,967	0.54
2008	860,564	2,094,621	0.41
2007	781,375	1,451,624	0.54
2006	507,366	1,385,008	0.37
2005	401,051	1,286,169	0.31

When looking at Net Cash Flows, it is useful to understand the relative size of the cash flows in comparison to the Market Value of Assets. The following table provides the ratio of the Net Cash Flows divided by the Market Value of Assets. As mentioned previously, there are other cash flows to be considered such as interest and dividends earned or expenses paid by a pension plan.

Year Ending 9/30	<u>Contributions</u>	<u>Disbursements</u>	<u>Assets</u>	Net Cash Flow Divided by <u>Assets</u>
2021	\$3,865,219	\$2,900,746	\$56,352,252	0.02
2020	3,716,902	2,857,693	45,974,445	0.02
2019	3,915,517	2,743,671	41,000,175	0.03
2018	3,632,913	2,541,302	38,423,960	0.03
2017	3,578,258	2,363,534	34,383,729	0.04
2016	3,527,880	3,268,422	30,105,688	0.01
2015	3,403,714	3,519,988	28,157,398	0.00
2014	3,303,037	2,268,876	28,294,900	0.04
2013	3,086,847	1,585,156	25,322,725	0.06
2012	2,655,001	2,138,774	21,378,509	0.02
2011	3,020,492	1,431,303	17,733,946	0.09
2010	2,622,049	1,558,588	16,252,286	0.07
2009	2,629,967	1,492,250	13,980,301	0.08
2008	2,094,621	940,647	11,830,484	0.10
2007	1,451,624	857,963	12,231,990	0.05
2006	1,385,008	550,778	10,496,916	0.08
2005	1,286,169	446,265	9,076,909	0.09

Section

2

Results Derivation

In this section, the assets and liabilities of the Plan are shown in detail. Assets and liabilities are then compared to determine the funded status and minimum funding requirements. Finally, analysis is performed to explain movement in results from the prior valuation.

While asset information is based on the fair market value of assets, along with any techniques used to smooth out market fluctuations, liabilities are determined through a combination of the benefit provisions, participant census data which contains information for the members who will receive those benefits, and the methods and assumptions used with regard to how benefits will be paid to members. A summary of participant data, an outline of the benefit provisions, and a description of the methods and assumptions used in this valuation are described in Section 4.

Financial Information

Over the life of the Plan, the majority of assets are typically generated from investment return. In this section, we describe how the assets of the Plan are invested, show how the actuarial value of assets is derived, and review the investment results since the prior valuation.

Investment Allocation

Valuation Date	October 1, 2020		October 1, 2021	
Equity securities	\$29,996,912	64%	\$33,444,560	60%
Fixed income	10,889,227	24%	14,582,579	26%
Real estate	4,378,652	10%	7,367,407	13%
Cash and cash equivalents	394,273	1%	723,652	1%
Net receivables	<u>315,381</u>	<u>1%</u>	<u>234,054</u>	<u>0%</u>
Fair Market Value of Assets	\$45,974,445	100%	\$56,352,252	100%

Reconciliation of Market Value of Assets

Year Ending September 30,	2020	2021
1. Market Value of Assets Beginning of Year		
a. Market Value Prior Year Ending Balance	\$41,000,175	\$45,974,445
b. Adjustment to Beginning Value	<u>0</u>	<u>(625)</u>
c. Market Value of Assets Beginning of Year	\$41,000,175	\$45,973,820
2. Contributions		
a. City	\$2,846,074	\$2,967,626
b. State	498,650	494,738
c. Plan Members	<u>372,178</u>	<u>402,855</u>
d. Total Contributions	\$3,716,902	\$3,865,219
3. Investment earnings		
a. Realized gains and (losses)	\$(29,586)	\$1,302,020
b. Unrealized gains and (losses)	3,207,948	6,945,222
c. Interest and dividends	992,266	1,222,717
d. Investment expense	<u>(55,567)</u>	<u>(56,000)</u>
e. Net investment income	\$4,115,061	\$9,413,959
4. Deductions		
a. Regular pension benefits	\$(2,641,227)	\$(2,714,150)
b. DROP distributions	0	0
c. Contribution refunds	(95,180)	(64,269)
d. Administrative expenses	<u>(121,286)</u>	<u>(122,327)</u>
e. Total Deductions	\$(2,857,693)	\$(2,900,746)
5. Net Increase	<u>\$4,974,270</u>	<u>\$10,378,432</u>
6. Market Value of Assets End of Year	\$45,974,445	\$56,352,252
7. Return on Market Value of Assets	9.99 %	20.37 %

Note: We received information from the auditor after our October 1, 2020 actuarial valuation report was complete and adopted by the Board of Trustees that the \$45,974,445 market value had been lowered by \$625 for accounts payable in their report. We have shown this as an adjustment to the beginning value for this October 1, 2021 actuarial valuation.

Development of Actuarial Value of Assets

The market value of assets is adjusted to recognize gains and losses over a five-year period. However, the Actuarial Value of Assets is limited to no more than 120% or less than 80% of the market value of assets.

1.	Market Value of Assets as of October 1, 2021			\$56,352,252
2.	Phase-In Gains (Losses) Over Five Year Period			
		Original Gain (Loss)	Percent Unrecognized	Unrecognized Gain (Loss)
a.	Year Ending 9/30/2021	\$6,109,368	80%	\$4,887,494
b.	Year Ending 9/30/2020	1,129,478	60%	677,687
c.	Year Ending 9/30/2019	(1,445,033)	40%	(578,013)
d.	Year Ending 9/30/2018	362,912	20%	<u>72,582</u>
e.	Total			\$5,059,750
3.	Preliminary Actuarial Value of Assets as of October 1, 2021			\$51,292,502
4.	Corridor Around Market Value			
a.	Minimum = 80% of Market Value of Assets			\$45,081,802
b.	Maximum = 120% of Market Value of Assets			\$67,622,702
c.	Corridor Adjustment to Preliminary Actuarial Value			\$0
5.	Actuarial Value of Assets as of October 1, 2021 (3. + 4.c.)			\$51,292,502

Development of Historical Gain or Loss on Market Value of Assets

	2021	2020
1. Market Value of Assets - Beginning of Year	\$45,974,445	\$41,000,175
2. Contributions	3,865,219	3,716,902
3. Benefit Payments plus Administrative Expense	(2,900,746)	(2,857,693)
4. Expected Return on Assets	<u>3,303,966</u>	<u>2,985,583</u>
5. Expected Value of Assets at End of Year	\$50,242,884	\$44,844,967
6. Market Value of Assets - End of Year	\$56,352,252	\$45,974,445
7. Gain (Loss) for Plan Year = (6) - (5)	\$6,109,368	\$1,129,478
	2019	2018
1. Market Value of Assets - Beginning of Year	\$38,423,960	\$34,383,729
2. Contributions	3,915,517	3,632,913
3. Benefit Payments plus Administrative Expense	(2,743,671)	(2,541,302)
4. Expected Return on Assets	<u>2,849,402</u>	<u>2,585,708</u>
5. Expected Value of Assets at End of Year	\$42,445,208	\$38,061,048
6. Market Value of Assets - End of Year	\$41,000,175	\$38,423,960
7. Gain (Loss) for Plan Year = (6) - (5)	\$(1,445,033)	\$362,912

State Contributions

Year Ending September 30	State Contributions	Recurring Cost Benefit Improvements	Base Plus Benefit Improvements	Recognized State Funding	Cumulative Balance Available Upon Benefit Improvement
2021	\$494,738	\$0	\$699,961	\$494,738	\$0
2020	498,650	0	699,961	498,650	0
2019	485,030	0	699,961	485,030	0
2018	444,090	0	699,961	444,090	0
2017	397,680	0	699,961	397,680	0
2016	373,343	0	699,961	373,343	7,192
2015	345,822	0	699,961	345,822	7,192
2014	331,402	0	699,961	331,402	7,192
2013	316,074	0	699,961	316,074	7,192
2012	314,094	0	699,961	314,094	7,192
2011	303,356	0	699,961	303,356	7,192
2010	302,888	0	699,961	302,888	7,192
2009	314,162	0	699,961	314,162	7,192
2008	293,562	0	699,961	293,562	7,192
2007	296,758	0	699,961	296,758	7,192
2006	279,159	0	699,961	279,159	7,192
2005	267,203	0	699,961	267,203	7,192
2004	245,105	0	699,961	245,105	7,192
2003	198,169	454,127	699,961	198,169	7,192
2002	165,823	0	245,834	165,823	7,192
2001	135,870	121,320	245,834	135,870	7,192
2000	121,555	0	124,514	121,555	7,192
1999	131,706	0	124,514	124,514	7,192
1998	124,514	0	124,514	124,514	0

Note: The \$7,192 cumulative balance as of September 30, 2017 was released into the actuarial valuation of assets per the collective bargaining agreement and Ordinance No. 2017-32.

Present Value of Benefits

Valuation as of October 1,	2020	2021
1. Active Members		
a. Retirement Benefits	\$27,782,801	\$29,256,799
b. Deferred Benefits	1,186,801	1,257,480
c. Survivor Benefits	160,261	162,614
d. Disability Retirement	<u>463,364</u>	<u>496,126</u>
e. Total	\$29,593,227	\$31,173,019
2. Inactive Members		
a. Retirement and DROP	\$30,549,727	\$33,047,357
b. Terminated Vested	799,193	565,891
c. Beneficiaries	1,116,630	1,204,904
d. Disability Retirement	<u>2,416,860</u>	<u>2,769,560</u>
e. Total	\$34,882,410	\$37,587,712
3. Present Value of Benefits (PVB)	<u>\$64,475,637</u>	<u>\$68,760,731</u>

Accrued Liability

Valuation as of October 1,	2020	2021
1. Active Members		
a. Retirement Benefits	\$20,532,965	\$21,600,737
b. Deferred Benefits	168,782	161,178
c. Survivor Benefits	100,478	100,670
d. Disability Retirement	<u>121,042</u>	<u>129,116</u>
e. Total	\$20,923,267	\$21,991,701
3. Inactive Members		
a. Retirement and DROP	\$30,549,727	\$33,047,357
b. Terminated Vested	799,193	565,891
c. Beneficiaries	1,116,630	1,204,904
d. Disability Retirement	<u>2,416,860</u>	<u>2,769,560</u>
e. Total	\$34,882,410	\$37,587,712
3. Accrued Liability (AL)	<u>\$55,805,677</u>	<u>\$59,579,413</u>

Normal Cost – Entry Age Normal

Valuation as of October 1,	2020	2021
1. Preliminary Normal Cost		
a. Retirement Benefits	\$967,438	\$1,097,209
b. Deferred Benefits	120,291	136,169
c. Survivor Benefits	7,842	8,653
d. Disability Retirement	<u>45,751</u>	<u>52,675</u>
e. Total	\$1,141,322	\$1,294,706
2. Total Normal Cost		
a. Preliminary Normal Cost	\$1,141,322	\$1,294,706
b. Estimated Administrative Expense	<u>121,286</u>	<u>122,327</u>
c. Total Normal Cost	\$1,262,608	\$1,417,033
d. Total Normal Cost as a % of Pay	26.97 %	26.27 %
3. Normal Cost Net of Actual Employee Contributions		
a. Preliminary Normal Cost	\$1,141,322	
b. Actual Administrative Expense	122,327	
c. Actual Employee Contributions	<u>(402,855)</u>	
d. Actual Employer Normal Cost	\$860,794	
4. Valuation Payroll	\$4,681,370	\$5,394,827

Unfunded Accrued Liability

Valuation as of October 1,

2021

Unfunded Actuarial Liability

1. Accrued Liability	\$59,579,413
2. Actuarial Value of Assets	<u>51,292,502</u>
3. Unfunded Accrued Liability	\$8,286,911

Determination of Expected Unfunded Accrued Liability

1. Unfunded Accrued Liability as of Prior Year	\$10,164,858
2. Normal Cost (Net of Employee Contributions)	860,794
3. Interest on UAL and NC	788,334
4. Contributions	
a. City	\$(2,967,626)
b. State of Florida	<u>(494,738)</u>
c. Total	\$(3,462,364)
5. Interest on Contribution for Time on Deposit	(106,093)
6. Change in Plan, Methods or Assumptions	<u>670,075</u>
7. Expected UAL as of Current Year	\$8,915,604

Calculation of (Gain) or Loss

1. Actual Unfunded Accrued Liability	\$8,286,911
2. Expected UAL	<u>8,915,604</u>
3. Total (Gain) or Loss	\$(628,693)
4. Breakdown of (Gain) or Loss	
a. Investment Experience	\$(1,407,098)
b. Demographic Experience	<u>778,405</u>
c. Total (Gain) or Loss	\$(628,693)

Calculation of Actuarial Asset Gain or (Loss)

1. Actuarial Value of Assets - Beginning of Year	\$45,640,819
2. Contributions	3,865,219
3. Benefit Payments plus Administrative Expense	(2,900,746)
4. Expected Return on Assets	<u>3,280,112</u>
5. Expected Value of Assets at End of Year	\$49,885,404
6. Actuarial Value of Assets - End of Year	\$51,292,502
7. Gain (Loss) for Plan Year = (6) - (5)	\$1,407,098
8. Actual Investment Income	\$4,687,210
9. Actual % Return	10.16%

Amortization of Unfunded Liability

The Unfunded Actuarial Accrued Liability is being amortized as a level percentage of payroll based on the interest and payroll growth assumptions. Unfunded accrued liability from changes in Plan provisions, actuarial assumptions, or changes in methods is amortized over 25 years.

Amortization Bases

				Remaining Balance Adjusted for Actual Contributions	Years Remain	Amort.
10/1	Source	Original Balance	Remaining Balance			
1.	2002 Fresh Start	\$2,755,021	\$317,318	\$289,696	1	\$289,696
2.	2002 Plan Amendment	1,976,338	1,544,544	1,410,088	11	168,599
3.	2005 Plan Amendment	333,316	277,747	253,568	14	25,723
4.	2006 Method Change	753,708	637,486	581,991	15	56,500
5.	2006 Assumption Change	2,579,202	2,181,485	1,991,582	15	193,345
6.	2007 Actuarial Loss	1,227,859	132,857	121,291	1	121,291
7.	2007 Method Change	581,177	476,757	435,254	16	40,608
8.	2008 Actuarial Loss	2,599,494	525,393	479,656	2	246,802
9.	2008 Method Change	(1,970,274)	(1,607,764)	(1,467,804)	17	(132,083)
10.	2009 Actuarial Loss	1,538,368	442,722	404,182	3	142,637
11.	2010 Actuarial Loss	121,763	43,751	39,942	4	10,873
12.	2010 Plan Amendment	(2,045,217)	(1,666,115)	(1,521,076)	19	(128,516)
13.	2011 Actuarial Loss	190,481	81,324	74,245	5	16,625
14.	2012 Actuarial Loss	680,484	332,558	303,608	6	58,235
15.	2012 Plan Amendment	607,166	499,242	455,782	21	36,523
16.	2012 Assumption Change	1,502,286	1,235,255	1,127,723	21	90,369
17.	2013 Actuarial Gain	(181,623)	(99,685)	(91,007)	7	(15,376)
18.	2013 Assumption Change	53,066	44,184	40,338	22	3,158
19.	2014 Actuarial Loss	278,366	169,281	154,545	8	23,472
20.	2014 Assumption Change	56,887	48,200	44,004	23	3,371
21.	2015 Actuarial Loss	801,046	662,469	604,800	19	51,100
22.	2015 Assumption Change	568,624	470,256	429,319	19	36,273
23.	2016 Actuarial Gain	(809,648)	(683,589)	(624,081)	20	(51,294)
24.	2016 Assumption Change	771,544	651,414	594,707	20	48,880
25.	2017 Actuarial Loss	756,776	658,682	601,342	21	48,188
26.	2017 Assumption Change	585,900	509,955	465,562	21	37,307
27.	2018 Actuarial Loss	771,863	695,753	635,186	22	49,725
28.	2018 Assumption Change	485,735	437,838	399,723	22	31,292
29.	2019 Actuarial Loss	815,663	772,224	705,000	23	54,015
30.	2019 Assumption Change	646,883	612,432	559,118	23	42,838
31.	2020 Actuarial Gain	(529,394)	(525,064)	(479,356)	24	(36,003)
32.	2020 Assumption Change	(854,131)	(847,145)	(773,399)	24	(58,088)
33.	2021 Actuarial Gain	(628,693)	(628,693)	(628,693)	25	(46,357)
34.	2021 Assumption Change	670,075	<u>670,075</u>	<u>670,075</u>	25	<u>49,409</u>
	Scheduled Amortization Payment					\$1,509,137
	Sum of Outstanding Bases		\$9,073,147	\$8,286,911		
	Unfunded Accrued Liability			8,286,911		

Projected Unfunded Accrued Liability and Amortization Payments

Valuation as of October 1,	Unfunded Accrued Liability	Amortization Payment
2021	\$8,286,911	\$1,509,137
2022	7,255,607	1,109,130
2023	6,579,803	868,459
2024	6,113,995	730,185
2025	5,763,368	726,172
2026	5,392,319	715,961
2027	5,006,041	661,303
2028	4,651,042	684,401
2029	4,246,290	665,829
2030	3,832,884	672,487
2031	3,383,205	679,212
2032	2,894,625	497,903
2033	2,565,691	502,882
2034	2,208,237	507,911
2035	1,820,200	483,422
2036	1,431,020	198,194
2037	1,319,740	152,561
2038	1,249,465	310,512
2039	1,005,149	313,618
2040	740,284	366,459
2041	400,180	373,070
2042	29,021	115,056
2043	(92,101)	11,432
2044	(110,832)	(114,452)
2045	3,874	3,874
2046	0	0

Actions Taken to Reduce Unfunded Actuarial Accrued Liability

The required contributions calculated each year include a payment for the amortization of the unfunded accrued liability. This payment is designed to reduce the unfunded accrued liability in an orderly fashion. The Unfunded Actuarial Accrued Liability is being amortized as a level percentage of payroll based on the interest and payroll growth assumptions. In the October 1, 2014 valuation, unfunded accrued liability from changes in Plan provisions, actuarial assumptions, or changes in methods was amortized over 30 years and unfunded accrued liability from actuarial gains or losses was amortized over 15 years. Effective October 1, 2015 all new bases are amortized over 25 years.

Minimum Funding Requirements

Valuation as of October 1, Required Contribution for FYE September 30,	2020 2022	2021 2023
1. Normal Cost	\$1,262,608	\$1,417,033
2. Amortization of Unfunded Actuarial Liability	<u>1,735,772</u>	<u>1,509,137</u>
3. Minimum Required Contribution at Valuation Date [1. + 2.]	\$2,998,380	\$2,926,170
4. Minimum Required Contribution Projected to Beginning of Budget Year	\$3,212,764	\$3,132,465
5. Interest for Periodic Payments	<u>132,683</u>	<u>127,859</u>
6. Minimum Required Contribution Adjusted for Periodic Payments [4. + 5.]	\$3,345,447	\$3,260,324
7. Expected Employee Contributions	\$366,615	\$424,217
8. Expected State Contribution	498,650	494,738
9. Estimated City Contribution	<u>2,480,182</u>	<u>2,341,369</u>
10. Minimum Required Contribution for Funding Year	\$3,345,447	\$3,260,324
11. City Plus State Contribution	\$2,978,832	\$2,836,107
12. Expected Employee Contribution Rate	7.75%	7.79%
13. Expected State Contribution Rate	10.55%	9.08%
14. Estimated City Contribution Rate	<u>52.46%</u>	<u>42.97%</u>
15. Minimum Required Contribution Rate	70.76%	59.84%
16. City Plus State Contribution Rate	63.01%	52.05%
17. Payroll		
a. Valuation Payroll	\$4,681,370	\$5,394,827
b. Projected Valuation Payroll	\$4,728,184	\$5,448,775
c. Hired < January 31, 2011	2,327,937	2,337,101
d. Hired > January 31, 2011	2,400,247	3,111,675
18. Assumptions		
a. Net Assumed Investment Return	7.15%	7.05%
b. Contribution Projected to Next FY	7.15%	7.05%
c. Total Payroll Inflation	1.00%	1.00%
d. Payroll Inflation for Amortization of UAL	1.00%	1.00%

Reconciliation of Unfunded Accrued Liability

	Unfunded Accrued Liability	Funded Percentage	Change in Unfunded Accrued Liability	Change in Funded Percentage
As of October 1, 2020:	\$10,164,858	81.79 %		
Changes due to:				
Normal Operation of Plan	\$8,245,529	85.82 %	\$(1,919,329)	4.03 %
Investment Experience	6,838,431	88.24 %	(1,407,098)	2.42 %
Demographic Experience	7,616,836	87.07 %	778,405	(1.17)%
Net Return 7.05%	8,286,911	86.09 %	<u>670,075</u>	<u>(0.98)%</u>
Total			\$(1,877,947)	4.30 %
As of October 1, 2021:	\$8,286,911	86.09 %		

Reconciliation of City Minimum Required Contribution

	Dollar Amount	Percent of Pay
For Fiscal Year Ending September 30, 2022:	\$2,480,182	52.46 %
Changes due to:		
Normal Operation of Plan	\$(80,294)	(2.20)%
Administrative Expense Change	1,156	0.02 %
State Contribution Increase	3,772	0.08 %
Investment Experience	(116,125)	(2.43)%
Contributions Different Than Expected	(159,805)	(3.35)%
Demographic Experience	136,196	(3.01)%
Net Return 7.05%	<u>76,287</u>	<u>1.40 %</u>
Total	\$(138,813)	(9.49)%
For Fiscal Year Ending September 30, 2023:	\$2,341,369	42.97 %

Historical Actuarial Gains and Losses

Valuation Date	Overall Experience	Total	Investment Related	Demographic
10/01/2007	Actuarial Loss	\$1,227,859	\$(278,370)	\$1,506,229
10/01/2008	Actuarial Loss	2,599,494	2,579,310	20,184
10/01/2009	Actuarial Loss	1,538,368	661,567	880,810
10/01/2010	Actuarial Loss	121,763	591,163	(469,400)
10/01/2011	Actuarial Loss	190,481	805,498	(615,017)
10/01/2012	Actuarial Loss	680,484	578,926	101,558
10/01/2013	Actuarial Gain	(181,623)	(255,604)	73,981
10/01/2014	Actuarial Loss	278,366	(279,250)	557,616
10/01/2015	Actuarial Loss	801,046	191,273	609,773
10/01/2016	Actuarial Gain	(809,648)	141,056	(950,704)
10/01/2017	Actuarial Loss	756,776	359,073	397,703
10/01/2018	Actuarial Loss	771,863	358,822	413,041
10/01/2019	Actuarial Loss	815,663	586,932	228,731
10/01/2020	Actuarial Gain	(529,394)	(16,518)	(512,876)
10/01/2021	Actuarial Gain	(628,693)	(1,407,098)	778,405
	Totals	\$7,632,805	\$4,616,780	\$3,020,034

Section
3

Accounting Information

Information Required by GASB 67/68

A supplemental report provides information under the Governmental Accounting Standards Board No. 67/68.

Statement of Accumulated Plan Benefits (FASB 35)

The following table is based on prior accounting standards and is required by the State. The actuarial present value of accumulated plan benefits is an estimate of the liability for all benefits accrued to date.

Year Beginning October 1,	2020	2021
1. Actuarial present value of accumulated plan benefits		
a. Participants currently receiving benefits	\$34,083,217	\$37,021,821
b. Other participants	<u>13,947,060</u>	<u>14,448,884</u>
c. Total vested plan benefits	\$48,030,277	\$51,470,705
d. Total non-vested plan benefits	<u>2,064,057</u>	<u>2,173,144</u>
e. Total accumulated plan benefits	\$50,094,334	\$53,643,849
2. Change in present value of accumulated plan benefits		
a. Accumulated plan benefits beginning of year		\$50,094,334
b. Increase (decrease) during year due to:		
i. Plan amendment		\$0
ii. Change in assumptions or methods		597,368
iii. Increase for interest and probability of payment due to decrease in discount period and benefits accrued		5,730,566
iv. Benefits paid		(2,778,419)
v. Other changes		<u>0</u>
vi. Net increase (decrease)		\$3,549,515
c. Accumulated plan benefits end of year		\$53,643,849

Other Disclosures Required by the State of Florida

Year Beginning October 1,	2020	2021
Present value of active member:		
Future salaries (attained age)	\$36,844,914	\$40,083,249
Future contributions (attained age)	\$2,878,675	\$3,148,324
Active Member accumulated contributions	\$2,423,037	\$2,505,131

Required Disclosure Under F.S. 112.664(1)

As required under F.S. Section 112.664(1) we have produced the following information:

- (a) Total pension liability calculated based on mortality used in one of the last two Florida Retirement System (FRS) valuations. This actuarial valuation assumes mortality as used in the July 1, 2019 and 2020 actuarial valuation for special risk members of FRS.
- (b) Total pension liability calculated using an assumed interest rate that is 200 basis points lower than that assumed in the valuation of the Plan.
- (c) Determination of the number of months or years for which the current market value of assets is adequate to sustain the payment of expected retirement benefits.
- (d) Recommended contribution to the Plan using the most recent valuation and the contributions necessary prepared pursuant to (a) and (b) stated as a dollar amount and % of payroll.

	2% Decrease (5.05%)	Current Discount Rate (7.05%)	2% Increase (9.05%)
Total pension liability	\$76,147,882	\$59,579,413	\$48,233,860
Plan fiduciary net position	<u>(56,352,252)</u>	<u>(56,352,252)</u>	<u>(56,352,252)</u>
Net pension liability	<u>\$19,795,630</u>	<u>\$3,227,161</u>	<u>\$(8,118,392)</u>
Plan fiduciary net position as a percentage of the total pension liability	74.00%	94.58%	116.83%
Years of benefit payments:			
Expected for current members:	100	100	100
Paid for with current assets:	17.48	23.08	100.00
City Plus State Contribution Requirement, Plus Expected Employee Contributions			
Dollar Amount	\$4,971,246	\$3,260,324	\$1,839,135
Percent of Payroll	91.24%	59.84%	33.75%

Required Disclosure Under F.S. 112.664(2)(b)2.

F.S. Section 112.664(2)(b)2. - For the previous five years, beginning with 2013, a side-by-side comparison of the plan's assumed rate of return compared to the actual rate of return, as well as the percentages of cash, equity, bond and alternative investments in the plan portfolio. The actual rate of return is as provided by the investment monitor.

Year Ending September 30,	2021	2020	2019	2018	2017
Assumed rate of return	7.15%	7.25%	7.35%	7.45%	7.55%
Actual rate of return	20.37%	9.99%	3.62%	8.50%	10.04%
Percentages of assets in:					
Cash	1%	2%	1%	2%	6%
Equity	60%	64%	64%	65%	56%
Bond	26%	24%	26%	25%	25%
Alternative	13%	10%	9%	8%	13%
Total	100%	100%	100%	100%	100%

Section

4

Supplementary
Information

Summary of Participant Data

Member Statistics

Year Beginning October 1,	2020	2021
<u>Active Participants</u>		
Number	78	79
Average Age	37.9	37.5
Average Credited Service	10.0	9.6
Percent Male	88.5	87.3
Average Valuation Salary	\$64,687	\$71,164
Actual Total Payroll - Annual Report	\$4,798,318	\$5,199,237
Total Valuation Salary	\$5,045,551	\$5,621,937
Payroll Covered in Valuation	\$4,681,370	\$5,394,827
<u>Terminated With Rights to Deferred Benefits</u>		
Number	3	2
Average Age	42.9	42.8
Percent Male	66.7	50.0
Average Monthly Benefit	\$2,402	\$2,488
Total Annual Benefits	\$86,460	\$59,715
<u>Service Retirements (Including DROP)</u>		
Number	51	55
Average Age	61.2	61.4
Percent Male	96.1	96.4
Average Monthly Benefit	\$3,845	\$3,864
Total Annual Benefits	\$2,353,007	\$2,550,407
<u>Beneficiaries</u>		
Number	3	4
Average Age	71.6	63.9
Percent Male	33.3	25.0
Average Monthly Benefit	\$2,861	\$2,457
Total Annual Benefits	\$102,997	\$117,920
<u>Disability Retirements</u>		
Number	6	7
Average Age	49.8	49.5
Percent Male	100.0	100.0
Average Monthly Benefit	\$3,140	\$3,052
Total Annual Benefits	\$226,083	\$256,383

Number of Active Members by Age and Service as of October 1, 2021

Age	Service							Total
	< 1	< 5	< 10	< 15	< 20	< 25	25+	
< 20								
< 25	6							6
< 30	1	8	4					13
< 35	1	4	6	1				12
< 40	2	3	9	2	2			18
< 45		1	1	3	7	1		13
< 50	1			3	5	3		12
< 55			1		2	1	1	5
< 60								
60+								
Total	11	16	21	9	16	5	1	79

Active Valuation Pay by Age and Service as of October 1, 2021

Age	Service							Total
	< 1	< 5	< 10	< 15	< 20	< 25	25+	
< 20								
< 25	52,418							52,418
< 30	53,252	57,584	59,232					57,758
< 35	57,253	57,907	67,423	84,823				64,853
< 40	74,074	61,454	68,781	73,799	80,620			70,021
< 45		59,852	66,569	64,940	92,850	77,934		80,702
< 50	45,897			84,382	83,053	88,758		81,715
< 55			54,965		97,336	108,446	130,176	97,652
< 60								
60+								
Total	56,278	58,532	65,811	75,599	88,820	90,531	130,176	71,164

Reconciliation of Plan Participants

	Active	Vested Terms	DROP	Retired	Survivor	Disability	Total
As of October 1, 2020	78	3	0	51	3	6	141
Nonvested Termination	(5)						(5)
Retired	(2)	(1)		3			0
DROP	(1)		1				0
Disability	(1)					1	0
Death	(1)				1		0
New Hires	11						11
As of October 1, 2021	79	2	1	54	4	7	147

Reconciliation of DROP Account Balances

	2020	2021
1. Beginning Balance	0.00	0.00
2. Monthly Benefit Additions	0.00	20,379.42
3. Interest Earned	0.00	244.91
4. Distributions	<u>0.00</u>	<u>0.00</u>
5. Ending Balance	0.00	20,624.33

Outline of Plan Provisions

Plan Type: Single-employer Defined Benefit Pension Plan

Effective Date: The Plan was originally effective September 28, 1993. Prior to the Effective Date, Members were part of a "Chapter Plan" where a slightly different level of benefits was effective. The most recent amendments to the Plan were Ordinance No. 2017-32 adopted effective December 12, 2017, Ordinance No. 2018-19 adopted effective July 17, 2018, and Ordinance No. 2020-37 adopted effective November 4, 2020.

Legal Authority: The Plan was established and is amended by local ordinance.

Plan Administrator: The Board of Trustees

Board Composition: Two members are elected from among the police employees of the City, who are members of the plan, two city residents appointed by the Commission and one person is chosen by a majority of the previous four members.

Plan Year: The 12-month period from October 1st to the following September 30th.

Funding Requirements: Employer contributions are actuarially determined and subject to State statute. Employee contributions are as described below and may be amended by ordinance.

Member: Full-time employees who satisfy the definition of a police officer in F.S. Section 185.02(11) become Members immediately upon hire.

Credited Service: Years and completed months of full-time employment as a police officer of the city during which a person contributes to the Plan. Credited Service also includes certain military service. Additional Credited Service may be purchased at full actuarial cost. Credited Service purchased after January 31, 2011 is not counted towards vesting.

Vesting: 100% upon earning ten years of Credited Service.

Compensation: Prior to Ordinance No. 2012-4, Monthly salary paid for work performed including overtime payments from a salary fund up to 300 hours in a calendar year, 50% of accumulated sick and annual leave payouts, amounts withheld for tax sheltered annuities, tax deferred compensation, and payments in addition to the employee's base rate of pay if the payments are paid according to a formal written policy that applies to all eligible employee equally, payments are paid for as long as the employee continues employment, and payments are paid at least annually.

Effective with Ordinance No. 2012-4, Monthly salary paid for work performed including overtime payments from a salary fund up to 300 hours in a calendar year, lump sum payments for accumulated sick and annual leave for employees hired on or before January 31, 2011 (but not to exceed the hours of sick and annual leave accumulated as of March 1, 2011 plus 50% of the hours of sick and annual leave accumulated between March 1, 2011 and March 1, 2012, and excluding lump sum payments for accumulated sick and annual leave accumulated on or after March 1, 2012), amounts withheld for tax sheltered annuities, tax deferred compensation, and payments in addition to the employee's base rate of pay if the payments are paid according to a formal written policy that applies to all eligible employee equally, payments are paid for as long as the employee continues employment, and payments are paid at least annually.

Employee Contributions: 7.5% of Compensation for members hired on or before January 31, 2011 and 8.0% for members hired after that date. A Member who terminates non-vested is entitled to refund of accumulated Employee Contributions without interest. Contributions may be repaid with interest upon reentry into the Plan due to rehire.

Average Final Compensation: For members hired on or before January 31, 2011, one-twelfth the average of Compensation for the three highest years of Credited Service. For members hired after January 31, 2011, one-twelfth of the average of Compensation for the five highest years of Credited Service.

Normal Retirement Date: For members hired on or before January 31, 2011, the first day of the month coincident with or next following the earlier of (i) age 48 and ten years of Credited Service, or (ii) age 45 and 25 years of Credited Service. For members hired after January 31, 2011, the Normal Retirement Date is the first day of the month coincident with or next following the date the member attains age 48 and ten years of Credited Service.

Accrued Benefit (for Members Hired On or Before January 31, 2011): $3\% \times \text{Average Final Compensation} \times \text{Credited Service}$, plus, for Members who retire (i) with ten years of Credited Service prior to October 1, 2002, (ii) after having attained age 50 with ten years of Credited Service by October 1, 2002, (iii) with 20 years of Credited Service between October 1, 2002 and January 31, 2011, or (iv) with 25 years of Credited Service after January 31, 2011, a Supplemental Benefit (commonly referred to as a "health subsidy") is payable as follows:

- (a) \$200 per month
- (b) $\$20 \times \text{Credited Service Over 10 Years}$ (Maximum \$400) per month
- (c) Where (a) plus (b) is not more than \$600 per month

For Members who retired prior to October 1, 1993 the monthly benefit was defined as $2\% \times \text{Average Final Compensation} \times \text{Credited Service}$ (hereafter referred to as the "2% Multiplier Formula") plus the Supplemental Benefit defined above (the lesser of \$600 and $\$200 + (\$20 \times \text{Credited Service Over 10, but no more than } \$400)$). A cost-of-living adjustment (CPI COLA) is payable annually effective January 1, 1994 on the portion of the benefit determined under the 2% Multiplier Formula. The amount of the CPI COLA is the increase in the Consumer Price Index (urban wage earner as calculated by the United States Department of Labor) between July of the immediately preceding year as compared to July of the prior year. The CPI COLA is granted until the participant's benefit determined under the 2% Multiplier Formula reaches the benefit amount provided for members who retire after October 1, 1993 ($3\% \times \text{Average Final Compensation} \times \text{Credited Service}$) plus the Supplemental Benefit (the lesser of \$600 and $\$200 + (\$20 \times \text{Credited Service Over 10, but no more than } \$400)$). This portion of Plan provisions was applicable to only one Member of the Plan. The last time the CPI COLA was paid was on January 1, 2006. The Plan provision defining the CPI COLA will not apply to Plan participants after January 1, 2006.

Effective October 1, 2001, Members who retired prior to October 1, 2002 (including disability retirees) are granted a 1% cost-of-living adjustment annually commencing the January 1 following the first anniversary of retirement annuity commencement (1% COLA). For a DROP retiree, the 1% COLA is granted commencing on the January 1 following the first anniversary of actual annuity commencement after the end of the DROP period. The 1% COLA is not payable to any participant eligible to receive the 3% COLA, as described in the following.

Effective October 1, 2002, retirees are granted a deferred annual 3% cost-of-living adjustment (3% COLA) as follows: (i) Members who are retired on October 1, 2002 and had earned at least 20 years of Credited Service, (ii) Members who are actively employed on October 1, 2002 and had attained age 50 with ten years of Credited Service at that date, (iii) Members who are actively employed on October 1,

2002 with 20 years of Credited Service at that date, (iv) Members who attain 20 years of Credited Service after October 1, 2002 and who retire or enter the DROP by January 31, 2011, and (v) Members who attain 25 years of Credited Service after January 31, 2011. The deferred 3% COLA is payable annually commencing as specified in the following:

- (a) 5 years after retirement (or DROP) for participants who retire (or DROP) on or before January 31, 2011 upon attaining age 45 and 25 years of Credited Service or age 50 and 20 Years of Credited Service.
- (b) The later of 5 years after retirement (or DROP) or age 59 for participants who were hired prior to January 1, 2003 and who retire (or DROP) on or before January 31, 2011 upon attaining age 48 and 20 years of Credited Service.
- (c) On the first day of the month coincident with or next following attainment of age 59
 - a. for participants who were hired prior to January 1, 2003 and who separate employment on or before January 31, 2011 with 20 years of Credited Service but before reaching age 48.
 - b. for participants hired on or after January 1, 2003 who retire (or DROP) on or before January 31, 2011 with at least 20 years of Credited Service (but prior to age 45 and 25 Years of Credited Service and prior to age 50).
 - c. for participants who retire after January 31, 2011.
- (d) 5 years after commencement of disability benefits on or before January 31, 2011 if 20 years of Credited Service have been earned during employment.

For members actively employed on January 31, 2011, in no event will the annual benefit payable exceed \$95,000, inclusive of any COLAs to which the member may be entitled.

Accrued Benefit (for Members Hired After January 31, 2011): $3\% \times \text{Average Final Compensation} \times \text{Credited Service}$, plus a Supplemental Benefit (commonly referred to as a "health subsidy") is payable as follows:

- (a) \$100 per month
- (b) $\$10 \times \text{Credited Service Over 10 Years (Maximum \$100)}$ per month
- (c) Where (a) plus (b) is not more than \$200 per month

No COLA is payable for members hired after January 31, 2011.

In no event will the annual benefit exceed \$95,000.

Late Retirement Benefit: The higher of the benefit determined using the Average Final Compensation and Credited Service at the actual date of retirement from employment, or the benefit that would have been paid had the Member retired at the Normal Retirement Date increased actuarially from the Normal Retirement Date to the actual date of retirement.

Early Retirement Date: The first day of the month coincident with or next following the date the Member earns ten years of Credited Service and attains age 45.

Early Retirement Benefit: The Accrued Benefit reduced by 3% for each year the Member is younger than the Normal Retirement Date.

Disability Benefits: Members are eligible for service-connected Disability Benefits immediately upon hire. The monthly service-connected Disability Benefit is the greater of (i) the Accrued Benefit and (ii) 51% of average monthly compensation for the most recent 12 months of full-time employment. Members are eligible for a non-service-connected Disability Benefit after earning at least ten years of Credited Service. The monthly non-service-connected disability benefit is the greater of (i) the Accrued Benefit and (ii) 25% of average monthly compensation for the most recent 12 months of full-time employment. Disability Benefits are offset by disability income received from workers' compensation only to the extent by which the total of the workers' compensation benefit plus the Disability Benefit payable exceeds the employee's average monthly compensation at disability. However, any offset for workers' compensation will not result in less than 42% of average monthly compensation, in the event of service-connected disability, or in less than 25% of average monthly compensation, in the event of non-service-connected disability.

Pre-Retirement Survivor Benefits: Vested Members who die prior to the commencement of benefits shall have a survivor benefit payable on their behalf. The amount of the monthly income payable is the (i) Accrued Benefit at the date of death payable at the Normal Retirement Date, or (2) the actuarial equivalent of this Accrued Benefit payable on the first day of the month following death, as elected by the designated beneficiary.

Optional Forms of Benefit: Pension benefits described above are payable in the form of a 10 year certain and continuous annuity. Members may optionally choose an actuarially equivalent single life annuity, or joint and survivor annuity (with 50%, 66 2/3, 75%, or 100% continuance). Actuarial equivalence for healthy lives is determined based the RP-2000 mortality table projected using Scale AA to 2010 (50% male blend) and an 8.0% annual interest assumption. The RP-2000 mortality table for disabled retirees projected using Scale AA to 2010 (50% male blend) is used for disabled lives.

Deferred Retirement Option Plan (DROP): Members hired on or before January 31, 2011 are eligible to enter the DROP upon earning 25 years of Credited Service. The Accrued Benefit is frozen and no further Employee Contributions are payable at DROP entry. The Accrued Benefit accumulates with interest at the fund's assumed rate of investment return in the DROP account (credited quarterly) and is payable as a single-lump sum within 60 days following DROP exit. The maximum DROP participation duration is 60 months. DROP participants are not eligible for pre-retirement death or disability benefits. No DROP is available to members hired after January 31, 2011.

Share Plan: Ordinance No. 2017-32 adopted effective December 12, 2017 amended the plan to provide that all annual premium tax revenues received pursuant to Chapter 185 and all accumulated excess Chapter 185 premium tax revenues as of October 1, 2016 are used to offset the City's pension contributions. This ordinance also created a defined contribution plan component commonly referred to as the Share Plan. Currently, the City of Port Orange and the union representing police officers have mutually agreed that no Chapter 185 premium tax revenues will be allocated to the Share Plan. At such time that the City of Port Orange and the union mutually agree to allocate premium tax revenues to the Share Plan, the details will be negotiated.

Description of Assumptions and Methods

Assumed Rate of Investment Return: 7.05% per year net of investment expenses (revised from 7.15% in the prior valuation)

Inflation: 2.0% per year

Salary Increase – Total Payroll: 1.0% per year. The payroll growth assumption used to amortize unfunded accrued liability as a level percent of payroll is 1.0%.

Salary Increase – Individual: 7.25% per year. Members hired after January 31, 2011 are assumed to have no payout for accrued hours includable in their pension. For Members hired on or before January 31, 2011 the final year of Salary is increased to account for the number of accrued hours available at March 1, 2011 plus half of the number of accrued hours between March 1, 2011 and March 1, 2012, assuming members typically work 2,184 hours in a year.

Mortality: The mortality table is that used for special risk employees in the valuation of the Florida Retirement System (FRS) as of July 1, 2019 and 2020, as required by state statute.

The following sex distinct tables are used with fully generational mortality improvements using sex distinct Scale MP-2018.

Active:	Male:	PubS.H-2010(B) male employee set forward 1 year
	Female:	PubS.H-2010 female employee set forward 1 year
Healthy Retiree:	Male:	PubS.H-2010(B) male healthy retiree set forward 1 year
	Female:	PubS.H-2010 female healthy retiree set forward 1 year

The following sex distinct tables are used with no mortality improvement projection.

Disabled Retiree:	Male:	80% PubG.H-2010 male disabled retiree + 20% PubS.H-2010 male disabled retiree
	Female:	80% PubG.H-2010 female disabled retiree + 20% PubS.H-2010 female disabled retiree

Juvenile rates are used for ages 15-17.

The active tables reference the healthy retiree rates, above, at ages 80+.

The healthy retiree tables reference the active mortality rates, above, before age 44.

Retirement: Unisex rates, as follows. Rates of retirement for members hired before January 31, 2011 are as follows:

Age	Service		
	<10	10-24	25+
<=44	0.00%	0.00%	0.00%
45	0.00%	10.00%	100.00%
46	0.00%	5.00%	100.00%
47	0.00%	2.50%	100.00%
48	0.00%	25.00%	100.00%
49-51	0.00%	2.50%	100.00%
52+	0.00%	100.00%	100.00%

Members Hired After January 31, 2011: 100% at Age 48 and 10 Years of Service

Termination: Unisex rates of termination are follows:

<u>Service</u>	<u>Prior Rate</u>	<u>Current Rate</u>	<u>Service</u>	<u>Prior Rate</u>	<u>Current Rate</u>
0	23%	24%	11	5%	3%
1	23%	21%	12	5%	3%
2	23%	18%	13	4%	3%
3	8%	13%	14	4%	3%
4	8%	12%	15	3%	3%
5	8%	8%	16	3%	2%
6	8%	8%	17	2%	1%
7	8%	7%	18	2%	1%
8	8%	6%	19	1%	1%
9	8%	5%	>=20	0%	0%
10	30%	5%			

Disability: Unisex rates, as follows:

<u>Age</u>	<u>Rate</u>	<u>Age</u>	<u>Rate</u>	<u>Age</u>	<u>Rate</u>	<u>Age</u>	<u>Rate</u>
15	0.050%	29	0.106%	43	0.186%	57	0.704%
16	0.054%	30	0.110%	44	0.193%	58	0.746%
17	0.058%	31	0.114%	45	0.200%	59	0.788%
18	0.062%	32	0.118%	46	0.242%	60	0.830%
19	0.066%	33	0.122%	47	0.284%	61	0.872%
20	0.070%	34	0.126%	48	0.326%	62	0.914%
21	0.074%	35	0.130%	49	0.368%	63	0.956%
22	0.078%	36	0.137%	50	0.410%	64	0.998%
23	0.082%	37	0.144%	51	0.452%	65	1.040%
24	0.086%	38	0.151%	52	0.494%	66	1.082%
25	0.090%	39	0.158%	53	0.536%	67	1.124%
26	0.094%	40	0.165%	54	0.578%	68	1.166%
27	0.098%	41	0.172%	55	0.620%	69	1.208%
28	0.102%	42	0.179%	56	0.662%	70+	1.250%

100% of disabilities are assumed to be service connected.

Percentage Married at Retirement: 40% of active Members are assumed to be married at retirement and elect the 100% joint & survivor form of benefit.

Marital Age Difference Assumption: Husbands are assumed to be three years older than wives.

Plan Expenses: The prior year administrative expense is added to the normal cost.

Funding Method: Entry Age (level percent of salary)

A description of the funding method is found on the next page entitled "Glossary of Actuarial Terms."

Glossary of Actuarial Terms

Present Value of Benefits (PVB): The present value, as of the valuation date, of all benefits that will become payable by the Plan for the current group of members in the census.

Normal Cost (NC): Under the Individual Entry Age Normal Cost Method, the annual normal cost for each individual active member is determined as the amount, from the date of employment to the date of retirement, sufficient to accumulate the value of the member's benefit at the time of retirement. The annual normal cost is a constant percentage of the member's projected covered pay.

Accrued Liability (AL): This is the portion of the PVB attributable to the past at the valuation date. For active members, AL is the annual NC accumulated from date of entry to the valuation date for each member. For retired and terminated members, the PVB and the AL are equal. The AL is the estimated liability owed by the pension fund at the valuation date.

Unfunded Accrued Liability (UAL): Any excess of the Accrued Liability over the fund assets. A negative UAL indicates fund assets are greater than the Accrued Liability, otherwise known as a surplus. Actuarial gains/(losses), as they occur, reduce (increase) the Unfunded Actuarial Accrued Liability.

Actuarial Value of Assets: The value of assets used in the actuarial valuation of the Plan which is compared to the AL to determine the UAL and minimum funding requirements. A method may be used to smooth out short term volatility in the fair market value of assets. In this valuation, the Actuarial Value of Assets has been calculated to smooth out unexpected fluctuations in the fair market value of assets over a 5-year period, less any reserve of State contributions.



CITY COUNCIL AGENDA ITEM

COUNCIL MEETING DATE 4/5/2022

SUBJECT: (B6b) Fire Pension Plan

DEPARTMENT: Finance

GOAL: 5 - Fiscal Sustainability

RECOMMENDED MOTION: Presentation only - no motion needed.

SUMMARY: Actuarial Report presentation to be provided by Foster & Foster.

PRESENTER: John McKinney

ATTACHMENTS:

1	Port_Orange_Fire_Pension_City_Council_Meeting_April,2022	Port_Orange_Fire_Pension_City_Council_Meeting_April,2022.pptx
2	2022.03.01,PortOrangeFire,2021ActuarialValuation	2022.03.01,PortOrangeFire,2021ActuarialValuation.pdf

Robin Fenwick
John McKinney
Wayne Clark
Robin Fenwick

Created/Initiated - 3/23/2022
Approved - 3/24/2022
Approved - 3/24/2022
Final Approval - 3/25/2022

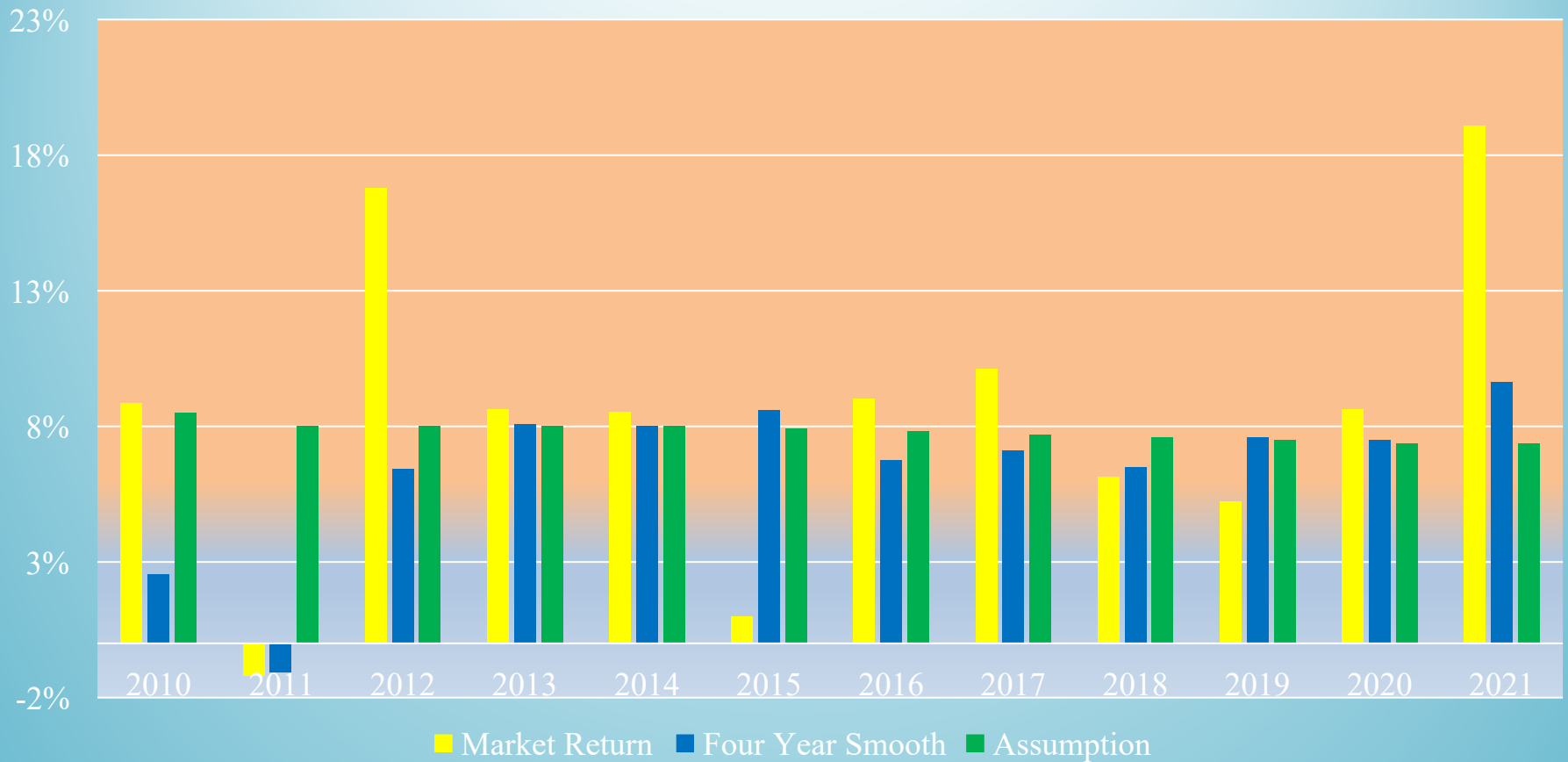


City of Port Orange

Firefighters' Pension Plan Summary

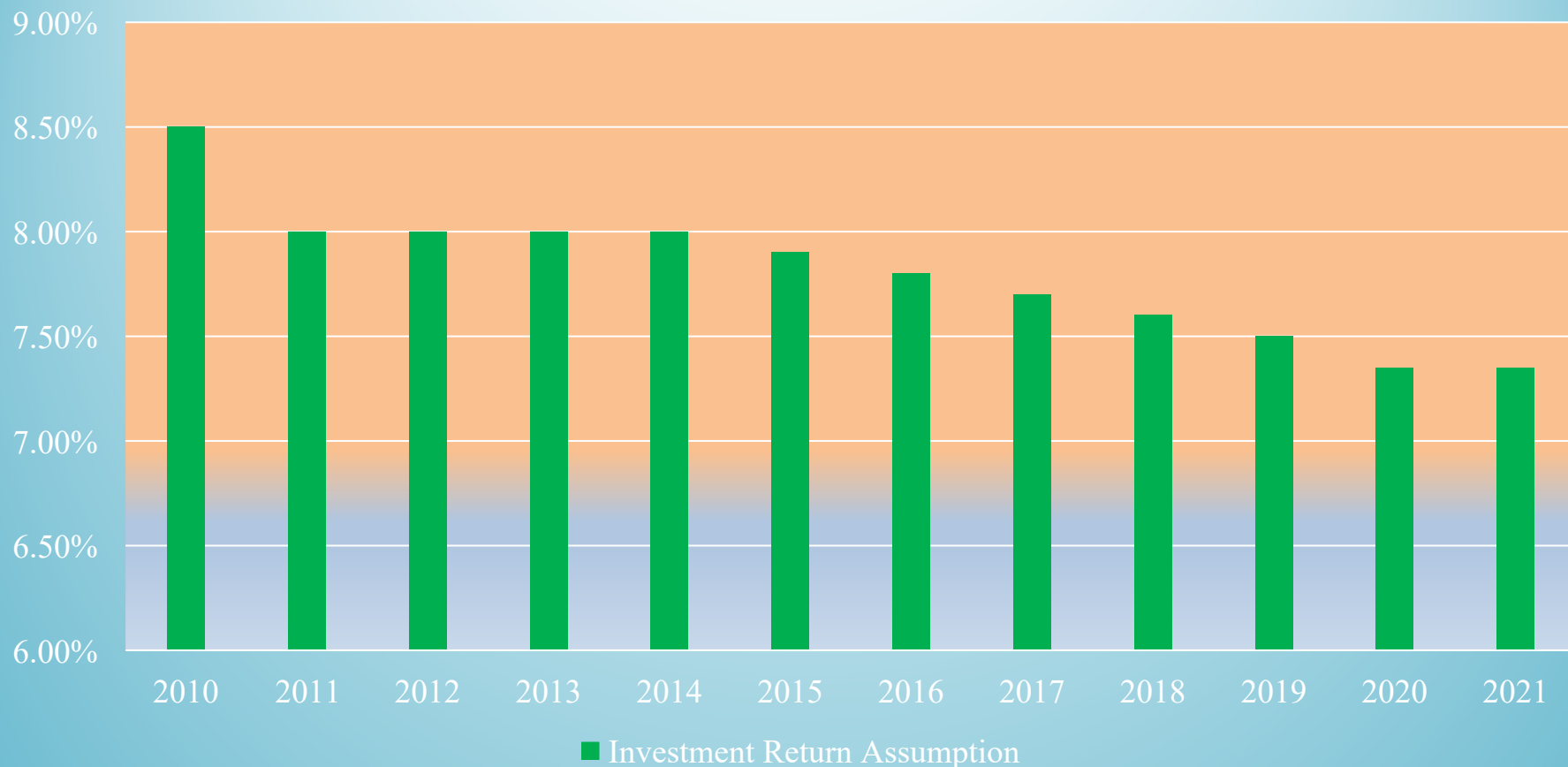
April 5, 2022 City Council
Meeting

Doug Lozen, EA, MAAA
Foster & Foster, Inc.



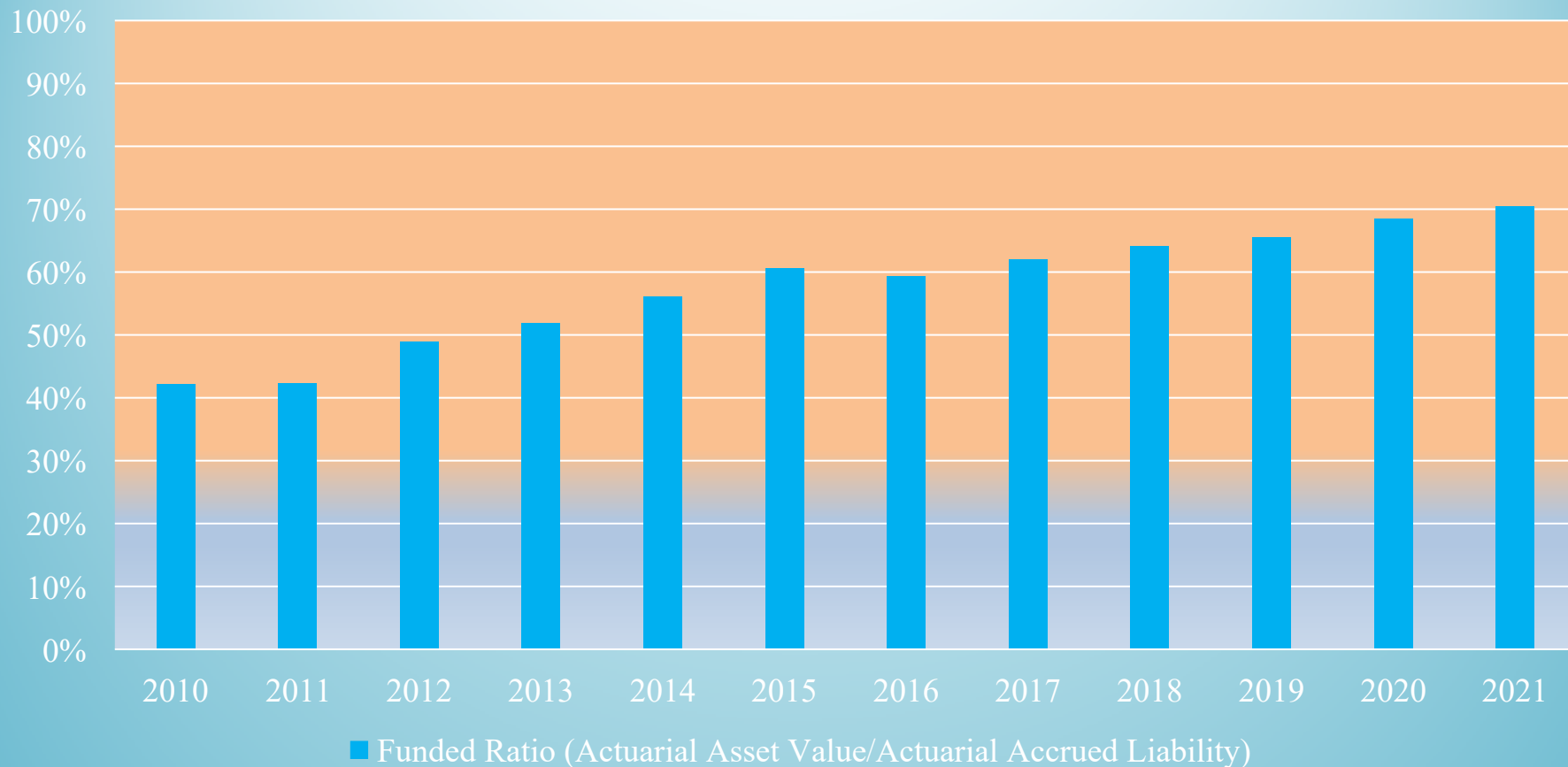
Investment Return
Performance
(Partial History)

Market Year performance exceeded the
assumption 8 of the last 12 fiscal years.



Investment
Return
Assumption
(Partial History)

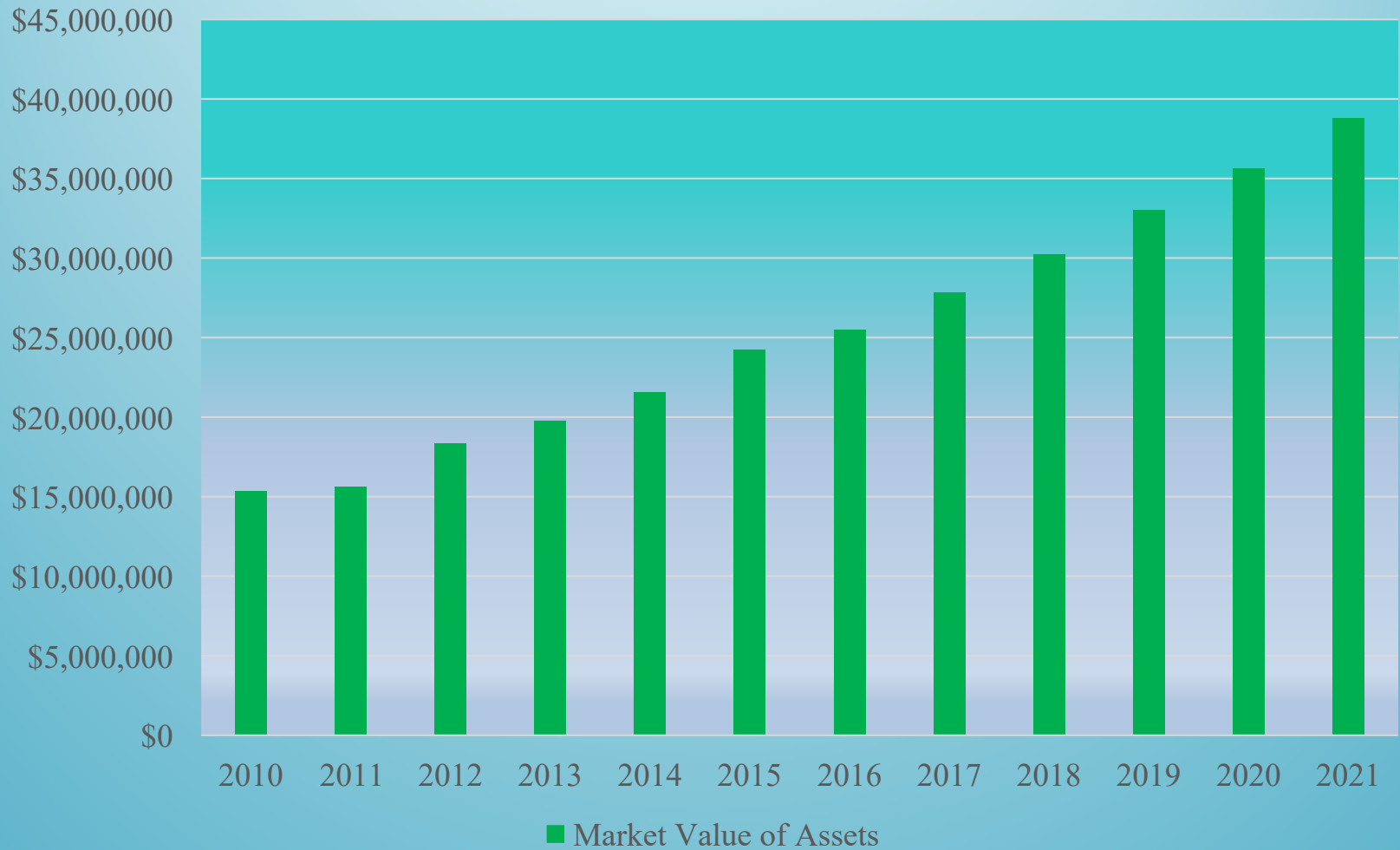
Several decreases approved by the Board since 2010 to more closely align with long term expectations. The assumption was further lowered to 7.25% with the 10/1/2021 valuation.



Funded Ratio
(Partial History)

Steady improvement since 2011 while
lowering the investment return
assumption.

Market Asset Value (Partial History)



Summary

- Net decrease in Unfunded Actuarial Accrued Liability (UAAL) of \$4.74 million since 2010 (from \$21.09m to \$16.35m).
- Net increase in Market Value of Assets of \$26.29 million (from \$15.34m to \$41.63m).
- Net Funded Ratio improvement from 42.1% to 70.4% since 2010.
- Board-approved reduction in the investment return assumption from 8.50% to 7.25% since 2010.
- Latest Experience Study performed November, 2019.
- Continued steady progress in the Funded Ratio is expected.

Questions/Discussion

CITY OF PORT ORANGE
FIRE AND RESCUE PENSION FUND
ACTUARIAL VALUATION
AS OF OCTOBER 1, 2021
CONTRIBUTIONS APPLICABLE TO THE
PLAN/FISCAL YEAR ENDING SEPTEMBER 30, 2023
GASB 67/68 DISCLOSURE INFORMATION
AS OF SEPTEMBER 30, 2021



FOSTER & FOSTER
ACTUARIES AND CONSULTANTS

March 1, 2022

Board of Trustees
City of Port Orange
Firefighters' Pension Board

Re: City of Port Orange Fire and Rescue Pension Fund

Dear Board:

We are pleased to present to the Board this report of the annual actuarial valuation of the City of Port Orange Fire and Rescue Pension Fund. Included are the related results for GASB Statements No. 67 and No. 68. The funding valuation was performed to determine whether the assets and contributions are sufficient to provide the prescribed benefits and to develop the appropriate funding requirements for the applicable plan year. The calculation of the liability for GASB results was performed for the purpose of satisfying the requirements of GASB Statements No. 67 and No. 68. Use of the results for other purposes may not be applicable and may produce significantly different results.

The valuations have been conducted in accordance with generally accepted actuarial principles and practices, including the applicable Actuarial Standards of Practice as issued by the Actuarial Standards Board, and reflect laws and regulations issued to date pursuant to the provisions of Chapters 112 and 175, Florida Statutes, as well as applicable federal laws and regulations. In our opinion, the assumptions used in the valuations, as adopted by the Board of Trustees, represent reasonable expectations of anticipated plan experience.

The funding percentages and unfunded accrued liability as measured based on the actuarial value of assets will differ from similar measures based on the market value of assets. These measures, as provided, are appropriate for determining the adequacy of future contributions, but may not be appropriate for the purpose of settling a portion or all of its liabilities. Future actuarial measurements may differ significantly from the current measurements presented in this report for a variety of reasons including: changes in applicable laws, changes in plan provisions, changes in assumptions, or plan experience differing from expectations. Due to the limited scope of the valuations, we did not perform an analysis of the potential range of such future measurements.

In conducting the valuations, we have relied on personnel, plan design, and asset information supplied by the City of Port Orange, financial reports prepared by the custodian bank, and the actuarial assumptions and methods described in the Actuarial Assumptions section of this report. While we cannot verify the accuracy of all this information, the supplied information was reviewed for consistency and reasonableness. As a result of this review, we have no reason to doubt the substantial accuracy of the information and believe that it has produced appropriate results. This information, along with any adjustments or modifications, is summarized in various sections of this report.

Additionally, we used third-party software to model (calculate) the underlying liabilities and costs. These results are reviewed in the aggregate and for individual sample lives. The output from the software is either used directly or input into internally developed models that apply the funding and accounting rules to generate the results. All internally developed models are reviewed as part of the valuation process. As a result of this review, we believe that the models have produced reasonable results. We do not believe there are any material inconsistencies among assumptions or unreasonable output produced due to the aggregation of assumptions.

The total pension liability, net pension liability, and certain sensitivity information shown in this report are based on an actuarial valuation performed as of October 1, 2020. The total pension liability was rolled-forward from the valuation date to the plan's fiscal year ending September 30, 2021 using generally accepted actuarial principles. It is our opinion that the assumptions used for this purpose are internally consistent, reasonable, and comply with the requirements under GASB No. 67 and No. 68.

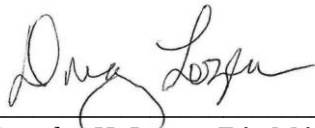
The undersigned are familiar with the immediate and long-term aspects of pension valuations, and meet the Qualification Standards of the American Academy of Actuaries necessary to render the actuarial opinions contained herein. All of the sections of this report are considered an integral part of the actuarial opinions.

To our knowledge, no associate of Foster & Foster, Inc. working on valuations of the program has any direct financial interest or indirect material interest in the City of Port Orange, nor does anyone at Foster & Foster, Inc. act as a member of the Board of Trustees of the Fire and Rescue Pension Fund. Thus, there is no relationship existing that might affect our capacity to prepare and certify this actuarial report.

If there are any questions, concerns, or comments about any of the items contained in this report, please contact us at 239-433-5500.

Respectfully submitted,

Foster & Foster, Inc.

By: 

Douglas H. Lozen, EA, MAAA
Enrolled Actuary #20-7778

By: 

Tyler A. Koftan, EA, MAAA
Enrolled Actuary #20-8685

DHL/lke

Enclosures

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SUMMARY OF REPORT

The regular annual actuarial valuation of the City of Port Orange Fire and Rescue Pension Fund, performed as of October 1, 2021, has been completed and the results are presented in this Report. The contribution amounts set forth herein are applicable to the plan/fiscal year ending September 30, 2023.

The contribution requirements, compared with those set forth in the June 4, 2021 actuarial impact statement, are as follows:

Valuation Date	10/1/2021	10/1/2020
Applicable to Fiscal Year Ending	<u>9/30/2023</u>	<u>9/30/2022</u>
Minimum Required Contribution		
% of Projected Annual Payroll	101.8%	97.6%
Member Contributions (Est.)		
% of Projected Annual Payroll	7.7%	7.7%
City And State Required Contribution		
% of Projected Annual Payroll	94.1%	89.9%
State Contribution (Est.) ¹	\$438,926	\$438,926
% of Projected Annual Payroll	14.4%	14.4%
City Required Contribution ²		
% of Projected Annual Payroll	79.7%	75.5%

¹ Represents the amount received in calendar 2021. As per a Mutual Consent Agreement between the Membership and the City, all State Monies received each year will be available to offset the City's required contribution.

² The required contribution from the combination of City and State sources for the year ending September 30, 2023, is 94.1% of the actual payroll realized in that year. As a budgeting tool, the City may contribute 79.7% of each Member's Salary and then make a one-time adjustment to account for the actual State Monies received. Please note that the City has access to a prepaid contribution of \$139,255.18 that is available to offset a portion of the above stated requirements for the fiscal year ending September 30, 2022.

As you can see, the Minimum Required Contribution shows an increase when compared to the results determined in the June 4, 2021 actuarial impact statement. The increase is attributable to net unfavorable experience realized by the plan during the year, benefit changes implemented by the Grievance Settlement, and a change of actuarial assumptions. The increase was offset in part by a decrease in Normal Cost associated with a decline in active plan membership.

Plan experience was unfavorable overall on the basis of the plan's actuarial assumptions. Sources of actuarial loss included unfavorable retirement experience, inactive mortality experience, and an average salary increase of 8.04% which exceeded the 4.48% assumption. These losses were offset in part by a gain associated with an investment return of 9.63% (Actuarial Asset Basis) which exceeded the 7.35% assumption.

CHANGES SINCE PRIOR VALUATION

Plan Changes

Since the prior valuation, Ordinance 2021-10 amended the plan to increase the benefit rate for Tier 2 Firefighters to 3.00% and the maximum benefit to the lesser of 90% of Average Final Compensation and \$95,000. Additionally, the Definition of Salary was amended to include all Specialty and Incentive Payments as pensionable compensation for calculating benefits, for both Tier 1 and Tier 2 Firefighters, effective July 1, 2021. The impact of the changes to Tier 2 benefit formula are set forth in our June 4, 2021 Actuarial Impact Statement. The impact of the change to Definition of Salary is reflected in this valuation and future valuations.

Additionally, the City and the Firefighters' Union entered into a Grievance Settlement Agreement which clarified how the supplemental benefit should be calculated for those hired before January 1, 2013. The valuation coding was updated to reflect the new interpretation in conjunction with this October 1, 2021 valuation.

The new interpretation clarifies that the monthly supplement should be calculated in two pieces: 1) \$20 per year of Credited Service before January 1, 2013 and 2) \$10, \$15, or \$20 per year of Credited Service on and after January 1, 2013. The post-2012 supplemental benefit rate depends on total Credited Service at retirement. The first piece cannot exceed \$600 and the second piece cannot increase the total supplement above \$500. Members are eligible for the supplement if eligible for Normal or Early Retirement with 20 years of Credited Service.

Actuarial Assumption/Method Changes

Since the prior valuation, the assumed investment rate of return was reduced from 7.35% to 7.25%, net of investment-related expenses.

Additionally, an assumption was established regarding when the plan is assumed to reach an 80% Funded Ratio, since some Cost-of-Living Adjustments are only provided following attainment of 80% funding. The plan is assumed to reach 80% funding in 2030 for this purpose.

CONTRIBUTION IMPACT OF ANNUAL CHANGES

(1) Contribution Determined as of October 1, 2020	76.0%
<i>(As set forth in the June 4, 2021 Actuarial Impact Statement)</i>	
(2) Summary of Contribution Impact by component:	
Change in State Contribution Percentage	-0.5%
Change in Normal Cost Rate	-1.2%
Change in Administrative Expense Percentage	-0.1%
Payroll Change Effect on UAAL Amortization	0.7%
Investment Return (Actuarial Asset Basis)	-2.9%
Salary Increases	0.8%
Active Decrements	1.8%
Inactive Mortality	0.8%
UAAL Amortization Impact from Contribution Policy	0.6%
Grievance Settlement	1.9%
Assumption Change	1.5%
Other	<u>0.3%</u>
Total Change in Contribution	3.7%
(3) Contribution Determined as of October 1, 2021	79.7%

COMPARATIVE SUMMARY OF PRINCIPAL VALUATION RESULTS

	New Bfts/Asmps <u>10/1/2021</u>	New Bfts / Old Asmps <u>10/1/2021</u>	Old Bfts/Asmps <u>10/1/2021</u>	<u>10/1/2020</u>
A. Participant Data				
Actives	55	55	55	57
Service Retirees	49	49	49	47
DROP Retirees	4	4	4	4
Beneficiaries	5	5	5	4
Disability Retirees	4	4	4	4
Terminated Vested	<u>7</u>	<u>7</u>	<u>7</u>	<u>4</u>
Total	124	124	124	120
Total Annual Payroll	\$3,139,619	\$3,139,619	\$3,139,619	\$3,081,919
Payroll Under Assumed Ret. Age	3,051,338	3,051,338	3,051,338	3,081,919
Annual Rate of Payments to:				
Service Retirees	2,652,564	2,652,564	2,652,564	2,509,437
DROP Retirees	197,254	197,254	197,254	161,557
Beneficiaries	156,672	156,672	156,672	113,335
Disability Retirees	79,946	79,946	79,946	79,365
Terminated Vested	15,191	15,191	15,191	15,191
B. Assets				
Actuarial Value (AVA) ¹	38,813,991	38,813,991	38,813,991	35,605,064
Market Value (MVA) ¹	41,634,437	41,634,437	41,634,437	35,150,296
C. Liabilities				
Present Value of Benefits				
Actives				
Retirement Benefits	15,483,389	15,214,639	14,754,934	15,015,068
Disability Benefits	401,891	394,649	394,649	385,083
Death Benefits	47,167	46,359	46,359	46,607
Vested Benefits	428,535	416,230	416,230	378,853
Refund of Contributions	101,080	100,834	100,834	103,196
Service Retirees	36,862,665	36,534,113	36,534,113	34,924,169
DROP Retirees ¹	3,251,227	3,343,974	3,343,974	2,717,505
Beneficiaries	1,710,922	1,697,892	1,697,892	1,300,767
Disability Retirees	959,586	978,703	978,703	981,310
Terminated Vested	186,953	188,663	188,663	159,041
Share Plan Balances ¹	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
Total	59,433,415	58,916,056	58,456,351	56,011,599

C. Liabilities - (Continued)	New Bfts/Asmps <u>10/1/2021</u>	New Bfts / Old Asmps <u>10/1/2021</u>	Old Bfts/Asmps <u>10/1/2021</u>	<u>10/1/2020</u>
Present Value of Future Salaries	24,051,668	23,888,371	23,888,371	22,808,852
Present Value of Future Member Contributions	1,859,194	1,846,571	1,846,571	1,710,664
Normal Cost (Retirement)	512,013	499,785	484,740	526,708
Normal Cost (Disability)	38,240	37,736	37,736	38,835
Normal Cost (Death)	2,953	2,904	2,904	3,049
Normal Cost (Vesting)	24,172	23,528	23,528	22,356
Normal Cost (Refunds)	<u>18,726</u>	<u>18,712</u>	<u>18,712</u>	<u>17,469</u>
Total Normal Cost	596,104	582,665	567,620	608,417
Present Value of Future Normal Costs	4,273,314	4,143,660	4,076,878	4,031,474
Accrued Liability (Retirement)	11,845,059	11,690,593	11,297,670	11,581,420
Accrued Liability (Disability)	123,777	122,381	122,381	118,365
Accrued Liability (Death)	24,849	24,615	24,615	25,373
Accrued Liability (Vesting)	178,762	175,143	175,143	156,653
Accrued Liability (Refunds)	16,301	16,319	16,319	15,522
Accrued Liability (Inactives) ¹	42,971,353	42,743,345	42,743,345	40,082,792
Share Plan Balances ¹	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
Total Actuarial Accrued Liability (EAN AL)	55,160,101	54,772,396	54,379,473	51,980,125
Unfunded Actuarial Accrued Liability (UAAL)	16,346,110	15,958,405	15,565,482	16,375,061
Funded Ratio (AVA / EAN AL)	70.4%	70.9%	71.4%	68.5%

D. Actuarial Present Value of Accrued Benefits	New Bfts/Asmps <u>10/1/2021</u>	New Bfts / Old Asmps <u>10/1/2021</u>	Old Bfts/Asmps <u>10/1/2021</u>	<u>10/1/2020</u>
Vested Accrued Benefits				
Inactives + Share Plan Balances ¹	42,971,353	42,743,345	42,743,345	40,082,792
Actives	8,082,967	7,960,271	7,662,133	8,202,241
Member Contributions	<u>1,516,568</u>	<u>1,516,568</u>	<u>1,516,568</u>	<u>1,467,044</u>
Total	52,570,888	52,220,184	51,922,046	49,752,077
Non-vested Accrued Benefits	<u>851,119</u>	<u>836,135</u>	<u>738,288</u>	<u>791,463</u>
Total Present Value				
Accrued Benefits (PVAB)	53,422,007	53,056,319	52,660,334	50,543,540
Funded Ratio (MVA / PVAB)	77.9%	78.5%	79.1%	69.5%
Increase (Decrease) in Present Value of Accrued Benefits Attributable to:				
Plan Amendments	0	395,985	0	
Assumption Changes	365,688	0	0	
Plan Experience	0	0	1,531,141	
Benefits Paid	0	0	(3,018,372)	
Interest	0	0	3,604,025	
Other	<u>0</u>	<u>0</u>	<u>0</u>	
Total	365,688	395,985	2,116,794	

	New Bfts/Asmps	New Bfts / Old Asmps	Old Bfts/Asmps	
Valuation Date	10/1/2021	10/1/2021	10/1/2021	10/1/2020
Applicable to Fiscal Year Ending	<u>9/30/2023</u>	<u>9/30/2023</u>	<u>9/30/2023</u>	<u>9/30/2022</u>

E. Pension Cost

Normal Cost (with interest)				
% of Total Annual Payroll ²	20.2	19.8	19.3	20.5
Administrative Expenses (with interest)				
% of Total Annual Payroll ²	2.9	2.9	2.9	3.0
Payment Required to Amortize Unfunded Actuarial Accrued Liability over 15 years (as of 10/1/2021, with interest)				
% of Total Annual Payroll ²	78.7	77.6	76.2	74.1
Minimum Required Contribution				
% of Total Annual Payroll ²	101.8	100.3	98.4	97.6
Expected Member Contributions				
% of Total Annual Payroll ²	7.7	7.7	7.7	7.7
Expected City and State Contribution				
% of Total Annual Payroll ²	94.1	92.6	90.7	89.9

F. Past Contributions

Plan Years Ending:	<u>9/30/2021</u>
City and State Requirement	2,646,715
Actual Contributions Made:	
City	2,207,789
State	<u>438,926</u>
Total	2,646,715

G. Net Actuarial (Gain)/Loss 227,554

¹ The asset values and liabilities include accumulated DROP and Share Plan Balances as of 9/30/2021 and 9/30/2020.

² Contributions developed as of 10/1/2021 are expressed as a percentage of total annual payroll at 10/1/2021 of \$3,051,338.

H. Schedule Illustrating the Amortization of the Total Unfunded Actuarial Accrued Liability as of:

<u>Year</u>	<u>Projected Unfunded Actuarial Accrued Liability</u>
2021	16,346,110
2022	15,045,400
2023	13,650,389
2026	8,828,668
2030	603,382
2033	325,400
2036	0

I. (i) 5 Year Comparison of Actual and Assumed Salary Increases

	<u>Actual</u>	<u>Assumed</u>
Year Ended 9/30/2021	8.04%	4.48%
Year Ended 9/30/2020	3.25%	4.47%
Year Ended 9/30/2019	3.23%	5.37%
Year Ended 9/30/2018	5.09%	5.43%
Year Ended 9/30/2017	4.22%	5.48%

(ii) 5 Year Comparison of Investment Return on Market Value and Actuarial Value

	<u>Market Value</u>	<u>Actuarial Value</u>	<u>Assumed</u>
Year Ended 9/30/2021	19.09%	9.63%	7.35%
Year Ended 9/30/2020	8.61%	7.50%	7.35%
Year Ended 9/30/2019	5.22%	7.60%	7.50%
Year Ended 9/30/2018	6.13%	6.50%	7.60%
Year Ended 9/30/2017	10.11%	7.10%	7.70%

(iii) Average Annual Payroll Growth

(a) Payroll as of:	10/1/2021	\$3,051,338
	10/1/2011	2,195,206
(b) Total Increase		39.00%
(c) Number of Years		10.00
(d) Average Annual Rate		3.35%

STATEMENT BY ENROLLED ACTUARY

This actuarial valuation was prepared and completed by me or under my direct supervision, and I acknowledge responsibility for the results. To the best of my knowledge, the results are complete and accurate, and in my opinion, the techniques and assumptions used are reasonable and meet the requirements and intent of Part VII, Chapter 112, Florida Statutes. There is no benefit or expense to be provided by the plan and/or paid from the plan's assets for which liabilities or current costs have not been established or otherwise taken into account in the valuation. All known events or trends which may require a material increase in plan costs or required contribution rates have been taken into account in the valuation.



Douglas H. Lozen, EA, MAAA
Enrolled Actuary #20-7778

Please let us know when the report is approved by the Board and unless otherwise directed we will provide copies of the report to the following offices to comply with Chapter 112, Florida Statutes:

Mr. Keith Brinkman
Bureau of Local
Retirement Systems
Post Office Box 9000
Tallahassee, FL 32315-9000

Mr. Steve Bardin
Municipal Police and Fire
Pension Trust Funds
Division of Retirement
Post Office Box 3010
Tallahassee, FL 32315-3010

RECONCILIATION OF UNFUNDED ACTUARIAL ACCRUED LIABILITIES

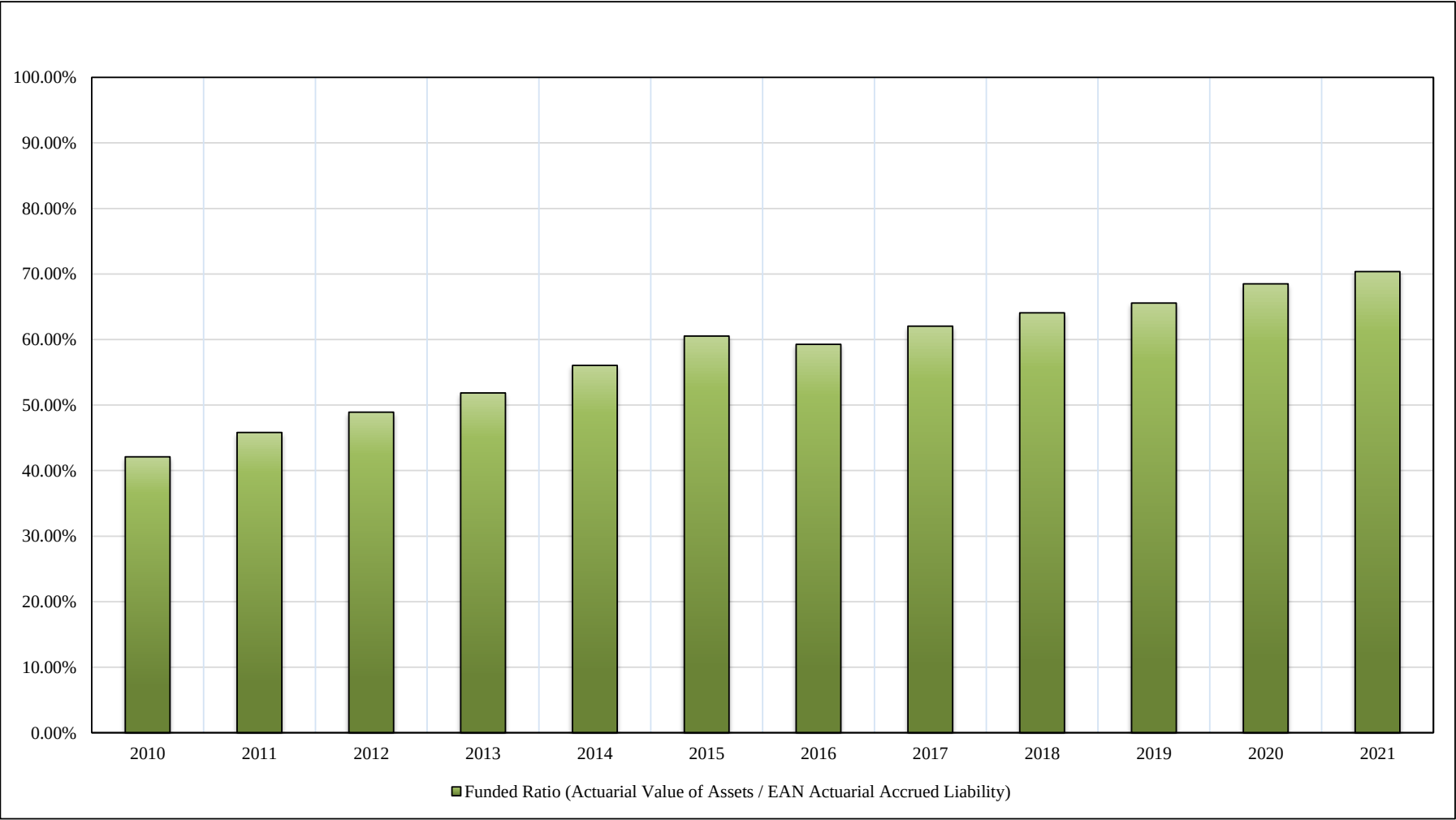
(1)	Unfunded Actuarial Accrued Liability as of October 1, 2020	\$16,375,061
(2)	Sponsor Normal Cost developed as of October 1, 2020	371,109
(3)	Expected administrative expenses for the year ended September 30, 2021	90,107
(4)	Expected interest on (1), (2) and (3)	1,234,155
(5)	Sponsor contributions to the System during the year ended September 30, 2021	2,646,715
(6)	Expected interest on (5)	85,789
(7)	Expected Unfunded Actuarial Accrued Liability as of September 30, 2021 (1)+(2)+(3)+(4)-(5)-(6)	15,337,928
(8)	Change to UAAL due to Grievance Settlement	392,923
(9)	Change to UAAL due to Assumption Change	387,705
(10)	Change to UAAL due to Actuarial (Gain)/Loss	227,554
(11)	Unfunded Actuarial Accrued Liability as of October 1, 2021	16,346,110

Type of <u>Base</u>	Date <u>Established</u>	Years <u>Remaining</u>	10/1/2021 <u>Amount</u>	Amortization <u>Amount</u>
Consolidation	10/1/2020	9	15,186,681	2,196,551
Benefit Change	10/1/2020	14	151,247	16,368
Actuarial Loss	10/1/2021	15	227,554	23,664
Grievance Settlement	10/1/2021	15	392,923	40,862
Assump. Change	10/1/2021	15	387,705	40,319
			<u>16,346,110</u>	<u>2,317,764</u>

DETAILED ACTUARIAL (GAIN)/LOSS ANALYSIS

(1) Unfunded Actuarial Accrued Liability (UAAL) as of October 1, 2020	\$16,375,061
(2) Expected UAAL as of October 1, 2021	15,337,928
(3) Summary of Actuarial (Gain)/Loss, by component:	
Investment Return (Actuarial Asset Basis)	(809,222)
Salary Increases	213,759
Active Decrements	519,542
Inactive Mortality	231,136
Other	<u>72,339</u>
Increase in UAAL due to (Gain)/Loss	227,554
Grievance Settlement	392,923
Assumption Changes	<u>387,705</u>
(4) Actual UAAL as of October 1, 2021	\$16,346,110

HISTORY OF FUNDING PROGRESS



ACTUARIAL ASSUMPTIONS AND METHODS

Mortality Rate

Healthy Active Lives:

Female: PubS.H-2010 (Below Median) for Employees, set forward one year.

Male: PubS.H-2010 (Below Median) for Employees, set forward one year.

Healthy Retiree Lives:

Female: PubS.H-2010 for Healthy Retirees, set forward one year.

Male: PubS.H-2010 for Healthy Retirees, set forward one year.

Beneficiary Lives:

Female: PubG.H-2010 for Healthy Retirees.

Male: PubG.H-2010 for Healthy Retirees, set back one year.

Disabled Lives:

80% PubG.H-2010 for Disabled Retirees / 20% PubS.H-2010 for Disabled Retirees.

All rates are projected generationally with Mortality Improvement Scale MP-2018. We feel this assumption sufficiently accommodates future mortality improvements.

The previously described mortality assumption rates were mandated by Chapter 2015-157, Laws of Florida. This law mandates the use of the assumptions used in either of the two most recent valuations of the Florida Retirement System (FRS). The above rates are those outlined in Milliman's July 1, 2021 FRS valuation report for special risk employees, with appropriate adjustments made based on plan demographics.

Interest Rate

7.25% (prior year 7.35%) per year compounded annually, net of investment related expenses. This is supported by the target asset allocation of the trust and the expected long-term return by asset class.

Salary Increases

Salary Scale	
Service	Rate
0-4	5.50%
5-9	4.50%
10+	4.00%

The above rates were approved by the Board as the result of the November, 2019 experience study.

Payroll Growth

0.00% for purposes of amortizing the Unfunded Actuarial Accrued Liability. This assumption cannot exceed the ten-year average payroll growth, in compliance with Part VII of Chapter 112, Florida Statutes.

Administrative Expenses

\$84,285 annually, based on the average of actual expenses incurred in the prior two fiscal years.

Cost-Of-Living Adjustments (COLA)

For purposes of COLA eligibility, plan is assumed to reach an 80% Funded Ratio on October 1, 2030.

Amortization Method

New UAAL amortization bases are amortized over 15 years.

Termination Rates

% Terminating During the Year	
Service	Rate
0-4	7.5%
5-9	3.0%
10+	1.0%

The above rates were approved by the Board as the result of the November, 2019 experience study.

Disability Rates

Sample rates shown in the below table. It is assumed that 90% of active disablements are duty-related.

% Becoming Disabled During the Year	
Age	Rate
20	0.07%
25	0.09%
30	0.11%
35	0.14%
40	0.19%
45	0.30%
50	0.51%
55	0.96%
60	1.66%
65	2.39%

The above rates were approved by the Board as the result of the November, 2019 experience study.

Normal Retirement

Members hired prior to December 5, 2012:

% Retiring During the Year (10-24 Years of Service)		% Retiring During the Year (>= 25 Years of Service)	
Eligibility	Rate	Eligibility	Rate
First Eligible	50.0%	First	100.0%
Years 1-4	30.0%		
Years 5+	100.0%		

Members hired after December 4, 2012 are assumed to retire immediately upon first eligibility.

The above rates are the result of the November, 2019 experience study.

Early Retirement

None, based on results of the November, 2019 experience study.

Payroll Growth

0.00% for purposes of amortizing the Unfunded Actuarial Accrued Liability. This assumption cannot exceed the ten-year average payroll growth, in compliance with Part VII of Chapter 112, Florida Statutes.

Actuarial Cost Method

Entry Age Normal.

Asset Valuation Method

Each year, the prior Actuarial Value of Assets is brought forward utilizing the historical geometric 4-year average Market Value return. It is possible that over time this technique will produce an insignificant bias above or below Market Value.

GLOSSARY

Actuarial Value of Assets is the asset value used in the valuation to determine contribution requirements. It represents the plan's Market Value of Assets (see below), with adjustments according to the plan's Actuarial Asset Method. These adjustments produce a "smoothed" value that is likely to be less volatile from year to year than the Market Value of Assets.

Entry Age Normal Cost Method - Under this method, the normal cost is the sum of the individual normal costs for all active participants. For an active participant, the normal cost is the participant's normal cost accrual rate, multiplied by the participant's current compensation.

(a) The normal cost accrual rate equals:

(i) the present value of future benefits for the participant, determined as of the participant's entry age, divided by

(ii) the present value of the compensation expected to be paid to the participant for each year of the participant's anticipated future service, determined as of the participant's entry age.

(b) In calculating the present value of future compensation, the salary scale is applied both retrospectively and prospectively to estimate compensation in years prior to and subsequent to the valuation year based on the compensation used for the valuation.

(c) The accrued liability is the sum of the individual accrued liabilities for all participants and beneficiaries. A participant's accrued liability equals the present value, at the participant's attained age, of future benefits less the present value at the participant's attained age of the individual normal costs payable in the future. A beneficiary's accrued liability equals the present value, at the beneficiary's attained age, of future benefits. The unfunded accrued liability equals the total accrued liability less the actuarial value of assets.

(d) Under this method, the entry age used for each active participant is the participant's age at the time he or she would have commenced participation if the plan had always been in existence under current terms, or the age as of which he or she first earns service credits for purposes of benefit accrual under the current terms of the plan.

Market Value of Assets is the fair market value of plan assets as of the valuation date. This amount may be adjusted to produce an Actuarial Value of Assets for plan funding purposes.

Normal (Current Year's) Cost is the current year's cost for benefits yet to be funded. Under the Entry Age Normal cost method, it is determined for each participant as the present value of future benefits, determined as of the Member's entry age, amortized as a level percentage of compensation over the anticipated number of years of participation, determined as of the entry age.

Present Value of Benefits is the single sum value on the valuation date of all future benefits to be paid to current plan participants.

Total Annual Payroll is the projected annual rate of pay for the fiscal year beginning on the valuation date of all covered Members.

Total Required Contribution is equal to the Normal Cost plus an amount sufficient to amortize the Unfunded Accrued Liability over no more than 30 years. The required amount is adjusted for interest according to the timing of contributions during the year.

Unfunded Actuarial Accrued Liability (UAAL) is the difference between the actuarial accrued liability (described above) and the Actuarial Value of Assets. Under the Entry Age Normal Actuarial Cost Method, an actuarial gain or loss, based on actual versus expected UAAL, is determined in conjunction with each valuation of the plan.

DISCUSSION OF RISK

ASOP No. 51, Assessment and Disclosure of Risk Associated with Measuring Pension Obligations and Determining Pension Plan Contributions, states that the actuary should identify risks that, in the actuary's professional judgment, may reasonably be anticipated to significantly affect the plan's future financial condition.

Throughout this report, actuarial results are determined using various actuarial assumptions. These results are based on the premise that all future plan experience will align with the plan's actuarial assumptions; however, there is no guarantee that actual plan experience will align with the plan's assumptions. It is possible that actual plan experience will differ from anticipated experience in an unfavorable manner that will negatively impact the plan's funded position.

Below are examples of ways in which plan experience can deviate from assumptions and the potential impact of that deviation. Typically, this results in an actuarial gain or loss representing the current-year financial impact on the plan's unfunded liability of the experience differing from assumptions; this gain or loss is amortized over a period of time determined by the plan's amortization method. When assumptions are selected that adequately reflect plan experience, gains and losses typically offset one another in the long term, resulting in a relatively low impact on the plan's contribution requirements associated with plan experience. When assumptions are too optimistic, losses can accumulate over time and the plan's amortization payment could potentially grow to an unmanageable level.

- Investment Return: When the rate of return on the Actuarial Value of Assets falls short of the assumption, this produces a loss representing assumed investment earnings that were not realized. Further, it is unlikely that the plan will experience a scenario that matches the assumed return in each year as capital markets can be volatile from year to year. Therefore, contribution amounts can vary in the future.
- Salary Increases: When a plan participant experiences a salary increase that was greater than assumed, this produces a loss representing the cost of an increase in anticipated plan benefits for the participant as compared to the previous year. The total gain or loss associated with salary increases for the plan is the sum of salary gains and losses for all active participants.
- Demographic Assumptions: Actuarial results take into account various potential events that could happen to a plan participant, such as retirement, termination, disability, and death. Each of these potential events is assigned a liability based on the likelihood of the event and the financial consequence of the event for the plan. Accordingly, actuarial liabilities reflect a blend of financial consequences associated with various possible outcomes (such as retirement at one of various possible ages). Once the outcome is known (e.g. the participant retires) the liability is adjusted to reflect the known outcome. This adjustment produces a gain or loss depending on whether the outcome was more or less favorable than other outcomes that could have occurred.

Impact of Plan Maturity on Risk

For newer pension plans, most of the participants and associated liabilities are related to active members who have not yet reached retirement age. As pension plans continue in operation and active members reach retirement ages, liabilities begin to shift from being primarily related to active members to being shared amongst active and retired members. Plan maturity is a measure of the extent to which this shift has occurred. It is important to understand that plan maturity can have an impact on risk tolerance and the overall risk characteristics of the plan. For example, closed plans with a large amount of retired liability do not have as long of a time horizon to recover from losses (such as losses on investments due to lower than expected investment returns) as plans where the majority of the liability is attributable to active members. For this reason, less tolerance for investment risk may be warranted for highly mature closed plans with a substantial inactive liability. Similarly, mature closed plans paying substantial retirement benefits resulting in a small positive or net negative cash flow can be more sensitive to near term investment volatility, particularly if the size of the fund is shrinking, which can result in less assets being available for investment in the market.

To assist with determining the maturity of the plan, we have provided some relevant metrics in the table following titled “Plan Maturity Measures and Other Risk Metrics”. Highlights of this information are discussed below:

- The Support Ratio, determined as the ratio of active to inactive members, has increased from 78.8% on October 1, 2011 to 87.3% on October 1, 2021, indicating that the plan has experienced a significant growth in active population.
- The Accrued Liability Ratio, determined as the ratio of the Inactive Accrued Liability, which is the liability associated with members who are no longer employed but are due a benefit from the plan, to the Total Accrued Liability, is 77.9%. With a plan of this maturity, losses due to lower than expected investment returns or demographic factors may result in larger increases in contribution requirements than would be needed for a less mature plan. Please note Chapter 112, Florida Statutes, requires that the plan sponsor contributes the minimum required contribution; thus, there is minimal solvency risk to the plan.
- The Funded Ratio, determined as the ratio of the Actuarial Value of Assets to the Total Accrued Liability, has increased from 45.8% on October 1, 2011 to 70.4% on October 1, 2021.
- The Net Cash Flow Ratio, determined as the ratio of the Net Cash Flow (contributions minus benefit payments and administrative expenses) to the Market Value of Assets, decreased from 2.9% on October 1, 2011 to -0.5% on October 1, 2021. The current Net Cash Flow Ratio of -0.5% indicates that contributions are not currently covering the plan's benefit payments and administrative expenses.

It is important to note that the actuary has identified the risks in this section as the most significant risks based on the characteristics of the plan and the nature of the project, however, it is not an exhaustive list of potential risks that could be considered. Additional advanced modeling, as well as the identification of additional risks, can be provided at the request of the audience addressed on page 2 of this report.

PLAN MATURITY MEASURES AND OTHER RISK METRICS

	<u>10/1/2011</u>	<u>10/1/2016</u>	<u>10/1/2020</u>	<u>10/1/2021</u>
<u>Support Ratio</u>				
Total Actives	41	56	57	55
Total Inactives ¹	52	54	60	63
Actives / Inactives ¹	78.8%	103.7%	95.0%	87.3%

Asset Volatility Ratio

Market Value of Assets (MVA)	15,612,515	24,887,832	35,150,296	41,634,437
Total Annual Payroll	2,195,206	2,791,036	3,081,919	3,139,619
MVA / Total Annual Payroll	711.2%	891.7%	1,140.5%	1,326.1%

Accrued Liability (AL) Ratio

Inactive Accrued Liability	32,696,589	35,133,472	40,082,792	42,971,353
Total Accrued Liability (EAN)	36,671,922	42,981,328	51,980,125	55,160,101
Inactive AL / Total AL	89.2%	81.7%	77.1%	77.9%

Funded Ratio

Actuarial Value of Assets (AVA)	16,802,636	25,473,625	35,605,064	38,813,991
Total Accrued Liability (EAN)	36,671,922	42,981,328	51,980,125	55,160,101
AVA / Total Accrued Liability (EAN)	45.8%	59.3%	68.5%	70.4%

Net Cash Flow Ratio

Net Cash Flow ²	458,748	(377,762)	96,136	(208,971)
Market Value of Assets (MVA)	15,612,515	24,887,832	35,150,296	41,634,437
Ratio	2.9%	-1.5%	0.3%	-0.5%

¹ Excludes terminated participants awaiting a refund of member contributions.

² Determined as total contributions minus benefit payments and administrative expenses.

PARTIAL HISTORY OF PREMIUM TAX REFUNDS

<u>Received During Fiscal Year</u>	<u>Amount</u>	<u>Increase from Previous Year</u>
1998	97,374.33	_____ %
1999	104,739.59	7.6%
2000	109,913.52	4.9%
2001	108,754.92	-1.1%
2002	136,209.21	25.2%
2003	152,744.75	12.1%
2004	171,721.39	12.4%
2005	196,706.89	14.6%
2006	229,953.17	16.9%
2007	238,954.78	3.9%
2008	319,511.54	33.7%
2009	385,770.84	20.7%
2010	360,581.06	-6.5%
2011	290,460.26	-19.4%
2012	299,411.50	3.1%
2013	362,213.01	21.0%
2014	386,195.01	6.6%
2015	391,117.16	1.3%
2016	367,918.24	-5.9%
2017	351,038.30	-4.6%
2018	388,246.02	10.6%
2019	395,108.25	1.8%
2020	427,496.41	8.2%
2021	438,925.99	2.7%

STATEMENT OF FIDUCIARY NET POSITION
SEPTEMBER 30, 2021

<u>ASSETS</u>	COST VALUE	MARKET VALUE
Cash and Cash Equivalents:		
Money Market	1,795,853.94	1,795,853.94
Total Cash and Equivalents	1,795,853.94	1,795,853.94
Receivables:		
Member Contributions	630.80	630.80
From Broker for Investments Sold	87,407.24	87,407.24
Investment Income	115,079.43	115,079.43
Total Receivable	203,117.47	203,117.47
Investments:		
U. S. Bonds and Bills	581,628.01	566,960.95
Federal Agency Guaranteed Securities	2,367,692.82	2,364,220.45
Corporate Bonds	7,994,894.25	8,485,470.29
Municipal Obligations	90,347.60	88,924.20
Stocks	9,832,787.38	13,530,200.05
Mutual Funds:		
Fixed Income	2,641,407.82	2,783,448.30
Equity	6,382,124.40	10,544,710.35
Pooled/Common/Commingled Funds:		
Real Estate	1,390,263.46	1,648,957.81
Total Investments	31,281,145.74	40,012,892.40
Total Assets	33,280,117.15	42,011,863.81
<u>LIABILITIES</u>		
Payables:		
To Broker for Investments Purchased	238,094.99	238,094.99
Prepaid Member Contribution	77.11	77.11
Prepaid City Contribution	139,255.18	139,255.18
Total Liabilities	377,427.28	377,427.28
NET POSITION RESTRICTED FOR PENSIONS	32,902,689.87	41,634,436.53

STATEMENT OF CHANGES IN FIDUCIARY NET POSITION
FOR THE YEAR ENDED SEPTEMBER 30, 2021
Market Value Basis

ADDITIONS

Contributions:

Member	237,891.24
City	2,207,789.19
State	438,925.99

Total Contributions	2,884,606.42
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Investment Income:

Miscellaneous Income	47,195.70
Net Realized Gain (Loss)	2,576,907.22
Unrealized Gain (Loss)	3,326,678.80
Net Increase in Fair Value of Investments	5,950,781.72
Interest & Dividends	945,918.05
Less Investment Expense ¹	(203,588.49)

Net Investment Income	6,693,111.28
-----------------------	--------------

Total Additions	9,577,717.70
-----------------	--------------

DEDUCTIONS

Distributions to Members:

Benefit Payments	2,729,259.27
Lump Sum DROP Distributions	289,112.76
Refunds of Member Contributions	0.00

Total Distributions	3,018,372.03
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Administrative Expense	75,204.70
------------------------	-----------

Total Deductions	3,093,576.73
------------------	--------------

Net Increase in Net Position	6,484,140.97
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NET POSITION RESTRICTED FOR PENSIONS

Beginning of the Year	35,150,295.56
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End of the Year	41,634,436.53
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¹Investment related expenses include investment advisory, custodial and performance monitoring fees.

ACTUARIAL ASSET VALUATION
SEPTEMBER 30, 2021

Actuarial Assets for funding purposes are developed by increasing the Actuarial Assets used in the most recent actuarial valuation of the Fund by the average annual market value rate of return (net of investment related expenses) for the past four years. Actuarial Assets shall not be less than 80% nor greater than 120% of Market Value of Assets.

Details of the derivation are set forth as follows:

Plan Year End	Rate of Return ¹	
09/30/2018	6.13%	
09/30/2019	5.22%	
09/30/2020	8.61%	
09/30/2021	19.09%	
Annualized Rate of Return for prior four (4) years:		9.63%
(A) 10/01/2020 Actuarial Assets:		\$35,605,064.04
(I) Net Investment Income:		
1. Interest, Dividends, and Miscellaneous Income	993,113.75	
2. Realized Gain (Loss)	2,576,907.22	
3. Unrealized Gain (Loss)	3,326,678.80	
4. Change in Actuarial Value	(3,275,213.98)	
5. Investment Related Expenses	(203,588.49)	
Total		3,417,897.30
(B) 10/01/2021 Actuarial Assets:		\$38,813,991.03
Actuarial Asset Rate of Return = $2I/(A+B-I)$:		9.63%
10/01/2021 Limited Actuarial Assets:		\$38,813,991.03
10/01/2021 Market Value of Assets:		\$41,634,436.53
Actuarial Gain/(Loss) due to Investment Return (Actuarial Asset Basis)		\$809,221.79

¹Market Value Basis, net of investment related expenses.

CHANGES IN NET ASSETS AVAILABLE FOR BENEFITS
SEPTEMBER 30, 2021
Actuarial Asset Basis

REVENUES

Contributions:		
Member	237,891.24	
City	2,207,789.19	
State	438,925.99	
Total Contributions		2,884,606.42
Earnings from Investments:		
Interest & Dividends	945,918.05	
Miscellaneous Income	47,195.70	
Net Realized Gain (Loss)	2,576,907.22	
Unrealized Gain (Loss)	3,326,678.80	
Change in Actuarial Value	(3,275,213.98)	
Total Earnings and Investment Gains		3,621,485.79

EXPENDITURES

Distributions to Members:		
Benefit Payments	2,729,259.27	
Lump Sum DROP Distributions	289,112.76	
Refunds of Member Contributions	0.00	
Total Distributions		3,018,372.03
Expenses:		
Investment related ¹	203,588.49	
Administrative	75,204.70	
Total Expenses		278,793.19
Change in Net Assets for the Year		3,208,926.99
Net Assets Beginning of the Year		35,605,064.04
Net Assets End of the Year ²		38,813,991.03

¹Investment related expenses include investment advisory, custodial and performance monitoring fees.

²Net Assets may be limited for actuarial consideration.

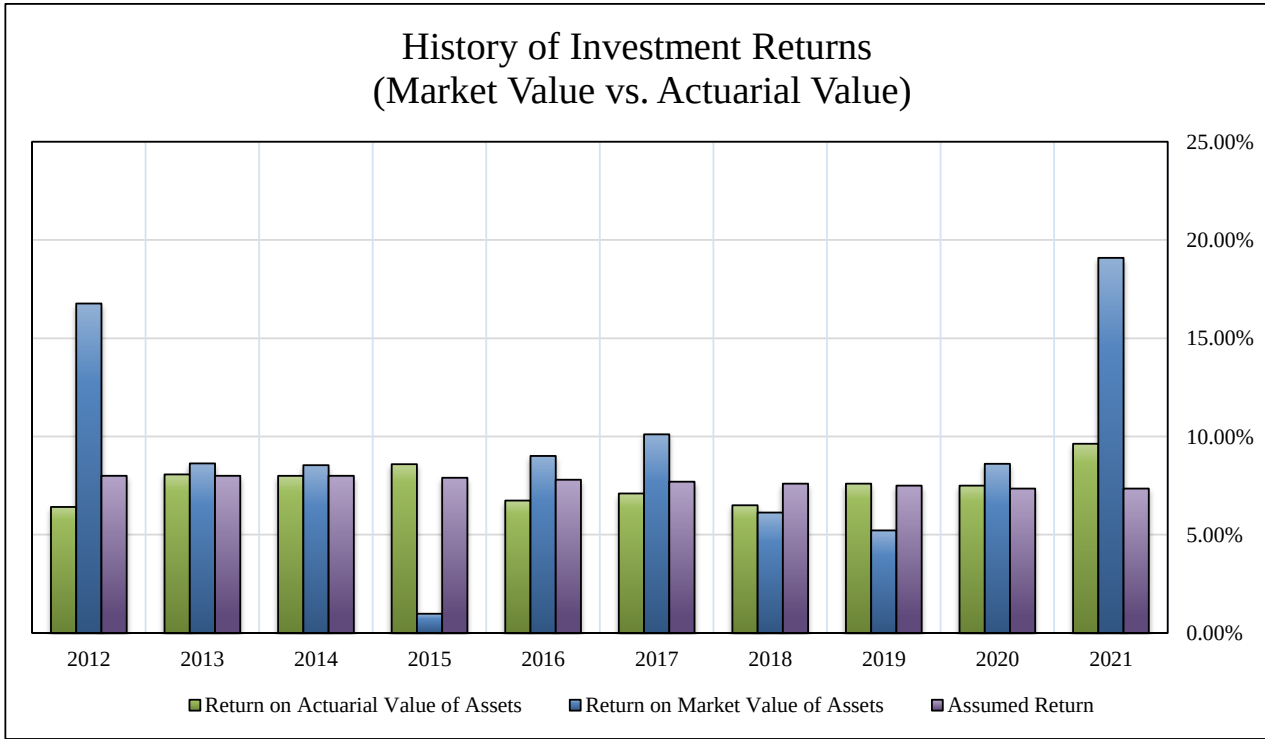
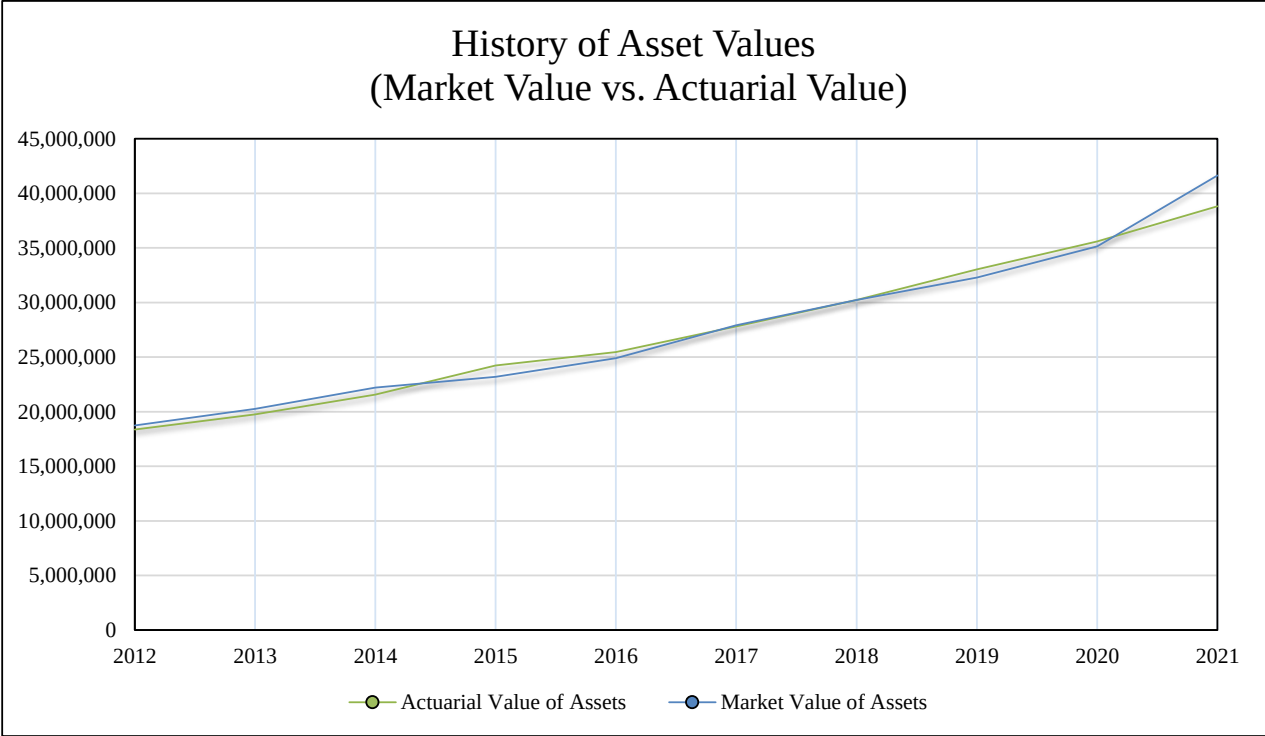
DEFERRED RETIREMENT OPTION PLAN ACTIVITY
October 1, 2020 to September 30, 2021

Beginning of the Year Balance	263,803.25
Plus Additions	222,934.20
Investment Return Earned	68,964.09
Less Distributions	(289,112.76)
End of the Year Balance	266,588.78

RECONCILIATION OF CITY'S SHORTFALL/(PREPAID) CONTRIBUTION
FOR THE FISCAL YEAR ENDED (FYE) SEPTEMBER 30, 2021

(1) City and State Required Contribution Rate	85.9%
(2) Pensionable Payroll Derived from Member Contributions	\$3,081,158.53
(3) City and State Required Contribution (1) x (2)	2,646,715.18
(4) Less Allowable State Contribution	<u>(438,925.99)</u>
(5) Equals Required City Contribution for Fiscal 2021	2,207,789.19
(6) Less 2020 Prepaid Contribution	(32,814.51)
(7) Less Actual City Contributions	<u>(2,314,229.86)</u>
(8) Equals City's Shortfall/(Prepaid) Contribution as of September 30, 2021	(\$139,255.18)

HISTORY OF ASSET VALUES AND INVESTMENT RETURNS



STATISTICAL DATA

	<u>10/1/2018</u>	<u>10/1/2019</u>	<u>10/1/2020</u>	<u>10/1/2021</u>
<u>Actives</u>				
Number	54	57	57	55
Average Current Age	38.6	38.2	38.2	38.1
Average Age at Employment	28.5	28.3	27.9	27.8
Average Past Service	10.1	9.9	10.3	10.3
Average Annual Salary	\$53,575	\$53,043	\$54,069	\$57,084
<u>Service Retirees</u>				
Number	47	47	47	49
Average Current Age	60.4	61.4	62.4	62.4
Average Annual Benefit	\$50,748	\$52,038	\$53,392	\$54,134
<u>DROP Retirees</u>				
Number	2	3	4	4
Average Current Age	49.2	52.0	52.9	54.0
Average Annual Benefit	\$39,105	\$41,196	\$40,389	\$49,314
<u>Beneficiaries</u>				
Number	4	4	4	5
Average Current Age	71.3	72.3	73.3	74.7
Average Annual Benefit	\$26,973	\$27,644	\$28,334	\$31,334
<u>Disability Retirees</u>				
Number	3	4	4	4
Average Current Age	54.5	48.9	49.9	50.9
Average Annual Benefit	\$18,921	\$19,718	\$19,841	\$19,987
<u>Terminated Vested</u>				
Number	1	3	4	7
Average Current Age ¹	40.2	41.2	42.2	43.2
Average Annual Benefit ¹	\$15,191	\$15,191	\$15,191	\$15,191

¹ The Average Current Age and Average Annual Benefit exclude participants awaiting a refund of contributions.

AGE AND SERVICE DISTRIBUTION

PAST SERVICE

AGE	0	1	2	3	4	5-9	10-14	15-19	20-24	25-29	30+	Total
15 - 19												0
20 - 24		3										3
25 - 29	2		4	1		5						12
30 - 34	1		2	2	1	5	1					12
35 - 39						2	1	1				4
40 - 44							2	3	1			6
45 - 49						1	1	3	4			9
50 - 54						1		2	2	1		6
55 - 59						1	2					3
60 - 64												0
65+												0
Total	3	3	6	3	1	15	7	9	7	1	0	55

VALUATION PARTICIPANT RECONCILIATION

1. Active lives

a. Number in prior valuation 10/1/2020	57
b. Terminations	
i. Vested (partial or full) with deferred annuity	0
ii. Vested in refund of member contributions only	(2)
iii. Refund of member contributions or full lump sum distribution received	0
c. Deaths	
i. Beneficiary receiving benefits	0
ii. No future benefits payable	0
d. Disabled	0
e. Retired	(1)
f. DROP	(2)
g. Continuing participants	52
h. New entrants	3
i. Total active life participants in valuation	55

2. Non-Active lives (including beneficiaries receiving benefits)

	Service Retirees, Vested Receiving <u>Benefits</u>	DROP <u>Benefits</u>	Receiving Death <u>Benefits</u>	Receiving Disability <u>Benefits</u>	Vested (Deferred Annuity)	Vested (Due Refund)	<u>Total</u>
a. Number prior valuation	47	4	4	4	1	3	63
Retired	3	(2)	0	0	0	0	1
DROP	0	2	0	0	0	0	2
Vested (Deferred Annuity)	0	0	0	0	0	0	0
Vested (Due Refund)	0	0	0	0	0	2	2
Hired/Terminated in Same Year	0	0	0	0	0	1	1
Death, With Survivor	(1)	0	1	0	0	0	0
Death, No Survivor	0	0	0	0	0	0	0
Disabled	0	0	0	0	0	0	0
Refund of Contributions	0	0	0	0	0	0	0
Rehires	0	0	0	0	0	0	0
Expired Annuities	0	0	0	0	0	0	0
Data Corrections	0	0	0	0	0	0	0
b. Number current valuation	49	4	5	4	1	6	69

SUMMARY OF CURRENT PLAN
(Through Ordinance No. 2021-10)

CREDITED SERVICE	Years and fractional parts of years of service with the City as a Firefighter. Service as a volunteer firefighter shall be credited at one month of credited service for each complete year of volunteer service.
SALARY	Fixed monthly compensation (base pay) for services rendered to the City as a Firefighter, plus all tax-deferred, tax sheltered and tax-exempt items of income. Base pay excludes overtime, education pay, lump sum payments of annual leave, sick leave, and compensation leave, and all other nonregular compensation. Effective July 1, 2021, Salary includes specialty and incentive pay.
AVERAGE FINAL COMPENSATION	
Prior to 1/1/2013	Average Salary paid during the three (3) best years of the last ten (10).
On and After 1/1/2013	Average Salary paid during the five (5) best years of the last (10), provided in no event shall this be less than the average final compensation through December 31, 2012.
NORMAL RETIREMENT	
Eligibility	
Benefit Accrued Prior to 9/25/2012	Earlier of: 1) Age 50 and 10 years of Credited Service, or 2) the completion of 20 years of Credited Service, regardless of age.
Benefit Accrued On/After 9/25/2012	Earlier of 1) Age 55 and 10 years of Credited Service, or 2) the completion of 25 years of Credited Service, regardless of age.
Benefit Amount	3.00% of Average Final Compensation for each year of Credited Service. The maximum benefit (including any supplement) is the lesser of 90% of Average Final Compensation and \$95,000. In no event shall the benefit be less than 2.00% of Average Final Compensation for each year of Credited Service.
Form of Benefit	Ten Year Certain and Life Annuity (options available).

EARLY RETIREMENT

Eligibility	Age 50 and 10 years of Credited Service. Members who attained 40 and 10 as of September 25, 2012 are also eligible.
Benefit Amount	Benefit determined as for Normal Retirement actuarially reduced to reflect early payment.
Form of Benefit	Ten Year Certain and Life Annuity (options available).

SUPPLEMENTAL BENEFIT

Members hired before December 4, 2012 are eligible for a supplemental benefit upon attainment of 20 years of Credited Service and normal or early retirement eligibility.

The monthly supplement is calculated in two pieces: 1) \$20 per year of Credited Service before January 1, 2013 and 2) \$10, \$15, or \$20 per year of Credited Service on and after January 1, 2013. The post-2012 supplemental benefit rate depends on total Credited Service at retirement. The first piece cannot exceed \$600 and the second piece cannot increase the total supplement above \$500.

COST-OF-LIVING ADJUSTMENT

Effective October 1, 2003, all current and future retirees receiving benefits, including disability retirees and terminated vested persons and their beneficiaries or joint annuitants, will receive an annual increase in benefits (excluding the Supplemental Benefit) as follows:

Benefits accrued prior to 1/1/2013:

- a) For retirees who retired before October 1, 2003 and completed at least 19 years of Credited Service, the annual increase will be 3.00% commencing upon the 61st month following retirement.
- b) For retirees who retire on or after October 1, 2003 and complete at least 20 years of Credited Service, the annual increase will be 3.00% commencing upon the 61st month following retirement.
- c) For all other current and future retirees not described in (a) or (b) above, the annual increase shall be 1.00% and shall begin on the January 1st following one full year of retirement.

Benefits accrued on or after 1/1/2013:

For retirees who completed at least 25 years of Credited Service (or 20 years of Credited Service if first eligible for Normal Retirement at age 55 and 10 years of service), the annual

increase shall be the lesser of 3.00% or the amount granted for Social Security benefits. The COLA would only be given in years that the Plan met or exceeded the actuarial assumptions, and also only when the GASB 25 Funded Ratio is above 80.00%. The COLA begins the later of 8 years after retirement and age 59.5.

Members hired after 12/4/2012

None.

DISABILITY

Eligibility

a) 10 years of contributing service for non-service related; coverage from date of hire for service-incurred.

b) Total and permanent disability as determined by the Board.

Benefit Amount

Non-Service Connected

Benefit computed as for Normal Retirement.

Service Connected

Benefit computed as for Normal Retirement, but not less than 51% of Average Final Compensation.

VESTING (TERMINATION)

Less than 10 years - Refund of Accumulated Member Contributions.

10 or more years - Accrued benefit payable at the otherwise Normal Retirement Date, or Refund of Member Contributions.

DEATH

Pre-Retirement

Vested or eligible for retirement: Beneficiary receives accrued pension payable for 10 years at otherwise Early or Normal Retirement Date (or actuarially reduced benefit payable for 10 years at the option of the Beneficiary).

Non-vested: Refund of Accumulated Member Contributions.

Post-Retirement

According to optional form of payment selected at retirement.

CONTRIBUTIONS

Employee	7.50% of Salary. 8.00% of Salary for Members hired after 12/4/2012.
Premium Tax	1.85% tax on applicable insurance policies.
City	Remaining amount necessary for payment of Normal (current year's) Cost and amortization of the accrued past service as provided by Chapter 112, Part VII, Florida Statutes.

BOARD OF TRUSTEES

- a) Two City Council appointees,
- b) Two Members of the Plan elected by a majority of the other covered Firefighters, and
- c) A fifth Member elected by the other 4 and appointed by the City Council.

DEFERRED RETIREMENT OPTION PLAN

Eligibility	Satisfaction of Normal Retirement requirements.
Participation	Not more than 60 months.
Rate of Return	Actual net rate of investment return.
Form of Distribution	Cash lump sum (options available).

SHARE PLAN

Pursuant to Chapter 2015-39, Laws of Florida, a supplemental benefit component for special benefits exists but is currently not funded as the City and Membership mutually consented to allow the City use all future State Monies.

STATEMENT OF FIDUCIARY NET POSITION
SEPTEMBER 30, 2021

<u>ASSETS</u>	MARKET VALUE
Cash and Cash Equivalents:	
Money Market	1,795,854
Total Cash and Equivalents	1,795,854
Receivables:	
Member Contributions	631
From Broker for Investments Sold	87,407
Investment Income	115,080
Total Receivable	203,118
Investments:	
U. S. Bonds and Bills	566,961
Federal Agency Guaranteed Securities	2,364,221
Corporate Bonds	8,485,470
Municipal Obligations	88,924
Stocks	13,530,200
Mutual Funds:	
Fixed Income	2,783,448
Equity	10,544,710
Pooled/Common/Commingled Funds:	
Real Estate	1,648,958
Total Investments	40,012,892
Total Assets	42,011,864
<u>LIABILITIES</u>	
Payables:	
To Broker for Investments Purchased	238,095
Total Liabilities	238,095
NET POSITION RESTRICTED FOR PENSIONS	41,773,769

STATEMENT OF CHANGES IN FIDUCIARY NET POSITION
FOR THE YEAR ENDED SEPTEMBER 30, 2021
Market Value Basis

ADDITIONS

Contributions:

Member	237,968
City	2,314,229
State	438,926

Total Contributions		2,991,123
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Investment Income:

Net Increase in Fair Value of Investments	5,950,783
Interest & Dividends	945,918
Less Investment Expense ¹	(203,588)

Net Investment Income		6,693,113
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Total Additions		9,684,236
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DEDUCTIONS

Distributions to Members:

Benefit Payments	2,729,259
Lump Sum DROP Distributions	289,113
Refunds of Member Contributions	0

Total Distributions		3,018,372
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Administrative Expense		75,205
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Total Deductions		3,093,577
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Net Increase in Net Position		6,590,659
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NET POSITION RESTRICTED FOR PENSIONS

Beginning of the Year		35,183,110
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End of the Year		41,773,769
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¹Investment related expenses include investment advisory, custodial and performance monitoring fees.

NOTES TO THE FINANCIAL STATEMENTS

(For the Year Ended September 30, 2021)

Plan Administration

The Plan is a single-employer defined benefit pension plan administered by the Plan's Board of Trustees comprised of:

- a) Two City Council appointees,
- b) Two Members of the Plan elected by a majority of the other covered Firefighters, and
- c) A fifth Member elected by the other 4 and appointed by the City Council.

Plan Membership as of October 1, 2020:

Inactive Plan Members or Beneficiaries Currently Receiving Benefits	59
Inactive Plan Members Entitled to But Not Yet Receiving Benefits	4
Active Plan Members	57
	120

Benefits Provided

The Plan provides retirement, termination, disability and death benefits.

A summary of the benefit provisions can be found in the October 1, 2020 Actuarial Valuation Report for the City of Port Orange Fire and Rescue Pension Fund prepared by Foster & Foster Actuaries and Consultants.

Incorporated are the benefit changes for measurement date September 30, 2021 as noted under the Notes to Schedule of Changes in Net Pension Liability and Related Ratios.

Contributions

Employee: 7.50% of Salary. 8.00% of Salary for Members hired after 12/4/2012.

Premium Tax: 1.85% tax on applicable insurance policies.

City: Remaining amount necessary for payment of Normal (current year's) Cost and amortization of the accrued past service as provided by Chapter 112, Part VII, Florida Statutes.

Investment Policy:

The following was the Board's adopted asset allocation policy as of September 30, 2021:

Asset Class	Target Allocation
Domestic Equity	35.0%
International Equity	15.0%
Bonds	30.0%
Convertibles	10.0%
Private Real Estate	5.0%
REITS	5.0%
Total	100.0%

Concentrations:

The Plan did not hold investments in any one organization that represent 5 percent or more of the Pension Plan's Fiduciary Net Position.

Rate of Return:

For the year ended September 30, 2021, the annual money-weighted rate of return on Pension Plan investments, net of Pension Plan investment expense, was 19.09 percent.

The money-weighted rate of return expresses investment performance, net of investment expense, adjusted for the changing amounts actually invested.

Deferred Retirement Option Program

Eligibility: Satisfaction of Normal Retirement requirements.

Participation: Not more than 60 months.

Rate of Return: Actual net rate of investment return.

The DROP balance as September 30, 2021 is \$266,589.

NET PENSION LIABILITY OF THE SPONSOR

The components of the Net Pension Liability of the Sponsor on September 30, 2021 were as follows:

Total Pension Liability	\$ 53,827,868
Plan Fiduciary Net Position	<u>\$ (41,773,769)</u>
Sponsor's Net Pension Liability	<u>\$ 12,054,099</u>
Plan Fiduciary Net Position as a percentage of Total Pension Liability	77.61%

Actuarial Assumptions:

The Total Pension Liability was determined by an actuarial valuation as of October 1, 2020 updated to September 30, 2021 using the following actuarial assumptions:

Inflation	2.70%
Salary Increases	Service based
Discount Rate	7.25%
Investment Rate of Return	7.25%

Female: PubS.H-2010 (Below Median) for Employees, set forward one year.

Male: PubS.H-2010 (Below Median) for Employees, set forward one year.

Mortality Rate Healthy Retiree Lives:

Female: PubG.H-2010 for Healthy Retirees.

Male: PubG.H-2010 for Healthy Retirees, set back one year.

Mortality Rate Beneficiary Lives:

Female: PubG.H-2010 for Healthy Retirees.

Male: PubG.H-2010 for Healthy Retirees, set back one year.

Mortality Rate Disabled Lives:

80% PubG.H-2010 for Disabled Retirees / 20% PubS.H-2010 for Disabled Retirees.

All rates are projected generationally with Mortality Improvement Scale MP-2018. We feel this assumption sufficiently accommodates future mortality improvements.

The previously described mortality assumption rates were mandated by Chapter 2015-157, Laws of Florida. This law mandates the use of the assumptions used in either of the two most recent valuations of the Florida Retirement System (FRS). The above rates are those outlined in Milliman's July 1, 2020 FRS valuation report for special risk employees, with appropriate adjustments made based on plan demographics.

The most recent actuarial experience study used to review the other significant assumptions was dated November 18, 2019.

The Long-Term Expected Rate of Return on Pension Plan investments can be determined using a building-block method in which best-estimate ranges of expected future real rates of return (expected returns, net of Pension Plan investment expenses and inflation) are developed for each major asset class.

For 2021 the inflation rate assumption of the investment advisor was 2.30%.

These ranges are combined to produce the Long-Term Expected Rate of Return by weighting the expected future real rates of return by the target asset allocation percentage and by adding expected inflation.

Best estimates of geometric real rates of return for each major asset class included in the Pension Plan's target asset allocation as of September 30, 2021 are summarized in the following table:

Asset Class	Long Term Expected Real Rate of Return ¹
Domestic Equity	8.3%
International Equity	4.1%
Bonds	3.1%
Convertibles	7.8%
Private Real Estate	5.5%
REITS	8.2%

¹ Source: Burgess Chambers

Discount Rate:

The Discount Rate used to measure the Total Pension Liability was 7.25 percent.

The projection of cash flows used to determine the Discount Rate assumed that Plan Member contributions will be made at the current contribution rate and that Sponsor contributions will be made at rates equal to the difference between actuarially determined contribution rates and the Member rate. Based on those assumptions, the Pension Plan's Fiduciary Net Position was projected to be available to make all projected future benefit payments of current plan members. Therefore, the Long-Term Expected Rate of Return on Pension Plan investments was applied to all periods of projected benefit payments to determine the Total Pension Liability.

	1% Decrease 6.25%	Current Discount Rate 7.25%	1% Increase 8.25%
Sponsor's Net Pension Liability	\$ 18,553,589	\$ 12,054,099	\$ 6,669,590

SCHEDULE OF CHANGES IN NET PENSION LIABILITY AND RELATED RATIOS
Last 2 Fiscal Years

	09/30/2021	09/30/2020
Total Pension Liability		
Service Cost	616,749	570,653
Interest	3,703,649	3,601,516
Changes of benefit terms	156,468	-
Differences between Expected and Actual Experience	660,698	569,957
Changes of assumptions	582,920	(717,430)
Benefit Payments, including Refunds of Employee Contributions	(3,018,372)	(2,657,007)
Net Change in Total Pension Liability	2,702,112	1,367,689
Total Pension Liability - Beginning	51,125,756	49,758,067
Total Pension Liability - Ending (a)	<u>\$ 53,827,868</u>	<u>\$ 51,125,756</u>
Plan Fiduciary Net Position		
Contributions - Employer	2,314,229	2,225,281
Contributions - State	438,926	427,496
Contributions - Employee	237,968	226,546
Net Investment Income	6,693,113	2,769,135
Benefit Payments, including Refunds of Employee Contributions	(3,018,372)	(2,657,007)
Administrative Expense	(75,205)	(93,365)
Net Change in Plan Fiduciary Net Position	6,590,659	2,898,086
Plan Fiduciary Net Position - Beginning	35,183,110	32,285,024
Plan Fiduciary Net Position - Ending (b)	<u>\$ 41,773,769</u>	<u>\$ 35,183,110</u>
Net Pension Liability - Ending (a) - (b)	<u>\$ 12,054,099</u>	<u>\$ 15,942,646</u>
Plan Fiduciary Net Position as a percentage of the Total Pension Liability	77.61%	68.82%
Covered Payroll	\$ 3,081,159	\$ 2,940,474
Net Pension Liability as a percentage of Covered Payroll	391.22%	542.18%

Notes to Schedule of Changes in Net Pension Liability and Related Ratios:*Changes of benefit terms:*

For measurement date 09/30/2021, Ordinance 2021-10 amended the plan to increase the benefit rate for Tier 2 Firefighters to 3.00% and the maximum benefit to the lesser of 90% of Average Final Compensation and \$95,000. Additionally, the Definition of Salary was amended to include all Specialty and Incentive Payments as pensionable compensation for calculating benefits, for both Tier 1 and Tier 2 Firefighters, effective July 1, 2021.

Additionally, the City and the Firefighters' Union entered into a Grievance Settlement which clarified how the supplemental benefit should be calculated for those hired before January 1, 2013. The valuation coding was updated to reflect the new interpretation.

The new interpretation clarifies that the monthly supplement should be calculated in two pieces: 1) \$20 per year of Credited Service before January 1, 2013 and 2) \$10, \$15, or \$20 per year of Credited Service on and after January 1, 2013. The post-2012 supplemental benefit rate depends on total Credited Service at retirement. The first piece cannot exceed \$600 and the second piece cannot increase the total supplement above \$500. Members are eligible for the supplement if eligible for Normal or Early Retirement with 20 years of Credited Service.

Changes of assumptions:

For measurement date 09/30/2021, the investment rate of return was reduced from 7.35% to 7.25% per year, net of investment related expenses.

For measurement date 09/30/2020, as mandated by Chapter 2015-157, Laws of Florida, the assumed rates of mortality were changed to the rates used in Milliman's July 1, 2019 FRS valuation report for special risk employees, with appropriate adjustments made based on plan demographics.

SCHEDULE OF CONTRIBUTIONS

Last 2 Fiscal Years

Fiscal Year Ended	Actuarially Determined Contribution	Contributions in relation to the Actuarially Determined Contributions	Contribution Deficiency (Excess)	Covered Payroll	Contributions as a percentage of Covered Payroll
09/30/2021	\$ 2,646,715	\$ 2,753,155	\$ (106,440)	\$ 3,081,159	89.35%
09/30/2020	\$ 2,619,962	\$ 2,652,777	\$ (32,815)	\$ 2,940,474	90.22%

Notes to Schedule

Valuation Date: 10/01/2019 (AIS 06/04/2021)

Actuarially determined contribution rates are calculated as of October 1, two years prior to the end of the fiscal year in which contributions are reported.

Methods and assumptions used to determine contribution rates can be found in the October 1, 2019 Actuarial Valuation for the City of Port Orange Fire and Rescue Pension Fund prepared by Foster & Foster Actuaries and Consultants.

SCHEDULE OF INVESTMENT RETURNS
Last 2 Fiscal Years

Fiscal Year Ended	Annual Money-Weighted Rate of Return Net of Investment Expense
09/30/2021	19.09%
09/30/2020	8.61%

NOTES TO THE FINANCIAL STATEMENTS

(For the Year Ended September 30, 2021)

Plan Description

The Plan is a single-employer defined benefit pension plan administered by the Plan's Board of Trustees comprised of:

- a) Two City Council appointees,
- b) Two Members of the Plan elected by a majority of the other covered Firefighters, and
- c) A fifth Member elected by the other 4 and appointed by the City Council.

Each person employed by the City Fire Department as a full-time Firefighter (including volunteer Firefighters) becomes a member of the System as a condition of his employment. All Firefighters are therefore eligible for plan benefits as provided for in the plan document and by applicable law. Notwithstanding the foregoing, the Fire Chief may, within 30 days following employment as Fire Chief, elect in writing, to not become a member of this Plan.

Plan Membership as of October 1, 2020:

Inactive Plan Members or Beneficiaries Currently Receiving Benefits	59
Inactive Plan Members Entitled to But Not Yet Receiving Benefits	4
Active Plan Members	57
	120
	120

Benefits Provided

The Plan provides retirement, termination, disability and death benefits.

A summary of the benefit provisions can be found in the October 1, 2020 Actuarial Valuation Report for the City of Port Orange Fire and Rescue Pension Fund prepared by Foster & Foster Actuaries and Consultants.

Incorporated are the benefit changes for measurement date September 30, 2021 as noted under the Notes to Schedule of Changes in Net Pension Liability and Related Ratios.

Contributions

Employee: 7.50% of Salary. 8.00% of Salary for Members hired after 12/4/2012.

Premium Tax: 1.85% tax on applicable insurance policies.

City: Remaining amount necessary for payment of Normal (current year's) Cost and amortization of the accrued past service as provided by Chapter 112, Part VII, Florida Statutes.

Net Pension Liability

The measurement date is September 30, 2021.

The measurement period for the pension expense was October 1, 2020 to September 30, 2021.

The reporting period is October 1, 2020 through September 30, 2021.

The Sponsor's Net Pension Liability was measured as of September 30, 2021.

The Total Pension Liability used to calculate the Net Pension Liability was determined as of that date.

Actuarial Assumptions:

The Total Pension Liability was determined by an actuarial valuation as of October 1, 2020 updated to September 30, 2021 using the following actuarial assumptions:

Inflation	2.70%
Salary Increases	Service based
Discount Rate	7.25%
Investment Rate of Return	7.25%

Mortality Rate Healthy Active Lives:

Female: PubS.H-2010 (Below Median) for Employees, set forward one year.

Male: PubS.H-2010 (Below Median) for Employees, set forward one year.

Mortality Rate Healthy Retiree Lives:

Female: PubG.H-2010 for Healthy Retirees.

Male: PubG.H-2010 for Healthy Retirees, set back one year.

Mortality Rate Beneficiary Lives:

Female: PubG.H-2010 for Healthy Retirees.

Male: PubG.H-2010 for Healthy Retirees, set back one year.

Mortality Rate Disabled Lives:

80% PubG.H-2010 for Disabled Retirees / 20% PubS.H-2010 for Disabled Retirees.

All rates are projected generationally with Mortality Improvement Scale MP-2018. We feel this assumption sufficiently accommodates future mortality improvements.

The previously described mortality assumption rates were mandated by Chapter 2015-157, Laws of Florida. This law mandates the use of the assumptions used in either of the two most recent valuations of the Florida Retirement System (FRS). The above rates are those outlined in Milliman's July 1, 2020 FRS valuation report for special risk employees, with appropriate adjustments made based on plan demographics.

The most recent actuarial experience study used to review the other significant assumptions was dated November 18, 2019.

The Long-Term Expected Rate of Return on Pension Plan investments can be determined using a building-block method in which best-estimate ranges of expected future real rates of return (expected returns, net of Pension Plan investment expenses and inflation) are developed for each major asset class.

For 2021 the inflation rate assumption of the investment advisor was 2.30%.

These ranges are combined to produce the Long-Term Expected Rate of Return by weighting the expected future real rates of return by the target asset allocation percentage and by adding expected inflation.

Best estimates of geometric real rates of return for each major asset class included in the Pension Plan's target asset allocation as of September 30, 2021 are summarized in the following table:

Asset Class	Target Allocation	Long Term Expected Real Rate of Return ¹
Domestic Equity	35.0%	8.3%
International Equity	15.0%	4.1%
Bonds	30.0%	3.1%
Convertibles	10.0%	7.8%
Private Real Estate	5.0%	5.5%
REITS	5.0%	8.2%
Total	100.0%	

¹ Source: Burgess Chambers

Discount Rate:

The Discount Rate used to measure the Total Pension Liability was 7.25 percent.

The projection of cash flows used to determine the Discount Rate assumed that Plan Member contributions will be made at the current contribution rate and that Sponsor contributions will be made at rates equal to the difference between actuarially determined contribution rates and the Member rate. Based on those assumptions, the Pension Plan's Fiduciary Net Position was projected to be available to make all projected future benefit payments of current plan members. Therefore, the Long-Term Expected Rate of Return on Pension Plan investments was applied to all periods of projected benefit payments to determine the Total Pension Liability.

CHANGES IN NET PENSION LIABILITY

	Increase (Decrease)		
	Total Pension Liability	Plan Fiduciary Net Position	Net Pension Liability
	(a)	(b)	(a)-(b)
Balances at September 30, 2020	\$ 51,125,756	\$ 35,183,110	\$ 15,942,646
Changes for a Year:			
Service Cost	616,749	-	616,749
Interest	3,703,649	-	3,703,649
Differences between Expected and Actual Experience	660,698	-	660,698
Changes of assumptions	582,920	-	582,920
Changes of benefit terms	156,468	-	156,468
Contributions - Employer	-	2,314,229	(2,314,229)
Contributions - State	-	438,926	(438,926)
Contributions - Employee	-	237,968	(237,968)
Net Investment Income	-	6,693,113	(6,693,113)
Benefit Payments, including Refunds of Employee Contributions	(3,018,372)	(3,018,372)	-
Administrative Expense	-	(75,205)	75,205
Net Changes	2,702,112	6,590,659	(3,888,547)
Balances at September 30, 2021	\$ 53,827,868	\$ 41,773,769	\$ 12,054,099

Sensitivity of the Net Pension Liability to changes in the Discount Rate.

	Current Discount		
	1% Decrease	Rate	1% Increase
	6.25%	7.25%	8.25%
Sponsor's Net Pension Liability	\$ 18,553,589	\$ 12,054,099	\$ 6,669,590

Pension Plan Fiduciary Net Position.

Detailed information about the pension Plan's Fiduciary Net Position is available in a separately issued Plan financial report.

PENSION EXPENSE AND DEFERRED OUTFLOWS OF RESOURCES AND DEFERRED INFLOWS OF RESOURCES RELATED TO PENSIONS

For the year ended September 30, 2021, the Sponsor will recognize a Pension Expense of \$1,819,717.

On September 30, 2021, the Sponsor reported Deferred Outflows of Resources and Deferred Inflows of Resources related to pensions from the following sources:

	Deferred Outflows of Resources	Deferred Inflows of Resources
Differences between Expected and Actual Experience	1,005,699	-
Changes of assumptions	1,006,212	430,458
Net difference between Projected and Actual Earnings on Pension Plan investments	-	3,154,684
Total	<u>\$ 2,011,911</u>	<u>\$ 3,585,142</u>

Amounts reported as Deferred Outflows of Resources and Deferred Inflows of Resources related to pensions will be recognized in Pension Expense as follows:

Year ended September 30:

2022	\$ (116,648)
2023	\$ (201,879)
2024	\$ (681,244)
2025	\$ (573,460)
2026	\$ -
Thereafter	\$ -

SCHEDULE OF CHANGES IN NET PENSION LIABILITY AND RELATED RATIOS
Last 2 Fiscal Years

	09/30/2021	09/30/2020
Total Pension Liability		
Service Cost	616,749	570,653
Interest	3,703,649	3,601,516
Changes of benefit terms	156,468	-
Differences between Expected and Actual Experience	660,698	569,957
Changes of assumptions	582,920	(717,430)
Benefit Payments, including Refunds of Employee Contributions	(3,018,372)	(2,657,007)
Net Change in Total Pension Liability	2,702,112	1,367,689
Total Pension Liability - Beginning	51,125,756	49,758,067
Total Pension Liability - Ending (a)	<u>\$ 53,827,868</u>	<u>\$ 51,125,756</u>
Plan Fiduciary Net Position		
Contributions - Employer	2,314,229	2,225,281
Contributions - State	438,926	427,496
Contributions - Employee	237,968	226,546
Net Investment Income	6,693,113	2,769,135
Benefit Payments, including Refunds of Employee Contributions	(3,018,372)	(2,657,007)
Administrative Expense	(75,205)	(93,365)
Net Change in Plan Fiduciary Net Position	6,590,659	2,898,086
Plan Fiduciary Net Position - Beginning	35,183,110	32,285,024
Plan Fiduciary Net Position - Ending (b)	<u>\$ 41,773,769</u>	<u>\$ 35,183,110</u>
Net Pension Liability - Ending (a) - (b)	<u>\$ 12,054,099</u>	<u>\$ 15,942,646</u>
Plan Fiduciary Net Position as a percentage of the Total Pension Liability	77.61%	68.82%
Covered Payroll	\$ 3,081,159	\$ 2,940,474
Net Pension Liability as a percentage of Covered Payroll	391.22%	542.18%

Notes to Schedule of Changes in Net Pension Liability and Related Ratios:*Changes of benefit terms:*

For measurement date 09/30/2021, Ordinance 2021-10 amended the plan to increase the benefit rate for Tier 2 Firefighters to 3.00% and the maximum benefit to the lesser of 90% of Average Final Compensation and \$95,000. Additionally, the Definition of Salary was amended to include all Specialty and Incentive Payments as pensionable compensation for calculating benefits, for both Tier 1 and Tier 2 Firefighters, effective July 1, 2021.

Additionally, the City and the Firefighters' Union entered into a Grievance Settlement which clarified how the supplemental benefit should be calculated for those hired before January 1, 2013. The valuation coding was updated to reflect the new interpretation.

The new interpretation clarifies that the monthly supplement should be calculated in two pieces: 1) \$20 per year of Credited Service before January 1, 2013 and 2) \$10, \$15, or \$20 per year of Credited Service on and after January 1, 2013. The post-2012 supplemental benefit rate depends on total Credited Service at retirement. The first piece cannot exceed \$600 and the second piece cannot increase the total supplement above \$500. Members are eligible for the supplement if eligible for Normal or Early Retirement with 20 years of Credited Service.

Changes of assumptions:

For measurement date 09/30/2021, the investment rate of return was reduced from 7.35% to 7.25% per year, net of investment related expenses.

For measurement date 09/30/2020, as mandated by Chapter 2015-157, Laws of Florida, the assumed rates of mortality were changed to the rates used in Milliman's July 1, 2019 FRS valuation report for special risk employees, with appropriate adjustments made based on plan demographics.

SCHEDULE OF CONTRIBUTIONS
Last 2 Fiscal Years

Fiscal Year Ended	Actuarially Determined Contribution	Contributions in relation to the Actuarially Determined Contributions	Contribution Deficiency (Excess)	Covered Payroll	Contributions as a percentage of Covered Payroll
09/30/2021	\$ 2,646,715	\$ 2,753,155	\$ (106,440)	\$ 3,081,159	89.35%
09/30/2020	\$ 2,619,962	\$ 2,652,777	\$ (32,815)	\$ 2,940,474	90.22%

Notes to Schedule

Valuation Date: 10/01/2019 (AIS 06/04/2021)

Actuarially determined contribution rates are calculated as of October 1, two years prior to the end of the fiscal year in which contributions are reported.

Methods and assumptions used to determine contribution rates can be found in the October 1, 2019 Actuarial Valuation for the City of Port Orange Fire and Rescue Pension Fund prepared by Foster & Foster Actuaries and Consultants.

COMPONENTS OF PENSION EXPENSE
FISCAL YEAR SEPTEMBER 30, 2021

	Net Pension Liability	Deferred Inflows	Deferred Outflows	Pension Expense
Beginning balance	\$ 15,942,646	\$ 1,003,233	\$ 2,385,111	\$ -
Total Pension Liability Factors:				
Service Cost	616,749	-	-	616,749
Interest	3,703,649	-	-	3,703,649
Changes in benefit terms	156,468	-	-	156,468
Differences between Expected and Actual Experience with regard to economic or demographic assumptions	660,698	-	660,698	-
Current year amortization of experience difference	-	-	(392,449)	392,449
Change in assumptions about future economic or demographic factors or other inputs	582,920	-	582,920	-
Current year amortization of change in assumptions	-	(143,486)	(628,375)	484,889
Benefit Payments, including Refunds of Employee Contributions	(3,018,372)	-	-	-
Net change	2,702,112	(143,486)	222,794	5,354,204
Plan Fiduciary Net Position:				
Contributions - Employer	2,314,229	-	-	-
Contributions - State	438,926	-	-	-
Contributions - Employee	237,968	-	-	(237,968)
Projected Net Investment Income	2,582,193	-	-	(2,582,193)
Difference between projected and actual earnings on Pension Plan investments	4,110,920	4,110,920	-	-
Current year amortization	-	(1,016,606)	(227,075)	(789,531)
Benefit Payments, including Refunds of Employee Contributions	(3,018,372)	-	-	-
Administrative Expenses	(75,205)	-	-	75,205
Net change	6,590,659	3,094,314	(227,075)	(3,534,487)
Ending Balance	\$ 12,054,099	\$ 3,954,061	\$ 2,380,830	\$ 1,819,717

AMORTIZATION SCHEDULE - INVESTMENTS

Increase (Decrease) in Pension Expense Arising from the Recognition of the of Differences Between Projected and Actual Earnings on Pension Plan Investments

Plan Year	Differences Between	Recognition													
Ending	Projected and Actual	Period (Years)	2021	2022	2023	2024	2025	2026	2027	2028	2029	2030			
Earnings	Earnings														
2021	\$ (4,110,920)	5	\$ (822,184)	\$ (822,184)	\$ (822,184)	\$ (822,184)	\$ (822,184)	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	-
2020	\$ (391,447)	5	\$ (78,289)	\$ (78,289)	\$ (78,289)	\$ (78,289)	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	-
2019	\$ 709,221	5	\$ 141,844	\$ 141,844	\$ 141,844	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	-
2018	\$ 426,157	5	\$ 85,231	\$ 85,231	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	-
2017	\$ (580,663)	5	\$ (116,133)	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	-
Net Increase (Decrease) in Pension Expense			\$ (789,531)	\$ (673,398)	\$ (758,629)	\$ (900,473)	\$ (822,184)	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	-

AMORTIZATION SCHEDULE - CHANGES OF ASSUMPTIONS

Increase (Decrease) in Pension Expense Arising from the Recognition of the Effects of Changes of Assumptions														
Plan Year Ending	Changes of Assumptions	Recognition Period (Years)	2021	2022	2023	2024	2025	2026	2027	2028	2029	2030		
2021	\$ 582,920	5	\$ 116,584	\$ 116,584	\$ 116,584	\$ 116,584	\$ 116,584	\$ -	\$ -	\$ -	\$ -	\$ -		-
2020	\$ (717,430)	5	\$ (143,486)	\$ (143,486)	\$ (143,486)	\$ (143,486)	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -		-
2019	\$ 1,349,692	5	\$ 269,938	\$ 269,938	\$ 269,938	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -		-
2018	\$ 528,047	4	\$ 132,012	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -		-
2017	\$ 549,204	5	\$ 109,841	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -		-
Net Increase (Decrease) in Pension Expense			\$ 484,889	\$ 243,036	\$ 243,036	\$ (26,902)	\$ 116,584	\$ -	\$ -	\$ -	\$ -	\$ -		-

AMORTIZATION SCHEDULE - EXPERIENCE

Increase (Decrease) in Pension Expense Arising from the Recognition of the Effects of Differences between Expected and Actual Experience

Plan Year Ending	Differences Between Expected and Actual Experience	Recognition Period (Years)	2021	2022	2023	2024	2025	2026	2027	2028	2029	2030
2021	\$ 660,698	5	\$ 132,138	\$ 132,140	\$ 132,140	\$ 132,140	\$ 132,140	\$ -	\$ -	\$ -	\$ -	\$ -
2020	\$ 569,957	5	\$ 113,991	\$ 113,991	\$ 113,991	\$ 113,991	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
2019	\$ 337,913	5	\$ 67,583	\$ 67,583	\$ 67,583	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
2018	\$ 21,178	4	\$ 5,295	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
2017	\$ 367,210	5	\$ 73,442	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Net Increase (Decrease) in Pension Expense			\$ 392,449	\$ 313,714	\$ 313,714	\$ 246,131	\$ 132,140	\$ -	\$ -	\$ -	\$ -	\$ -



CITY COUNCIL AGENDA ITEM

COUNCIL MEETING DATE 4/5/2022

SUBJECT: (B6c) General Employees' Pension Plan

DEPARTMENT: Finance

GOAL: 5 - Fiscal Sustainability

RECOMMENDED MOTION: Presentation only - no motion needed.

SUMMARY: Actuarial Report presentation to be provided by David Leonard.

PRESENTER: John McKinney

ATTACHMENTS:

1.	CPOGEDBRP-April 5, 2022 City Presentation	CPOGEDBRP-April 5, 2022 City Presentation.pptx
2.	Port Orange GE PP - Oct 1 2021 Annual Valuation	Port Orange GE PP - Oct 1 2021 Annual Valuation.pdf

Robin Fenwick
John McKinney
Wayne Clark
Robin Fenwick

Created/Initiated - 3/21/2022
Approved - 3/22/2022
Approved - 3/24/2022
Final Approval - 3/25/2022

CITY OF PORT ORANGE GENERAL EMPLOYEES DEFINED BENEFIT RETIREMENT PLAN

2022 PRESENTATION TO CITY COUNCIL

April 5, 2022

David G Leonard, A.S.

SUMMARY OF ASSETS AND LIABILITIES

- As of September 30, 2021
 - Plan Assets – \$ 40,828,597
 - Plan Liabilities – \$40,264,517
 - Plan Funding Ratio – 101.4%

As of February 28, 2022 the DB Plan assets were approximately \$40,700,000.

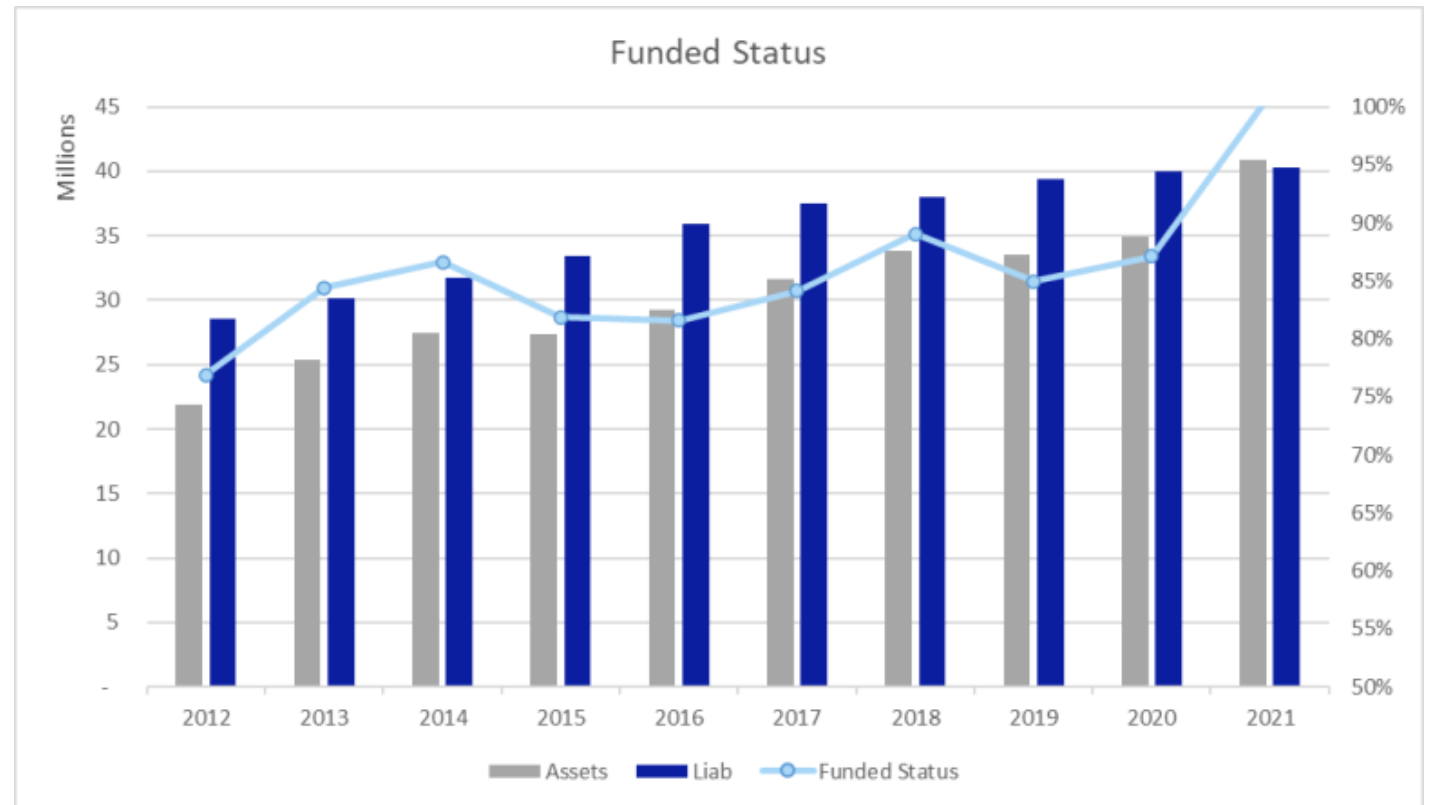
SUMMARY OF ASSETS AND LIABILITIES

- As of September 30, 2020 (6.75%)

- Plan Assets – \$ 34,864,246
- Plan Liabilities – \$40,015,704
- Plan Funding Ratio – 87.1%

- As of September 30, 2021 (6.75%)

- Plan Assets – \$ 40,828,597
- Plan Liabilities – \$40,019,130
- Plan Funding Ratio – 102.0%



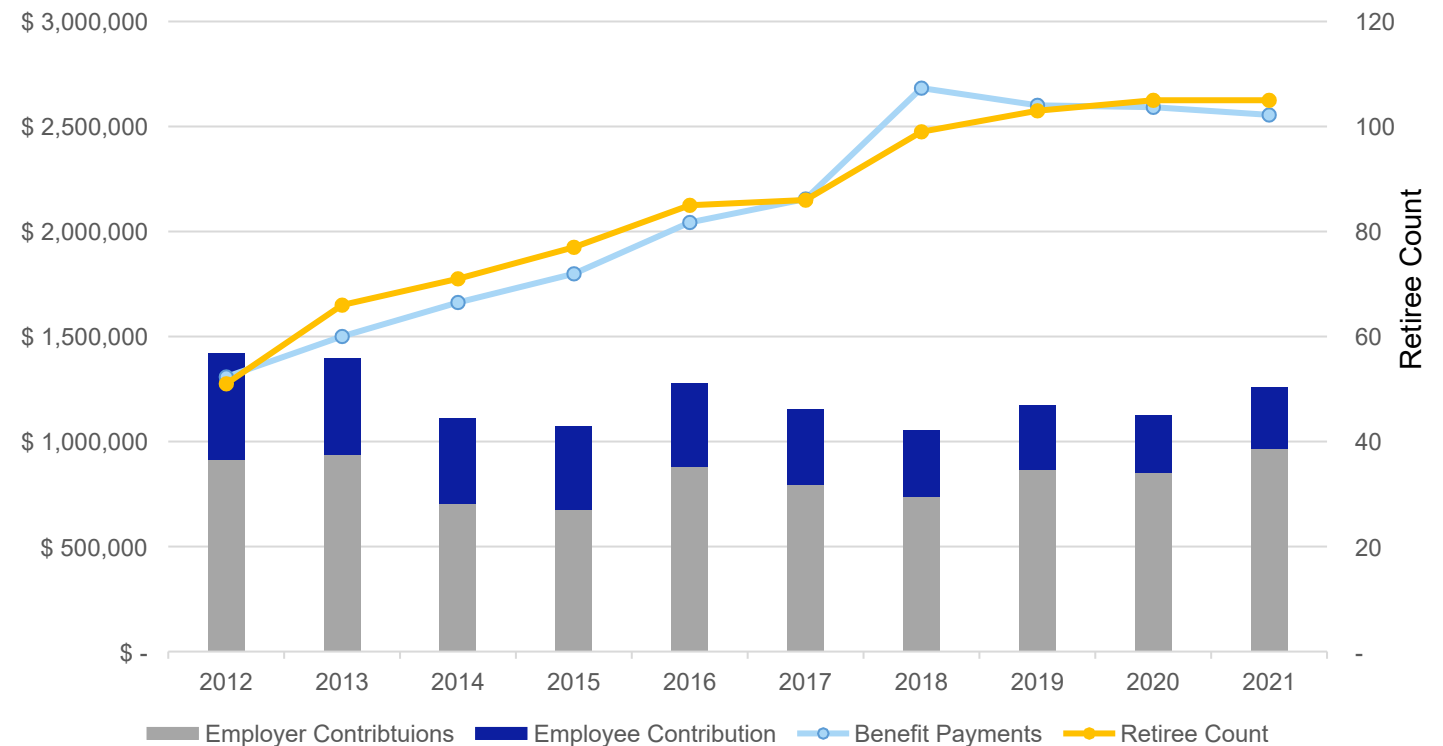
Note prior to 2019, liabilities calculated using interest rates at 7.50% (to 2016) and 7.0% from 2017-2018.

CONTRIBUTION SUMMARY

- During the 2020/2021 Plan year*
 - City Contributions – \$966,934
 - Participant Contributions – \$292,005
 - Benefit Payments – \$2,555,371
 - Net Investment Income – \$7,260,604
- Net Cash Flow before Income*
 - 2018-2019: (1,429,387)
 - 2019-2020: (1,466,396)
 - 2020-2021: (1,296,433)

* Excludes Voluntary & MPP accounts

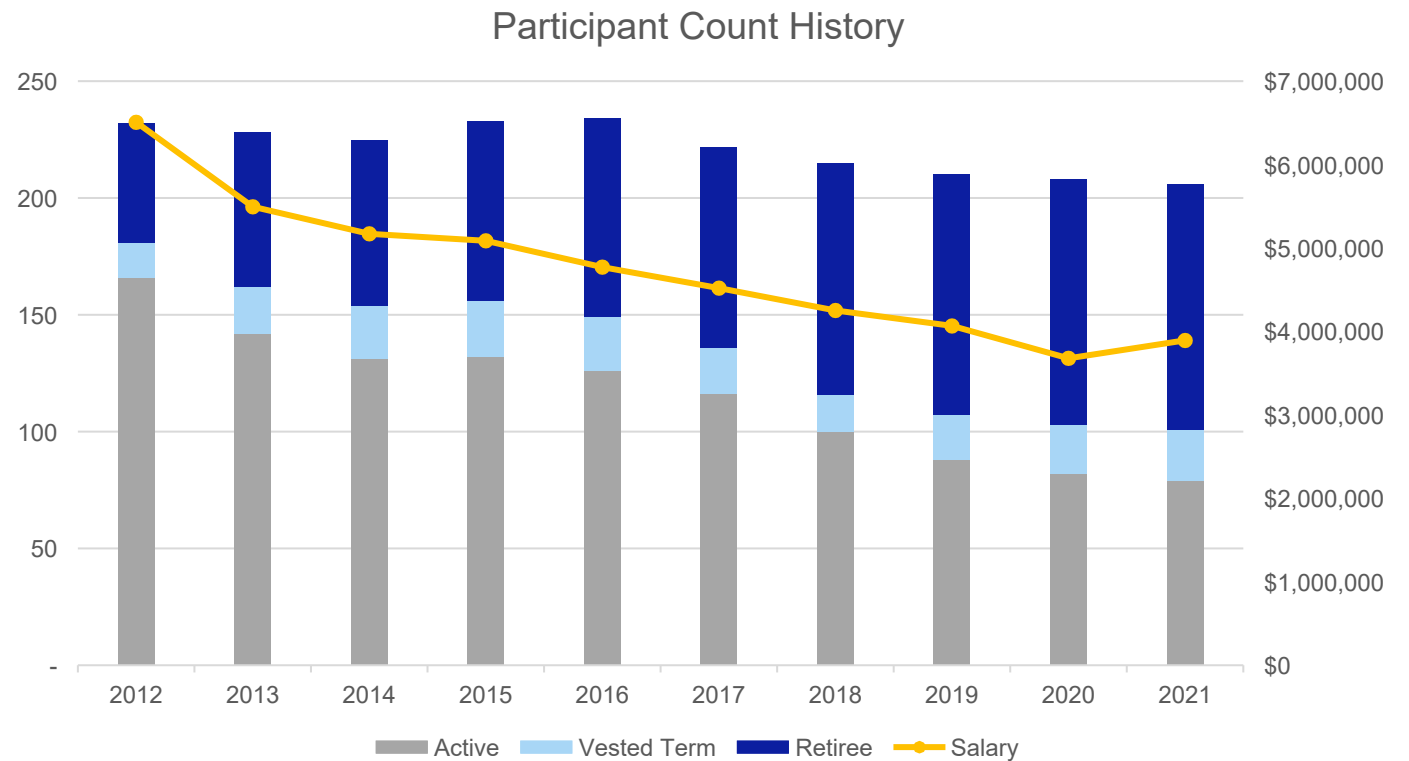
Contribution and Benefit Payment History



SUMMARY OF PLAN PARTICIPANTS

- Active – 79 (82)
- Vested Terminated – 14 (14)
- Due Refund – 8 (7)
- Retired – 105 (105)
- Total – 206 (208)

- 2020 statistics in ()



INVESTMENT PERFORMANCE OF THE TRUST FUND

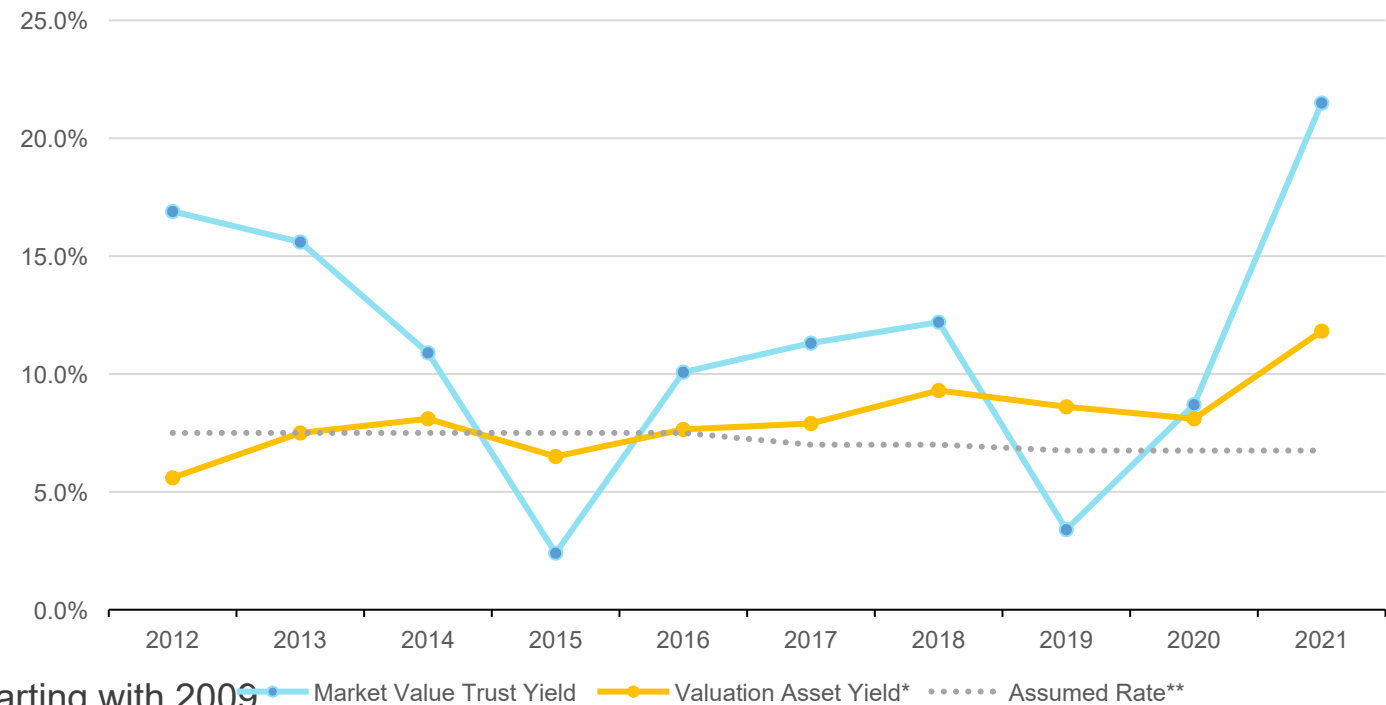
○ Market Value Trust Yield

- 9/30/2019 – 3.4%
- 9/30/2020 – 8.7%
- 9/30/2021 – 21.5%
- 2022 – 1.21% through 5 months

○ Valuation Asset Yield*

- 9/30/2019 – 8.6%
- 9/30/2020 – 8.1%
- 9/30/2021 – 11.82%
- 2022 – N/A

Asset Yield Comparison



* Valuation assets are smoothed over 5 years starting with 2009

** Assumed Rate 7.50% prior to 2016. Beginning 2017 the rate decreased to 7.00%, and in 2019 decreased to 6.75%

INVESTMENT PERFORMANCE OF THE TRUST FUND

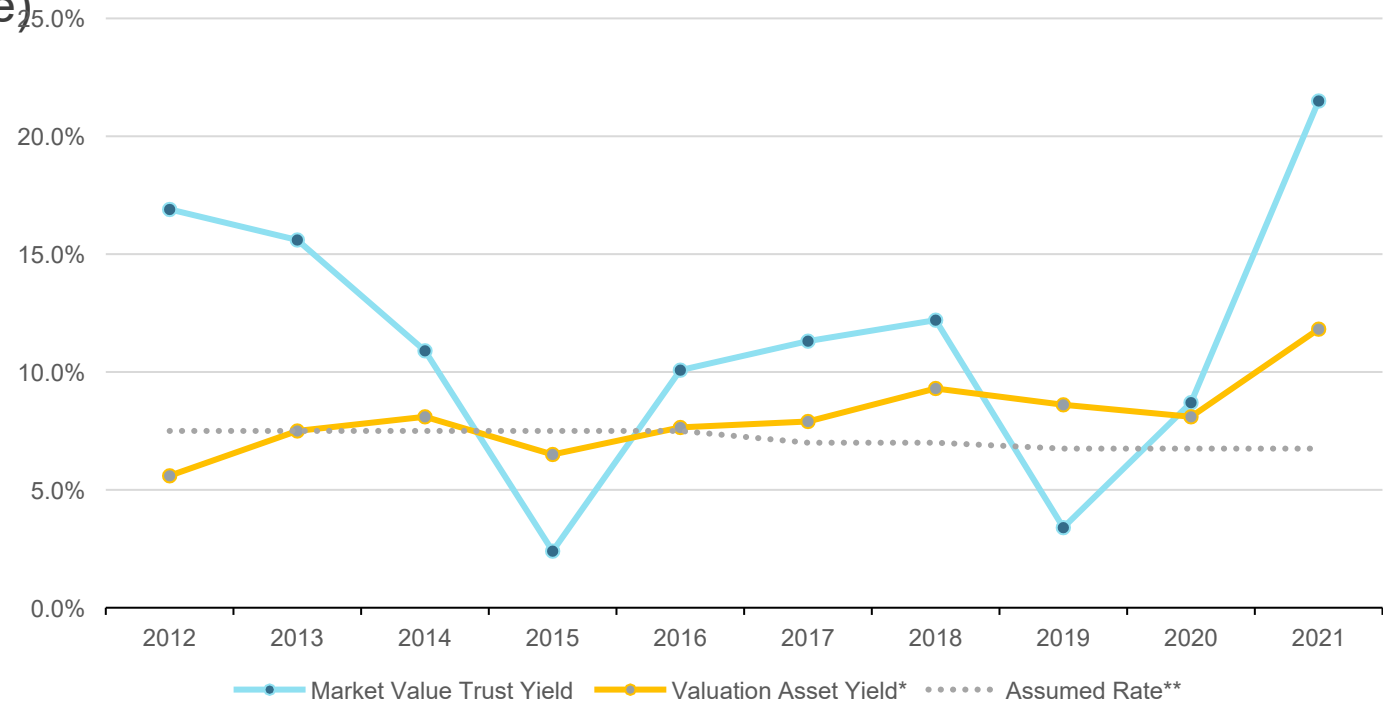
○ Composite Returns (Market Value)

- 3 year – 10.95%
- 5 year – 11.27%
- 10 year – 9.44%

○ Current Unrecognized Gains (for Valuation Asset Calculation)

- 2020 – \$ 725,625
- 2021 – \$4,198,322

Asset Yield Comparison



* Valuation assets are smoothed over 5 years starting with 2009

** Assumed Rate 7.50% prior to 2016. From 2017-19 the rate was 7.00%, and in 2019 decreased to



DGL & Associates

Actuarial Consulting, Pensions and 401(k) Design and Administration

David G. Leonard, ASA, LLC

January 31, 2022

City of Port Orange
General Employees Retirement Committee
Attn: Peter Ferreira, Chairman
1000 City Center Circle
Port Orange, FL 32129

Re: City of Port Orange General Employees
Defined Benefit Retirement Plan
Our File No. FL113

Dear Pete:

We are pleased to enclose the Annual Valuation Report for the above plan as of October 1, 2021. Our report contains a review of the plan operations for the 2020-2021 plan year as well as a look forward for the 2022-2023 plan year and beyond.

Our recommended contribution for the City for the 2022-23 fiscal year is 15.1%.

This rate is based on a phase in of a 6% interest rate over the next four years. The General Comments provides a detailed explanation of how this phase in should be able to be accomplished without significant increases in the contribution rate needed from the City.

Per the decision of the General Employees' Pension Committee, this report has been subject to a rigorous internal review, but has not been submitted to a third party actuary as in the past. Based on staffing changes in our office, we feel the internal processes have been upgraded to provide multiple checks and balances, by more than just the signing actuary.

If you have any questions or comments concerning this report, please feel free to give me a call at 386-206-8932.

Sincerely,

David G. Leonard, A.S.A.
Enrolled Actuary 20-03604

CITY OF PORT ORANGE GENERAL EMPLOYEES
DEFINED BENEFIT RETIREMENT PLAN

ACTUARIAL CERTIFICATION

We have prepared an actuarial valuation of the City of Port Orange General Employees Defined Benefit Retirement Plan as of October 1, 2021, with year-end status calculated for the fiscal year ended September 30, 2021. This certification includes this GAS-67/68 report, which reflects the provisions of the plan as disclosed in the Summary of Plan Provisions in the actuarial valuation report.

The valuation has been based on employee and plan financial data which were provided by the Plan Administrator, Plan Trustee, and various financial institutions. All information submitted to us has been reviewed for reasonableness and consistency, but has otherwise been accepted and relied upon without audit. The plan provisions and other material assumptions are disclosed as required in their respective sections. Projected improvements in mortality have been reflected in the usage of table Pub-10 (General Employees) projected with Scale MP-2020.

To the best of our knowledge, the information supplied in this report is complete and accurate. In our opinion, each actuarial assumption is reasonable (taking into account the experience of the plan and reasonable expectations) and such other assumptions, in combination, offer our best estimate of anticipated experience under the plan.

Future actuarial measurements may differ significantly from the current measurement presented in this report due to such factors as the following: plan experience differing from that anticipated; changes in economic or demographic assumptions; increases or decreases expected as part of the natural operation of the methodology used for these measurements (such as the end of an amortization period or additional cost or contribution requirements based on the plan's funded status); and changes in plan provisions or applicable law. The undersigned credentialed actuary meets the Qualification Standards of the American Academy of Actuaries to render the actuarial opinion contained herein.

I, David G. Leonard, A.S.A., E.A., am a member of the Society of Actuaries and meet the Qualification Standards of the American Academy of Actuaries to render the actuarial opinion contained here



David G. Leonard, A.S.A.

Enrollment #20-03604

1/31/22

Date

CITY OF PORT ORANGE GENERAL EMPLOYEES
DEFINED BENEFIT RETIREMENT PLAN

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CITY OF PORT ORANGE GENERAL EMPLOYEES
DEFINED BENEFIT RETIREMENT PLAN

I. HIGHLIGHTS

This section of the report summarizes the results of the October 1, 2021 actuarial valuation and provides a comparison with the results of the prior revised valuation. The development of these items for the current valuation is shown in the remaining sections of the report.

The Valuation Contribution sets the City's recommended contribution rates as a percentage of payroll for the year following the valuation year -i.e. the 2022-23 recommended rate is 15.1% based on the October 1, 2021 valuation results. The amounts shown in parenthesis represent percentages of payroll.

	Current Valuation (10/1/2021)		Prior Valuation (10/1/2020)	
1. a. Recommended Contribution	to be determined		\$887,696	(22.8%)
- dependant on total payroll in FY '2022				
b. Valuation Contribution - blended	\$574,275	(15.1%)	\$780,419	(21.7%)
- to be used for FYE 9/30/2023				
2. Actual Contribution	-----		\$966,934	(24.8%)
3. Covered Payroll of Participants				
- All active from prior year	\$3,893,403		\$3,678,337	
- Actives on Valuation Date only	\$3,796,331		\$3,597,076	
4. Gross Normal Cost (@6.75%)	\$473,018	(12.5%)	\$466,411	(13.0%)
5. Assets at Market Value (DB only) (including accrued contributions)	\$40,828,597		\$34,864,426	
6. Actuarial Value of Vested Accrued	Benefits - valued at 6.75%			
a. Active Participants	\$7,872,345		\$7,068,004	
b. Retired / Disabled	26,553,362		\$27,131,041	
c. Terminated Vested	<u>1,196,432</u>		<u>\$1,104,578</u>	
d. Total Value of Vested Accrued Benefits	\$35,622,139		\$35,303,623	
e. Value of Non-Vested Accrued Benefits for Active Participants	317,247		336,549	
f. Assets in Excess of Vested Benefits (5 minus 6d)	\$5,206,458		(\$439,198)	
7. Number of Participants				
a. Active Participants	76		79	
b. Late Retirements	3		3	
c. Retired & Disabled Participants and Beneficiaries Receiving Payments	105		105	
d. Terminated Vested Participants Not Yet Receiving Payments	22		21	
e. Total	<u>206</u>		<u>208</u>	

CITY OF PORT ORANGE GENERAL EMPLOYEES
DEFINED BENEFIT RETIREMENT PLAN

II. GENERAL COMMENTS

The October 1, 2021 valuation was prepared on a group of 79 active members, a decrease of three (3) from 2020. The pre-2012 plan actives decreased by three (3) to 63. The “new” plan population remained stable at 16 actives.

The 2020-2021 plan year saw trust asset gains of 21.5% at the same time that the financial experts' “Capital Market Assumptions” based on the trust’s asset mix fell to 5.8% for the 2022 plan year.

While it is impossible to really know how the trust will perform over the next several years, we can say for certain that the trend in pension plan accounting is to lower expectations in line with economic projections. We had looked at reducing the interest rate to 6.0% last year and it was tabled for a year to see how things looked, given the reasonably strong history of the trust’s assets through 2020.

With the exceptional year of 2021 in the books, we are presented with a rare opportunity to reduce the interest rate to 6% over a phased-in period and perhaps not have to raise the recommended contribution level by more than a percent or two – and that includes a significant reduction in the recommended rate for 2022-23 – from 21.7% this year to 15.1% for the 2022-23 plan year. The first year’s savings to the City should be about \$200,000.

What makes the transition to a 6.0% assumed rate (at no increase in cost) possible is the smoothed valuation asset calculation, which defers recognition of 20% of this year’s gains to each of the next four years. This would dovetail perfectly with a five year phase in to a 6% interest assumption, with this year’s valuation representing the first year fo the phase in process.

To put some numbers to the theory, it works out like this –

Total asset gain for 2021 (over 6.75% assumed) - \$4,198,322

Annual Recognition for 5 years - \$990,202

Scheduled total recognition (including prior bases) for 10/1/2022 valuation - \$1,206,403

Amortization of 2022 scheduled gain - \$159,049

Annual phase-in cost for 6% assumption - \$115,824 (includes amortization and normal cost)

Net change in recommended contribution – a decrease of \$43,225

If you look at the schedule on page 6, you will see scheduled gains averaging \$1,000,000 for 2023-2025 as well, which would take us through the phase in period.

What could throw a wrench into the works is a dramatic loss in assets during the period. So far this plan year through almost four months the trust is fairly flat (after a strong first quarter and a poor start to 2022). Any loss would also be recognized over 5 years, so the impact would be lessened.

Our strong recommendation is to adopt a 6.0% interest rate for 2021, to be phased in over five years. Page 7 shows the contribution calculations at both 6.75% and 6.0%, and the blended phase in level which is 15.1%. Note that adopting a lower interest rate will impact next year’s GASB funded position, as the cost phase in will not apply to GASB liabilities – they will be reported at 6% as of September 30, 2022.

CITY OF PORT ORANGE GENERAL EMPLOYEES
DEFINED BENEFIT RETIREMENT PLAN

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III. PLAN ASSETS

A. Summary

Beginning of Year <u>10/01/2020</u>		End of Year <u>09/30/2021</u>
\$ 700,481.96	Cash	\$ 623,289.04
213,115.55	Prepaid benefits	213,007.13
6,413,587.85	Fixed Income Securities	7,969,051.85
14,086,092.34	Equities - HCC / Bost.	14,976,836.71
4,085,912.07	Intl. Equity Mutual Fund	5,182,313.32
6,908,907.16	Principal Real Estate Trust	7,816,041.62
4,059,297.16	Florida Muni. Inv. Trust	5,427,862.53
51,734.16	Accrued Interest	67,969.29
<u>4,786.12</u>	Accrued Dividends	<u>5,000.40</u>
<u>\$ 36,523,914.37</u>	TOTAL (Market Value)	<u>\$ 42,281,371.89</u>

RECEIPTS

Employer Contribution	\$ 966,933.74
Mandatory Employee Contributions	292,005.24
Voluntary Employee Contributions	34,856.70
Other Income - Misc. Credits	0.00
Investment Earnings (incl. chg. accrued)	628,036.61
Realized Gains/(Losses)	<u>2,768,550.84</u>
TOTAL INCOME	<u>\$ 4,690,383.13</u>

DISBURSEMENTS

Benefit Payments	\$ 3,118,822.69
Investment Fees	138,862.41
Administrative Expenses	<u>83,073.64</u>
TOTAL EXPENSES	<u>\$ 3,340,758.74</u>
NET INCOME	<u>\$ 1,349,624.39</u>

CHANGE IN NET ASSETS

Unrealized appreciation (depreciation) in assets:	\$ 4,407,833.13
Net Income:	<u>1,349,624.39</u>
Net increase (decrease) in net assets for the year:	5,757,457.52
Net assets at beginning of year:	<u>\$ 36,523,914.37</u>
Net assets at end of year:	\$ 42,281,371.89

CITY OF PORT ORANGE GENERAL EMPLOYEES
DEFINED BENEFIT RETIREMENT PLAN

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III. PLAN ASSETS (Continued)

Asset Recap as of September 30, 2021:

	<u>Cost Value</u>	<u>Market Value</u>
Cash:	623,289.04	623,289.04
Bonds:		
US Treasury Obligations	1,065,957.62	1,057,743.95
US Government Obligations	2,727,793.88	2,745,559.70
Corp. & Foreign Bonds	3,794,243.51	3,777,881.05
Municipal Obligations	<u>386,092.50</u>	<u>387,867.15</u>
Total Bonds	7,974,087.51	7,969,051.85
Equities:		
International Equity Fund:	2,854,360.02	5,182,313.32
Real Estate Trust Account	4,950,000.00	7,816,041.62
Florida Municipal Inv. Trust	2,000,000.00	5,427,862.53
Prepaid Ret. Benefits	213,007.13	213,007.13
Accrued Dividends:	5,000.40	5,000.40
Accrued Interest:	67,969.29	67,969.29
Trust Totals	\$28,589,032.14	\$42,281,371.89

Assets Available for Defined Benefit Plan:

Total Market Value Assets (from above)	\$42,281,371.89
Less: Defined Contribution Accts.	(12,466.12)
Voluntary Contrib. Accts.	(1,440,308.43)
Net Assets Available for Defined Benefit Plan:	\$40,828,597.34

Breakdown of Distributions from Trust Account

Defined Benefit Payments	
- Monthly Benefits to Retirees and Beneficiaries	\$2,555,371.57
- Refunds of Prior Roll-In accounts and EE Cons.	<u>0.00</u>
Total Payments From Defined Benefit Plan	2,555,371.57
Payments To MPP Retirees and Termines	8,675.18
Distributions of Voluntary Accounts	<u>554,775.94</u>
Total Distributions for the September 30, 2021 P.Y.	\$3,118,822.69

DEFINED BENEFIT RETIREMENT PLAN

III. PLAN ASSETS (Continued)

B. Development of Valuation Assets (Actuarial Value of Assets)

The Actuarial Valuation of Assets is calculated by recognizing 20% of the current year's actuarial gain or loss (to the 6.75% assumed rate of return), along with recognition of prior year's gains or losses that are also being recognized 20% per year. The final Valuation Asset level is subject to a corridor of 80% to 120% of the Market Value.

The following illustrates the calculation of the Actuarial Value of Assets for October 1, 2021:

1. Assumed market value yield at valuation rate*	\$2,309,594
2. Actual MV Yield for September 30, 2021 **	7,260,604
3. Current Year (Gain)/Loss on Market value yield* (1) - (2)	(4,951,010)
4. Portion of Curr. Yr. (Gn)Loss to be Recog, in 2021 (3) x 20%	(990,202)
5. Portion of Current Years (Gain)/Loss Not Recognized in 2021	(3,960,808)
6. Prior Unrec. (Gains)/ losses - September 30, 2021 - see next page	(237,514)
7. Total Unrecognized (Gains)/Losses (5) + (6)	(4,198,322)
8. Market Value of Trust Assets as of September 30, 2021	40,828,597
9. Preliminary Actuarial Value of Assets - September 30, 2021 (7)+ (8)	\$36,630,276
10. (a) 80% corridor of Market Value	32,662,878
(b) 120% corridor of Market Value	48,994,317
11. Final Actuarial Value of Assets - September 30, 2021	\$36,630,276

The Preliminary Actuarial Value of Assets is 89.7% of the Market Value, and thus falls within the 80% to 120% corridor of actual September 30, 2021 Market Value.

The yield on Valuation Assets for the 2020-2021 Plan Year was 11.82%.

* Assumed income is calculated based on a weighted balance which takes into account the date that the contributions and distributions are made to the fund.

** All items shown exclude the Money Purchase Plan assets. There were no receivable contributions as of the end of the fiscal year.

CITY OF PORT ORANGE GENERAL EMPLOYEES
DEFINED BENEFIT RETIREMENT PLAN

III. PLAN ASSETS (Continued)

B. History of Valuation Assets Gains & Loss Recognition

The Valuation Asset calculation spreads out gains and losses over a five year period. As such, in any given year gains or losses from five different years are in the process of being recognized, while amounts remain unrecognized waiting for future years' calculations.

The table below displays the bases in use this year, as well as reporting on the current unrecognized status of prior gains and losses, with their scheduled recognition dates.

Initial Year of Base	<u>(Gain) or Loss</u> (a)	Recognition for 2021 <u>Valuation</u> (b)	Amts. recog. in Val. Asset Calc. <u>thru 9/30/2021</u> (c)	Deferred Recognition as of <u>Sept. 30, 2021</u> (a) - (c)	Remaining <u>Fut. Years</u>
2017	(1,359,560)	(271,912)	(1,359,560)	0	0
2018	(1,615,154)	(323,031)	(1,292,124)	(323,030)	1
2019	1,174,863	234,973	704,919	469,944	2
2020	(640,713)	(128,143)	(256,285)	(384,428)	3
2021	<u>(4,951,010)</u>	<u>(990,202)</u>	<u>(990,202)</u>	<u>(3,960,808)</u>	4
Totals	(\$7,391,574)	(\$1,478,315)	(\$3,193,252)	(\$4,198,322)	

Recognition for 2021 Valuation - a negative number indicates gains that impacted the valuation calculation this year. See below for the expected impact in future years.

Deferred recognition as of September 30, 2021 - this number is added to (or subtracted from) the market value of the assets to determine the valuation basis.

Scheduled recognition dates for current bases in future actuarial value of assets calculations and expected unrecognized balances:

	Recog. in Year	<u>Exp. Unrecognized</u>
2022	(\$1,206,403)	(2,991,918)
2023	(883,372)	(2,108,547)
2024	(1,118,345)	(990,202)
2025	(990,202)	0

Negative amounts in the chart above represent gains to be recognized or deferred.

Note that future years' gains and losses will be added, as they are recognized, to the amounts shown in the above schedule.

CITY OF PORT ORANGE GENERAL EMPLOYEES
DEFINED BENEFIT RETIREMENT PLAN

IV. (a) RESULTS OF THE ACTUARIAL VALUATION AS OF OCTOBER 1, 2021

CALCULATED AT 6.00% AND 6.75%

These are the calculations for the October 1, 2020 Valuation Report under the Entry Age Normal Funding Method, as the basis for the Fiscal Year 2022-23 contribution rate.

	6.75% - 2021	6.00% - 2021
1. Entry Age Accrued Liability:		
a. Active Participants*	\$12,269,336	\$13,874,436
b. Retired	26,553,362	28,204,487
c. Terminated Vested/Refunds Due	<u>1,196,432</u>	<u>1,261,287</u>
Total Accrued Liability - 10/01/2021	\$40,019,130	\$43,340,210
2. Assets - October 1, 2021 (Smoothed Valuation Basis):	\$36,630,276	\$36,630,276
3. Unfunded Accrued Liability - 10/01/2021 (1. minus 2.):	\$3,388,854	\$6,709,933
4. Amortization of Unfunded Accrued Liability <i>- see next page for history of bases and amortization.</i>	\$222,858	\$592,769
5. Entry Age Normal Cost*:	\$473,018	\$566,402
6. Covered Annual Payroll:	\$3,796,331	\$3,796,331
7. Expected Employee Contributions (7.5% x 6. incr. by 2%)*:	\$290,419	\$290,419
8. Net Normal Cost (5. less 7.):	\$182,598	\$275,983
9. Expected Administrative Expenses:	\$60,000	\$60,000
10. Interest (50% of Interest rate times (4+8)):	\$13,684	\$26,063
11. Net Employer Contribution (7. minus 8. plus 9. plus 10.)	\$479,141	\$954,814
Contribution percentage:	12.62%	25.15%
* - Active liabilities and Normal Cost reduced 2% for 27 payroll year in 2020-21.		
12 Blended Net Employer Contribution (11. weighted at 80% of the 6.75% results and 20% of the 6.00% results)	\$574,275	
Blended contribution percentage:	15.13%	

CITY OF PORT ORANGE GENERAL EMPLOYEES
DEFINED BENEFIT RETIREMENT PLAN

IV. ANNUAL VALUATION -OCTOBER 1, 2021

b. Summary of Funding Bases

Summary of Funding Bases	Initial Base	Rem. Bal. -21	Minimum Amort. - 6.75%	Minimum Amort. - 6.0%
Initial Base - 10/1/20	\$ 6,633,736	\$ 6,001,345	\$ 575,235	\$ 507,402
Experience (Gain)/Loss - 2020	\$ (894,518)	\$ (801,328)	\$ (117,931)	\$ (111,144)
Assumption Changes (Mort) - 2020	\$ 315,524	\$ 282,653	\$ 41,598	\$ 39,204
Experience (Gain)/Loss - 2021	\$ (2,093,815)	\$ (2,093,815)	\$ (276,044)	\$ (268,380)
Assumption Changes (6%) - 2021	\$ 3,321,079	\$ 3,321,079		\$ 425,687
Totals	\$ 7,282,006	\$ 6,709,933	\$ 222,858	\$ 592,769

Funding Bases shown at both 6.75% and 6.0%.
Initial base minimum amortization is 20 years,
future bases amortized over 10 years.

Remaining Balance at 6.75% - 3,388,854

CITY OF PORT ORANGE GENERAL EMPLOYEES
DEFINED BENEFIT RETIREMENT PLAN

V. ANNUAL VALUATION - OCTOBER 1, 2021

GASB Statement 67 and FASB
Statement 35/36 Information

I. PENSION BENEFIT OBLIGATION (Accd. Liability) - GAS-67

a. Retirees/Benefic./Terminated	\$27,749,794
b. Current Employees	
i. EE Contr. & Intr.	4,041,664
ii. ER Financed Vested	7,940,855
iii. ER Financed Non-Vested	532,204
iv. Current Employees total	<u>12,514,723</u>
c. TOTALS (a. + b.iv)	40,264,517
d. ASSETS - Market Value	40,828,597
e. FUNDED RATIO (10/1/2021)	101.40%
f. FUNDED RATIO (10/1/2020)	84.97%

*Note: Above calculations have been based on Entry Age
Accrued Liability Per GAS-67. Please see full GAS report.
- Based on 6.75% Interest - RP-2000/Proj. BB Mortality
Amounts will differ from GAS-67 Report, which uses projections.*

II. PRESENT VALUE OF ACCRUED BENEFITS (PVAB) (FAS-35)

a. Retirees/Benefic./Terminated	\$27,749,794
b. Current Employees	
i. EE Contr. & Intr.	4,041,664
ii. ER Financed Vested	3,830,681
iii. ER Financed Non-Vested*	317,247
iv. Current Employees total	<u>8,189,592</u>
c. TOTALS (a. + b.iv)	35,939,386
d. ASSETS - Market Value	40,828,597
e. FUNDED RATIO (10/1/2021)	113.60%
f. FUNDED RATIO (10/1/2020)	95.59%

* Breakdown of Non-Vested PVAB:

- Basic Benefit	\$33,734
- Supl. Benefit	283,513

*- Based on 6.75% Interest - 2020 M/F Post Retirement Mortality for
Actives and GASB Assumptions for Retirees and Vested Terminateds.
- Note PVAB does not take into account potential ER Subsidies.*

CITY OF PORT ORANGE GENERAL EMPLOYEES
DEFINED BENEFIT PENSION PLAN

VI. CURRENT YEAR MEMBERSHIP SUMMARY

	Active		Total Actives	Vested Term	Due Refund	Retired	Total
	Old Plan	New plan					
Count as of 10/1/2020	66	16	82	14	7	105	208
New Entrants	-	-	-	-	-	-	-
Rehired	-	-	-	-	-	-	-
NVT-not pd	-	-	-	-	-	-	-
VT-not pd	(1)	-	(1)	-	1	-	-
Retirement	(2)	-	(2)	-	-	2	-
Death*	-	-	-	-	-	-	-
Benefits Cease	-	-	-	-	-	(2)	(2)
Refund paid (VT/NVT)	-	-	-	-	-	-	-
Net Change	(3)	-	(3)	-	1	-	(2)
Count as of 10/1/2021	63	16	79	14	8	105	206

* (Deaths do not include decrease if certain pd. or survivor benefit in pay status)

Active Data Statistics

	October 1, 2021	October 1, 2020
Old Plan		
Count	63	66
Average Age	54.1	53.2
Average Service	18.8	17.7
New Plan		
Count	16	16
Average Age	49.1	48.2
Average Service	6.0	5.0
Total Actives		
Count	79	82
Average Age	53.1	52.2
Average Service	16.2	15.2

CITY OF PORT ORANGE GENERAL EMPLOYEES
DEFINED BENEFIT RETIREMENT PLAN

VII. HISTORICAL INFORMATION

Plan Year Beginning	Participants Act. - Ret		- Tm.	Prior Year's Compensation*	Present Val. of Projected Benefits	Market Val. Assets+	Estimated Rec. Employer Contribution	(**)	Actual Contribution
10/01/2003	182	0	0	6,246,033	22,424,281	8,394,944	686,325	(10.99%)	752,491
10/01/2008	187	30	14	7,275,289	36,406,576	15,617,889	1,291,191	(17.75%)	1,199,567
10/01/2012	166	51	15	6,507,751	35,596,456	21,929,057	753,666	(11.58%)	936,378
10/01/2013	142	66	20	5,495,483	35,975,969	25,412,531	695,221	(12.65%)	702,741
10/01/2014	131	71	23	5,170,450	37,913,315	27,474,544	673,138	(13.02%)	673,300
10/01/2015	132	77	24	5,086,853	38,700,514	27,330,202	819,964	(16.12%)	880,209
10/01/2016	126	85	23	4,771,266	38,611,237	29,289,164	744,380	(15.60%)	794,333
10/01/2017	116	86	20	4,520,075	39,816,837	31,581,532	781,946	(17.30%)	735,559
10/01/2018	100	99	15	3,983,964	42,415,492	33,851,007	849,452	(21.32%)	866,364
10/01/2019	88	103	19	3,684,638	42,791,761	33,479,719	849,717	(23.06%)	849,692
10/01/2020	82	105	21	3,597,076	43,818,616	34,864,426	819,745	(22.79%)	966,934
10/01/2021	79	105	22	3,796,331	43,784,814	40,828,597	823,650	(21.70%)	-----

NOTE: VALUES PRIOR TO 10/01/2005 WERE PREPARED BY PRIOR ACTUARY

* Compensation shown is actual for the fiscal year preceeding the valuation date for active members only. Current year recommended contribution based on Compensation and recommended contrib. rate. Comp. for Members who terminated or retired in the prior 12 months are not included in this total.

+ Assets are Defined Benefit Plan only.

** Figure in parenthesis is Recommended Contribution level from prior yrs. Valuation.

CITY OF PORT ORANGE GENERAL EMPLOYEES
DEFINED BENEFIT RETIREMENT PLAN

IX. RETIREMENT STATUS

A. ACTIVE PARTICIPANTS ELIGIBLE TO RETIRE WITHIN THE NEXT FIVE YEARS

<u>Name</u>	<u>Normal Retire. Date*</u>	<u>Early Retire. Date*</u>	<u>Projected Benefit</u>	<u>Accrued Benefit</u>
<i>- Eligible for Normal Retirement within 5 years. (benefits shown do not include Sup.)</i>				
PEARSON, DEBORAH J	10/01/2021	10/01/2021	\$2,390.57	\$2,390.57
REED, BARBARA J	10/01/2021	10/01/2021	1,108.67	1,108.67
+ SCHARF, MICHAEL J	10/01/2021	10/01/2021	2,269.59	2,269.59
LE CLAIR, ROBERT G	11/01/2021	10/01/2021	737.40	737.40
SMITH, RICHARD W	04/01/2022	10/01/2021	999.09	999.09
BROWN, DOUGLAS G	07/01/2022	10/01/2021	905.69	839.81
+ SALERNO, PAUL	07/01/2022	10/01/2021	3,408.95	3,233.30
HENDRIETH, IZELL A	08/01/2022	10/01/2021	643.17	575.50
HUPF, DEBORAH K	08/01/2022	10/01/2021	1,138.24	1,050.01
PISKURA, JAMES	08/01/2022	10/01/2021	574.72	528.80
LEONG, VINSON P	02/01/2023	10/01/2021	1,425.51	1,320.40
GREEN, JOHNNIE M	10/01/2023	10/01/2021	2,229.68	1,821.10
KALISIAK, IWONA M	12/01/2023	10/01/2021	1,099.88	928.37
LANNI, DEBORAH M	03/01/2024	10/01/2021	1,119.19	1,047.70
+ CAMACHO, RIGOBERTO L	04/01/2024	10/01/2021	2,465.39	2,200.81
DILLON, JAMES	05/01/2024	09/03/2022	473.06	339.34
KREINER, JOSEPH W	05/01/2025	04/06/2025	467.88	264.20
FRAZIER, ROBERT A	08/01/2025	10/01/2021	1,252.30	948.82
GUNNLAUGSSON, JULIE	09/01/2025	10/01/2021	1,226.46	896.66
MACKEY, JOHN A	12/01/2025	10/01/2021	861.72	595.63
+ GUENTHER, JEFFREY S	03/01/2026	10/01/2021	2,897.94	2,205.68
VANTHOFF, DAVID K	04/01/2026	10/01/2021	1,399.41	1,021.32
NELSON, KEITH A	04/01/2026	09/08/2024	451.20	234.63
ZWENGER, STEVEN J	10/01/2026	10/01/2026	384.09	176.30

- Eligible for Immediate Early Retirement with 25 years of service (under age 60)

+ COCKCROFT, KYNAH R	12/01/2027	10/01/2021	3,599.24	2,750.63
+ DRIVER, STEPHEN P	07/01/2028	10/01/2021	4,320.70	3,248.66
+ WILLIAMS, DERRICK R	11/01/2028	10/01/2021	3,810.02	2,751.53
+ ALLMAN, SCOTT	06/01/2030	10/01/2021	4,835.54	3,669.14
+ HALL, JOHN L	12/01/2030	10/01/2021	3,766.79	2,567.05

+ Attained 25 or more years of Service

CITY OF PORT ORANGE GENERAL EMPLOYEES
DEFINED BENEFIT RETIREMENT PLAN

IX. RETIREMENT STATUS (Con't)

A. ACTIVE PARTICIPANTS ELIGIBLE TO RETIRE WITHIN THE NEXT FIVE YEARS

- *Eligible for Early Retirement with 25 years of service within 2 years.*

- * Mark Doud
- * Cheryl Wiedel

+ Has already attained 25 years of service, but not age 55.

* Currently eligible for Early Retirement with less than 25 years of service.

- *Others Eligible for Immediate Early Retirement (less than 25 yrs, no supplemental benefit)*

Baldwin, Andrew
Hood, Lewis J

Meadows, Richard
Tischler, Allan

Wiggins, Robert

B. TERMINATED/INACTIVE with REFUNDS of CONTRIBUTIONS DUE

<u>Name</u>	<u>Termination Date</u>	<u>Refund Due</u>
Myron Colby	12/16/2019	\$4,626.60
Edward Curry	10/21/2018	8,320.56
Shawn Eisenmann	08/22/2021	30,470.00
William Farley	10/14/2004	858.50
David Ferguson	05/11/2007	2,442.25
William McCord	03/21/2014	22,155.26
Lee McFarland	08/28/2008	58.85
Jeffrey Starr	11/05/2004	556.24
Totals		\$69,488.26
Additional second payments due:		<u>161.84</u>
Grand Total:		\$69,650.10

CITY OF PORT ORANGE GENERAL EMPLOYEES
DEFINED BENEFIT RETIREMENT PLAN

IX. RETIREMENT STATUS (Cont.)

C. Terminated Participants Eligible For Future Benefits

<u>Name</u>	<u>Termination Date</u>	<u>Normal Retirement Date</u>	<u>Monthly Benefit at NRD</u>	<u>Present Value ** of Benefits (October 1, 2021)</u>
J. Aiken	01/02/2013	07/01/2029	121.38	12,979 +
K. Donahue	09/07/2016	04/01/2032	1,968.11	134,647
D. Foster	06/14/2013	09/01/2035	908.31	50,750
R. Jacquish*	02/17/2006	02/01/2029	476.78	41,775
M. Kosko	11/27/2020	02/01/2034	1,099.80	66,234
M. Kronenberg*	06/08/2007	12/01/2026	976.10	97,096
K. Leuzinger*	08/05/2016	09/01/2026	1,749.44	164,332
T. London	09/13/2020	05/01/2038	1,069.12	49,280
H. McDonald	04/19/2018	07/01/2035	565.00	31,568
K. Mouyard	04/05/2006	10/01/2026	189.53	17,803
C. Rowles*	09/18/2020	09/01/2027	555.86	48,991
R. Smith*	03/08/2013	01/01/2028	2,788.24	245,745
D. Thames*	10/23/2013	02/01/2024	1,026.98	123,970
D. Trainor	02/18/2015	09/01/2027	446.02	41,613
			\$13,940.67	\$1,126,782

* *Eligible for immediate early retirement.*

** *Using Pub-10G mortality tables with projection MP-20 and 6.75% interest.*

+ *Employee contributions greater than actuarial present value of accrued benefit.*

CITY OF PORT ORANGE GENERAL EMPLOYEES
DEFINED BENEFIT RETIREMENT PLAN

IX. RETIREMENT STATUS (Cont.)

D. Retired and Disabled Participants Receiving Monthly Benefits

<u>Retired (and beneficiaries)</u>		Actual	Optional	Monthly	Present Value*
<u>Name</u>	<u>Age</u>	<u>Retirement Date</u>	<u>Form</u>	<u>Pension</u>	<u>of Benefits (October 1, 2021)</u>
BARNES, BILLY C	64	10/01/2016	Life	\$3,368.98	\$444,607
BARNHART, ELIZ.	66	01/01/2013	Life	3,758.64	505,878
BECKMAN, BRUCE	70	01/01/2018	Life	4,380.36	503,901
BIZUB, JOSEPH P	68	05/01/2017	Life	575.71	69,722
BLACKKEY, WILLIAM	72	08/01/2011	100% J&S	492.27	68,431
BOWEY, JANET	79	03/01/2011	Life	169.24	15,614
BREAKS, ROBERT	79	07/01/2008	Life	708.87	58,979
CADY, ANNA	67	01/01/2011	10 C&L	2,808.30	371,049
CAMPBELL, CATHERINE	61	09/01/2025	50% J&S	1,072.22	162,955
CERIBELLI, BETTY G	77	04/01/2016	Life	1,130.74	112,580
CHAMBERLAIN, KATHLEE	70	12/01/2014	Life	803.75	99,169
CONFORTI, JAMES	78	04/01/2014	100% J&S	611.91	76,148
COOPER, WALTER	73	09/01/2013	Life	1,453.46	152,588
CULPEPPER, DEBORAH L	65	01/01/2018	Life	2,281.32	312,759
DALY, JAMES	48	10/01/2019	Life	518.86	83,717
DAY, ROBERT (ben)	68	10/16/2012	Life	2,228.05	288,287
DE SOUSA, JOAQUIN	64	03/01/2017	Life	2,602.18	343,412
DEARBORN, DENNIS	78	07/01/2008	Life	1,409.73	122,562
DYER, JEFFREY J	66	06/01/2017	100% J&S	719.05	104,352
ELLIS, bene of RUBIN	82	07/01/2004	Life	893.52	72,117
FERGUSON, BRUCE A	58	10/01/2019	10 C&L	3,248.45	476,520
FINDLEY, CINDY (ben)	62	10/01/2005	Life	423.80	57,965
FOSTER, JAMES	78	04/01/2011	Life	4,032.48	350,584
FRANKLIN, JAMES	70	07/01/2013	50% J&S	3,805.31	494,567
FUHRMAN, FRANK	75	05/01/2013	Life	3,320.02	325,913
GENO, WILLIAM J	62	02/01/2018	100% J&S	1,064.77	163,562
GLOR, CHAPMAN K	60	01/01/2018	Life	3,094.42	436,379
GRABOWSKI, DEBBIE G	66	01/01/2018	Life	2,313.41	311,716
GRIFFITH, FRED W	64	09/01/2015	Life	4,543.01	598,732
GRIMM, SANDRA	83	01/01/2004	Life	1,428.58	109,540

* Using Pub-10(g) Mortality with MP-2020 Projection, and 6.75% interest.

Note: Monthly Amounts include Supplemental Retirement Benefits where applicable.

The Supplemental benefits are Life Only (thus not subject to selected option shown).

CITY OF PORT ORANGE GENERAL EMPLOYEES
DEFINED BENEFIT RETIREMENT PLAN

IX. RETIREMENT STATUS (Cont.)

D. Retired and Disabled Participants Receiving Monthly Benefits

<u>Retired (and beneficiaries)</u>		Actual	Optional	Monthly	Present Value*
<u>Name</u>	<u>Age</u>	<u>Retirement Date</u>	<u>Form</u>	<u>Pension</u>	<u>of Benefits (October 1, 2021)</u>
GROOM, REBECCA	71	10/01/2010	100% J&S	2,457.09	323,885
GROOM, WILLIAM	73	01/01/2008	100% J&S	\$2,253.96	\$290,653
GURNEE, STELLA	67	08/01/2014	75% J&S	1,321.01	187,467
HACKER, LEE ANN (bene)	49	11/01/2010	Life	395.50	64,984
HAMMONS, ELIZABETH	75	02/01/2013	Life	1,596.60	170,558
HILL, DANIEL T	71	04/01/2016	100% J&S	2,219.23	281,264
HOPKINS-PEACE, KRYS.	67	09/01/2013	10 C&L	1,586.62	209,623
HUNTT, STEVEN	71	10/01/2010	100% J&S	2,793.36	389,290
JOHNSON, LINDA D (DROP)	67	09/01/2019	50% J&S	1,877.83	257,169
KELLY, SHIRLEY	74	10/01/2010	Life	3,469.66	382,829
KINCAID, KATHRYN	83	10/01/2008	10 C&L	1,377.13	105,595
KLIMEK, FRANK	83	05/01/2004	10 C&L	1,802.47	123,267
KOCH, MIKE	68	03/01/2013	50% J&S	3,530.36	491,041
KOSUTA, CHRIS	63	11/01/2013	50% J&S	1,851.28	261,325
KUCERA, CHRISTOPHER	71	02/01/2016	Life	3,239.20	361,696
KUSHMAUL, ROGER N	70	04/01/2017	Life	456.29	52,407
LEFTWICH, GLENDA	76	01/01/2011	10 C&L	1,033.35	106,675
LEVINE, STEVEN	63	06/01/2013	100% J&S	2,579.16	400,007
LOCKABY, PAUL M	61	08/01/2018	Life	2,489.25	345,635
MADORMA, MICHAEL	62	10/01/2024	Life	1,205.25	164,628
MATASSA, ROBERT T	66	10/01/2019	100% J&S	2,498.33	366,856
MAY, ROGER (bene)	68	03/01/2011	Life	775.98	93,838
MC CURRY, DENNIS	67	07/01/2011	Life	2,517.57	312,135
MC NULTY, JOHN	78	07/01/2008	50% J&S	980.89	93,723
MICHAELS, HAROLD R	68	09/01/2018	50% J&S	917.82	127,135
MILHOLEN, ELLEN	71	10/01/2008	10 C&L	3,050.53	367,510
MILLER, CARMEN L	66	01/01/2018	Life	1,313.64	176,804
MILLER, LEE C	75	08/01/2015	100% J&S	505.28	66,193
MONNING, WILLIAM (be	82	10/01/2007	Life	1,445.22	104,393
NORRIS, GARY (bene)	80	09/01/2008	Life	2,155.45	190,163

* Using Pub-10(g) Mortality with MP-2020 Projection, and 6.75% interest.

Note: Monthly Amounts include Supplemental Retirement Benefits where applicable.

The Supplemental benefits are Life Only (thus not subject to selected option shown).

CITY OF PORT ORANGE GENERAL EMPLOYEES
DEFINED BENEFIT RETIREMENT PLAN

IX. RETIREMENT STATUS (Cont.)

D. Retired and Disabled Participants Receiving Monthly Benefits

<u>Retired (and beneficiaries)</u>		Actual	Optional	Monthly	Present Value*
<u>Name</u>	<u>Age</u>	<u>Retirement Date</u>	<u>Form</u>	<u>Pension</u>	<u>of Benefits (October 1, 2021)</u>
ODDIE, WILLIAM	73	04/01/2014	Life	2,726.69	286,799
PALLANTE, LISA A	59	10/01/2019	Life	850.61	127,466
PALMER, ROBERTA	77	10/01/2010	Life	3,673.00	366,510
PARKER, KENNETH	75	10/01/2012	100% J&S	\$5,508.77	\$622,069
PARKER, MARY E	66	01/01/2018	Life	2,449.66	330,075
PARSONS, JANICE	70	10/01/2011	100% J&S	3,909.02	531,972
PEACE, MICHAEL	63	09/01/2013	50% J&S	3,140.90	445,079
PIKE, WARREN	62	02/01/2015	10 C&L	3,721.69	509,675
POTTS, WILFORD	82	10/01/2008	Life	1,040.28	74,929
REDFIELD, ROSEMARY	71	01/01/2013	10 C&L	593.38	71,407
RILEY, PAUL E	64	11/01/2015	Life	3,116.61	411,301
ROBERTS, VERONICA	75	02/01/2007	Life	1,015.38	108,469
ROREM, STEVEN	72	08/01/2014	Life	1,648.52	178,648
SCHULZ, SHARI (bene)	65	02/01/2006	Life	739.04	95,512
SHEFFIELD, HENRICA	71	11/01/2013	Life	2,288.10	275,222
SHELLEY, JOHN	64	02/01/2013	75% J&S	4,595.68	673,438
SHERIDAN, LINDA	68	07/01/2008	10 C&L	2,173.28	280,845
SHEWARD, THOMAS	69	10/01/2008	10 C&L	2,202.38	259,758
SHROYER, TERRY	71	12/01/2005	100% J&S	1,203.68	153,841
SIMMONS, THOMAS	74	10/01/2010	Life	2,507.28	254,506
SITES, CARL E	60	11/01/2019	10 C&L	445.14	63,728
SKEENS, SANDRA (ben)	71	07/01/2008	Life	1,763.20	196,883
SOLANA, ROBERT W	66	12/01/2016	100% J&S	2,884.50	431,370
STEFANICK, MICHAEL	71	12/01/2015	Life	56.07	6,261
STEINEBACH, DONNA	61	08/01/2015	50% J&S	4,907.78	735,164
STUHR, DONALD	75	06/01/2013	100% J&S	1,249.53	152,482
SUTTON, ROBERT	75	05/01/2013	Life	596.47	58,426
THOMAS, MITCHELL A	60	04/01/2017	Life	2,621.57	369,697
TOWEY, RICHARD	72	04/01/2016	75% J&S	3,563.43	449,719
TREON, SHIRLEY	64	02/01/2013	Life	2,416.28	337,038

* Using Pub-10(g) Mortality with MP-2020 Projection, and 6.75% interest.

Note: Monthly Amounts include Supplemental Retirement Benefits where applicable.

The Supplemental benefits are Life Only (thus not subject to selected option shown).

CITY OF PORT ORANGE GENERAL EMPLOYEES
DEFINED BENEFIT RETIREMENT PLAN

IX. RETIREMENT STATUS (Cont.)

D. Retired and Disabled Participants Receiving Monthly Benefits

<u>Retired (and beneficiaries)</u>		<u>Actual</u>	<u>Optional</u>	<u>Monthly</u>	<u>Present Value*</u>
<u>Name</u>	<u>Age</u>	<u>Retirement</u> <u>Date</u>	<u>Form</u>	<u>Pension</u>	<u>of Benefits</u> <u>(October 1, 2021)</u>
TROUTMAN, THOMAS C	71	07/01/2016	Life	3,665.25	409,269
TURNER, LARRY	71	10/01/2008	Life	1,463.71	163,441
VAN ARSDALE, WAYNE	75	02/01/2010	Life	491.09	48,208
WALKER, GLEN	75	10/01/2007	10 C&L	3,477.10	340,592
WALKER, RUSSELL (bene)	70	05/01/2014	Life	518.96	64,031
WILSON, JUDITH	77	10/01/2009	Life	2,506.31	249,536
WILSON, RICK T	58	10/01/2019	Life	3,961.44	574,879
WILSON, STEPHEN(bene)	69	08/01/2015	Life	157.09	19,851
WOLF, KENNETH R	63	10/01/2016	Life	2,480.26	332,955
WOLF, STEVEN	65	07/01/2011	Life	2,679.15	346,247
YOUNG, LORI A	59	01/01/2018	Life	991.88	148,636
ZUBER, NANCY D	61	01/01/2018	Life	3,125.07	456,728
ZUBER, THOMAS M	66	12/01/2017	Life	643.14	81,406
ZURAWSKI, MARCEDA	69	02/01/2015	Life	1,455.77	184,207
<u>Disabled</u>					
TAYLOR, GERALD (dis)	76	08/01/2004	10 C&L	1,187.68	112,036
Totals				\$213,369	\$26,553,362

* Using Pub-10(g) Mortality with MP-2020 Projection, and 6.75% interest.

CITY OF PORT ORANGE GENERAL EMPLOYEES
DEFINED BENEFIT RETIREMENT PLAN

APPENDIX A

PENSION TRUST SUMMARY

PLAN SPONSOR: CITY OF PORT ORANGE
TRUSTEE(S): FIRST STATE TRUST COMPANY
EFFECTIVE DATE: OCTOBER 1, 2003 (Restated as Defined Benefit)
ANNIVERSARY DATE: OCTOBER 1 OF EACH YEAR

DEFINITIONS

Compensation: Basic annual income excluding overtime, commissions and bonuses, but including all tax deferred or tax exempt items of compensation.

The normal retirement benefit shall be determined based on average compensation over the highest five consecutive years within the final ten years prior to retirement or termination. (“Modified” benefit participants are averaged over the highest consecutive eight years – see below regarding who is a Modified benefit participant.)

Accrued Benefit: The normal retirement benefit based on completed years of Credited Service at the time of the calculation.

Credited Service: Service as measured in full years and completed months from date of employment to date of retirement or termination.

Retirement Dates:

- Normal:** A participant shall retire on the first day of the month coinciding with or next following his 65th birthday or 10th year of service, whichever is later.
- Early:** A participant who has attained age 55 and completed 10 years of credited service may elect to retire before his normal retirement date.
- Disability:** Any participant who becomes totally and permanently disabled shall be entitled to monthly payments.

Eligibility: An employee who is not age 60 as of his Date of Employment shall be eligible to participate in the plan on that date. Effective 10/01/2010, new non-union (civil service) employees are not eligible to participate in this plan. New Participants after January 1, 2012 will earn benefits under new “Modified” provisions, which are specified below. The Plan is currently closed to all new employees.

CITY OF PORT ORANGE GENERAL EMPLOYEES
DEFINED BENEFIT RETIREMENT PLAN

PENSION TRUST SUMMARY (Continued)

Normal Retirement Benefit:

Participants Hired Prior to January 1, 2012

- (1) Upon retirement, a participant shall be entitled to a monthly pension equal to 2.00% (2.12% for years up to 9/30/09) of his average monthly compensation for each year of Credited Service at his normal retirement date. The Normal Form of benefit is Life Only.

Plus

- (2) a Supplemental Benefit equal to \$16 per year of Service completed prior to September 30, 2009.

Participants Hired After January 1, 2012 (Modified Normal Retirement Benefit)

Upon retirement, a participant shall be entitled to a monthly pension equal to 1.60% of his average monthly compensation for each year of Credited Service at his normal retirement date. The Normal Form of benefit is Life Only.

Early Retirement Benefit:

Upon retirement at his early retirement date, a participant shall receive his accrued benefit reduced 1/4 of 1% for each month by which his commencement of benefits precedes his normal retirement date.

A Participant with 25 or 30 years of Service at his Early Retirement is guaranteed a monthly benefit equal to an unreduced benefit based on their 25 years of service (or 30 year, if applicable) benefit credits.

This benefit is in addition to his Supplemental Retirement Benefit, which is subject to the standard Early Retirement reduction factors. Early retirees must complete at least 25 years of Service to be eligible for the Supplemental Benefit.

Modified Early Retirement Benefit:

In addition to the standard early retirement reductions listed above, a Participant under the Modified benefit structure with 33 or more years of Service at his Early Retirement is entitled to receive his accrued benefit unreduced for Early Retirement.

The 25 and 30 year guaranteed benefits do not apply in the case of the Modified benefit structure.

Disability Benefits:

Different disability benefit levels are provided based on years of service and whether the disability was suffered in the line of duty.

CITY OF PORT ORANGE GENERAL EMPLOYEES
DEFINED BENEFIT RETIREMENT PLAN

PENSION TRUST SUMMARY (Continued)

Deferred Retirement Benefit:	A participant who remains in the employment of the City after his normal retirement date shall receive the greater of the normal retirement benefit actuarially increased to his date of retirement, or the benefit based on the normal retirement benefit formula reflecting final average annual salary and service at actual retirement date			
	Actuarial Equivalence is determined using the 1983 Group Annuity Table (Male), post retirement only, and 8% interest.			
Death Benefits:	For Active Employees Prior to Retirement: The named beneficiary of a deceased participant will receive a monthly annuity payable for life with 10 years certain. The amount will be determined equal to the participant's actuarial present value of his accrued benefit, with a minimum of 2 times his salary and a maximum of 100 times his anticipated normal retirement benefit.			
	For Terminated Participants Eligible for Future Benefits Prior to Retirement: The named beneficiary of a deceased participant will receive a monthly annuity payable for life with 10 years certain. The amount will be determined equal to the participant's actuarial present value of his accrued benefit.			
Employee Contrib.:	Employees are required to contribute 7.5% of basic salary (eff. 10/5/09)			
Vesting:	A participant shall have a right to his accrued benefit as follows:			
	<u>Years of Serv.</u>	<u>Vesting</u>	<u>Years of Serv.</u>	<u>Vesting</u>
	Less than 5 yrs.	0%	8 years	70%
	5 years	25%	9 years	85%
	6 years	40%	10 years	100%
	7 years	55%		

CITY OF PORT ORANGE GENERAL EMPLOYEES
DEFINED BENEFIT RETIREMENT PLAN

APPENDIX B

ACTUARIAL ASSUMPTIONS

FUNDING METHOD

Entry Age Normal Cost Method – For the October 1, 2021 Valuation, the funding method was changed from the Aggregate Method to the Entry Age Normal. This change was undertaken in order to reflect the rapid transition of the plan to a mature plan, in which 80% of the accrued benefit values reside in retired and terminated members.

The Entry Age Normal method assigns a normal cost to each active participant, as well as an accrued liability.

The total of all participants' accrued liabilities is offset by the valuation assets, and the resulting unfunded liability is amortized. The initial unfunded liability is being amortized over a 20 year period, with future gains and losses to be amortized over 10 years for both experience gains/losses and changes in plan provisions or actuarial assumptions. The annual contribution rate is the total of the net normal cost (after expected employee contributions) plus the amortization of unfunded accrued liabilities.

Valuation Assets – Smoothed with 5 year recognition of actuarial gains and losses.

INTEREST ASSUMPTION – Funding and FAS-35

Pre-Retirement: 6.75% Compounded Annually

Post-Retirement: 6.75% Compounded Annually
(prior to 10/1/2021, the interest assumption was 7.0%)

MORTALITY ASSUMPTION – Post Retirement Only

For Funding and FAS-35: Pub 10-General Rates with MP-2020 projection

TURNOVER - None assumed

SALARY SCALE - Salaries are assumed to increase at 4% per year, to the extent limited by law

EARLY RETIREMENT

Participants are assumed to retire early according to the following table(s):

<u>Age</u>	<u>Rate of Retirement</u>	<u>Age</u>	<u>Rate of Retirement</u>	<u>With 25+ Service</u>	<u>Additional Rate of Retirement</u>
55	5%	60	5%	25 yrs.	20%
56	3%	61	5%	26-29 yrs.	10%
57	3%	62	20%	30 yrs.	20%
58	3%	63	20%	31+ yrs.	10%
59	3%	64	5%		

CITY OF PORT ORANGE GENERAL EMPLOYEES
DEFINED BENEFIT RETIREMENT PLAN

APPENDIX C - EMPLOYEE STATUS REPORT
FOR PLAN YEAR BEGINNING OCTOBER 1, 2021

NAME	SEX	ATT AGE	YRS TO RETIRE	ANNUAL SALARY	-----DATES-----				
					BIRTH	EMPLOY	PARTIC	RETIRE	STATUS
ALLMAN, SCOTT	M	56	9	\$62,087	5/27/1965	1/7/1985	10/1/2003	6/1/2030	ACTIVE
BALDWIN, ANDREW R	M	57	8	35,784	7/11/1964	9/24/2007	9/24/2007	8/1/2029	ACTIVE
BETTS, CYNTHIA K	F	53	12	49,729	5/19/1968	6/30/2005	6/30/2005	6/1/2033	ACTIVE
BONIN, AMANDA L	F	35	30	45,530	4/13/1986	12/18/2006	12/18/2006	5/1/2051	ACTIVE
BROWN, DOUGLAS G	M	64	1	35,805	6/14/1957	5/22/2006	5/22/2006	7/1/2022	ACTIVE
BRYANT, ROBERT S	M	47	18	30,993	6/7/1974	9/13/2004	9/13/2004	7/1/2039	ACTIVE
CAMACHO, RIGOBERTO L	M	63	2	47,432	3/5/1959	7/13/1992	10/1/2003	4/1/2024	ACTIVE
CARRIZALES, HEATHER	F	45	20	90,581	11/1/1976	2/4/2008	2/4/2008	12/1/2041	ACTIVE
COCKCROFT, KYNAH R	F	59	6	58,659	11/29/1962	12/2/1991	10/1/2003	12/1/2027	ACTIVE
CONLEY, DENNIS	M	55	10	50,257	1/31/1967	10/3/2011	10/3/2011	2/1/2032	ACTIVE
CROMIE, MICHAEL C	M	54	11	54,015	5/21/1967	5/15/2000	10/1/2003	6/1/2032	ACTIVE
DESAULNIERS, CHRIS R	M	51	14	42,725	4/30/1970	11/11/2002	10/1/2003	5/1/2035	ACTIVE
DESSOYE, DERICK J	M	41	24	37,893	1/4/1981	3/31/2003	10/1/2003	2/1/2046	ACTIVE
DIXON, TRAVIS S	M	47	18	51,715	1/11/1975	12/4/2000	10/1/2003	2/1/2040	ACTIVE
DOUD, MARK J	M	57	8	46,001	6/24/1964	3/9/1998	10/1/2003	7/1/2029	ACTIVE
DRIVER, STEPHEN P	M	58	7	63,895	6/29/1963	1/3/1989	10/1/2003	7/1/2028	ACTIVE
FERREIRA, PETER M	M	37	28	85,767	7/18/1984	1/8/2007	12/31/2006	8/1/2049	ACTIVE
FRANKLIN, DONALD	M	39	26	61,499	6/12/1982	12/28/2009	12/28/2009	7/1/2047	ACTIVE
FRAZIER, ROBERT A	M	61	4	43,665	7/15/1960	5/15/2006	5/15/2006	8/1/2025	ACTIVE
GRASSO, DARREN	M	55	-17	46,257	5/12/1966	1/17/2005	1/17/2005	6/1/2031	ACTIVE
GREEN, CHRISTOPHER B	M	53	12	52,154	2/28/1969	2/17/1997	10/1/2003	3/1/2034	ACTIVE
GREEN, JOHNNIE M	M	63	2	79,638	9/24/1958	4/10/2006	4/10/2006	10/1/2023	ACTIVE
GUENTHER, JEFFREY S	M	61	4	54,810	2/26/1961	11/21/1994	10/1/2003	3/1/2026	ACTIVE
GUNNLAUGSSON, JULIE	F	61	4	36,976	8/20/1960	10/24/2005	10/24/2005	9/1/2025	ACTIVE
HALL, JOHN L	M	56	9	59,677	11/12/1965	10/4/1993	10/1/2003	12/1/2030	ACTIVE
HENDRIETH, IZELL A	M	64	1	29,928	7/21/1957	8/25/2008	8/25/2008	8/1/2022	ACTIVE
HICKS, MELISSA A	F	38	27	50,236	11/19/1983	1/10/2005	1/10/2005	12/1/2048	ACTIVE
HOOD, LEWIS J	M	59	6	44,738	7/15/1962	8/23/1999	10/1/2003	8/1/2027	ACTIVE
HUPF, DEBORAH K	F	64	1	41,027	7/28/1957	10/4/2004	10/4/2004	8/1/2022	ACTIVE
JOSEPH, DENA M	F	53	12	52,002	2/14/1969	11/27/1995	10/1/2003	3/1/2034	ACTIVE
KALISIAK, IWONA M	F	63	2	35,141	11/13/1958	8/9/2004	8/9/2004	12/1/2023	ACTIVE
KINGSBURY, COREY	M	46	19	57,319	6/6/1975	6/7/2010	6/7/2010	7/1/2040	ACTIVE
LANNI, DEBORAH M	F	63	2	64,234	2/10/1959	12/18/2006	12/18/2006	3/1/2024	ACTIVE
LE CLAIR, ROBERT G	M	65	0	38,965	10/10/1956	9/17/2007	9/17/2007	11/1/2021	ACTIVE
LEE, LIT Y	M	51	14	38,113	12/13/1970	12/20/2004	12/20/2004	1/1/2036	ACTIVE
LENARCIC, ANDREW M	M	46	19	34,002	2/14/1976	1/8/2007	1/8/2007	3/1/2041	ACTIVE
LEONG, VINSON P	M	64	1	40,141	1/11/1958	8/7/2000	10/1/2003	2/1/2023	ACTIVE
LOVALLO, SUSAN L	F	52	13	133,995	10/24/1969	1/13/2003	10/1/2003	11/1/2034	ACTIVE
MACKEY, JOHN A	M	61	4	36,232	11/12/1960	8/22/2011	8/22/2011	12/1/2025	ACTIVE
MATTER, BRETT J	M	42	23	46,886	3/13/1980	4/24/2000	10/1/2003	4/1/2045	ACTIVE

CITY OF PORT ORANGE GENERAL EMPLOYEES
DEFINED BENEFIT RETIREMENT PLAN

APPENDIX C - EMPLOYEE STATUS REPORT
FOR PLAN YEAR BEGINNING OCTOBER 1, 2021

NAME	SEX	ATT	YRS TO	ANNUAL	-----DATES-----				STATUS
		AGE	RETIRE	SALARY	BIRTH	EMPLOY	PARTIC	RETIRE	
MEADOWS, RICHARD T	M	58	7	45,305	7/26/1963	7/10/2006	7/10/2006	8/1/2028	ACTIVE
PEARSON, DEBORAH J	F	70	-5	40,074	6/6/1951	5/18/1998	10/1/2003	7/1/2016	ACTIVE
PISKURA, JAMES	M	64	1	\$29,206	7/10/1957	11/30/2009	11/30/2009	8/1/2022	ACTIVE
REED, BARBARA J	F	69	-4	37,596	12/30/1952	2/10/2003	10/1/2003	1/1/2018	ACTIVE
REED, BRENT A	M	50	15	46,286	12/6/1971	1/10/2005	1/10/2005	1/1/2037	ACTIVE
ROWLEY, JANOS Y	M	40	25	36,542	7/16/1981	11/14/2011	11/14/2011	8/1/2046	ACTIVE
RUBIN, HEATHER R	F	49	16	48,708	11/4/1972	5/2/2005	5/2/2005	12/1/2037	ACTIVE
SALERNO, PAUL	M	64	1	77,292	6/26/1957	5/8/1995	10/1/2003	7/1/2022	ACTIVE
SCHARF, MICHAEL J	M	68	-3	54,126	7/27/1953	7/17/1995	10/1/2003	8/1/2018	ACTIVE
SISK, JENNIFER L	F	48	17	60,776	8/20/1973	12/4/2006	12/4/2006	9/1/2038	ACTIVE
SMITH, MICHAEL R	M	43	22	36,798	1/21/1979	7/15/2005	11/15/2004	2/1/2044	ACTIVE
SMITH, RICHARD W	M	65	0	43,626	3/25/1957	7/10/2006	7/10/2006	4/1/2022	ACTIVE
SOLANA, SHERILYN S	F	45	20	36,674	10/2/1976	10/4/2004	10/4/2004	11/1/2041	ACTIVE
TALIAFERRO, TROY P	M	45	20	64,580	7/23/1976	8/3/2005	8/3/2005	8/1/2041	ACTIVE
TISCHLER, ALLAN H	M	57	8	104,264	9/21/1964	4/12/2004	4/12/2004	10/1/2029	ACTIVE
VANTHOFF, DAVID K	M	61	4	42,222	3/6/1961	1/16/2006	1/16/2006	4/1/2026	ACTIVE
WESTBERRY-MILLER, CO	F	31	34	46,667	11/18/1990	5/16/2011	5/16/2011	12/1/2055	ACTIVE
WHELDON, MICHAEL F	M	54	11	42,865	7/17/1967	2/8/1999	10/1/2003	8/1/2032	ACTIVE
WIEDEL, CHERYL V	F	57	8	56,432	11/7/1964	8/17/1998	10/1/2003	12/1/2029	ACTIVE
WIGGINS, JULIA L	F	52	13	77,292	7/14/1969	1/30/1989	10/1/2003	8/1/2034	ACTIVE
WIGGINS, ROBERT H	M	56	9	33,465	1/21/1966	5/17/2004	5/17/2004	2/1/2031	ACTIVE
WILLIAMS, DERRICK R	M	58	7	56,866	10/25/1963	9/11/1989	10/1/2003	11/1/2028	ACTIVE
WILSON, ADAM B	M	45	20	37,406	9/7/1976	3/28/2005	3/28/2005	10/1/2041	ACTIVE

CITY OF PORT ORANGE GENERAL EMPLOYEES
DEFINED BENEFIT RETIREMENT PLAN

APPENDIX C - EMPLOYEE STATUS REPORT
FOR PLAN YEAR BEGINNING OCTOBER 1, 2021

POST 2012 PLAN FORMULA GROUP

NAME	SEX	ATT AGE	YRS TO RETIRE	ANNUAL SALARY	-----DATES-----				STATUS
					BIRTH	EMPLOY	PARTIC	RETIRE	
BALLER JR, JOHN	M	52	13	\$52,542	11/27/1969	2/28/2016	2/28/2016	12/1/2034	ACTIVE
CROXFORD, RONALD	M	51	14	33,043	6/17/1970	10/6/2014	10/6/2014	7/1/2035	ACTIVE
DESAULNIERS, RYAN R	M	32	33	26,250	12/30/1989	8/15/2016	8/15/2016	1/1/2055	ACTIVE
DILLON, JAMES	M	62	3	32,862	4/2/1959	9/3/2012	9/3/2012	5/1/2024	ACTIVE
DOTTEN, EDWIN	M	46	19	41,060	8/14/1975	3/24/2016	3/24/2016	9/1/2040	ACTIVE
EWING, RANDY	M	54	11	32,311	7/21/1967	3/24/2016	3/24/2016	8/1/2032	ACTIVE
GLOVER, DONNY	M	46	19	33,281	9/29/1975	4/21/2014	4/21/2014	10/1/2040	ACTIVE
HAMPTON, JOHN R	M	51	14	38,627	8/20/1970	7/20/2015	7/20/2015	9/1/2035	ACTIVE
HARRELL, DAVID	M	50	15	32,183	5/7/1971	12/12/2016	12/12/2016	6/1/2036	ACTIVE
KREINER, JOSEPH W	M	62	4	37,296	3/24/1960	4/6/2015	4/6/2015	5/1/2025	ACTIVE
LONG, JOSHUA A	M	34	31	33,357	3/3/1988	9/27/2016	9/27/2016	4/1/2053	ACTIVE
MOORE, ROBERT T	M	55	10	41,997	10/22/1966	5/30/2017	5/30/2017	11/1/2031	ACTIVE
NELSON, KEITH A	M	61	4	32,394	3/20/1961	9/8/2014	9/8/2014	4/1/2026	ACTIVE
QUARTARARO, SETH	M	30	35	33,030	4/10/1991	4/6/2015	4/6/2015	5/1/2056	ACTIVE
STAUFFER, GARY P	M	39	26	37,405	7/9/1982	10/26/2015	10/26/2015	8/1/2047	ACTIVE
ZWENGER, STEVEN J	M	61	5	29,831	11/1/1960	9/19/2016	9/19/2016	10/1/2026	ACTIVE

CITY OF PORT ORANGE GENERAL EMPLOYEES
DEFINED BENEFIT RETIREMENT PLAN

APPENDIX D - BENEFIT STATUS REPORT
FOR PLAN YEAR BEGINNING OCTOBER 1, 2021

PARTICIPANT NAME	AA	RA	MONTHLY COMP.	MONTHLY BENEFIT	ACCRUED BENEFIT	-----VESTED----- PCT	BENEFIT	PRES. VAL.*
ALLMAN, SCOTT	56	65	\$ 5,174	\$4,835.54	\$3,669.14	100	\$3,669.14	\$264,635
BALDWIN, ANDREW R	57	65	2,982	1,299.37	785.23	100	785.23	59,803
BETTS, CYNTHIA K	53	65	4,144	2,321.12	1,249.98	100	1,249.98	77,812
BONIN, AMANDA L	35	65	3,794	3,365.56	1,036.92	100	1,036.92	50,571
BROWN, DOUGLAS G	64	65	2,984	905.69	839.81	100	839.81	101,588
BRYANT, ROBERT S	47	65	3,639	2,538.65	1,120.76	100	1,120.76	51,656
CAMACHO, RIGOBERTO L	63	65	3,953	2,465.39	2,200.81	100	2,200.81	237,465
CARRIZALES, HEATHER	45	65	7,548	5,084.37	1,471.05	100	1,471.05	64,926
COCKCROFT, KYNAH R	59	65	4,888	3,599.24	2,750.63	100	2,750.63	245,244
CONLEY, DENNIS	55	65	4,188	1,668.26	663.63	100	663.63	42,927
CROMIE, MICHAEL C	54	65	4,501	2,923.72	1,751.00	100	1,751.00	110,824
DESAULNIERS, CHRIS R	51	65	3,560	2,331.61	1,164.69	100	1,164.69	60,928
DESSOYE, DERICK J	41	65	3,158	2,703.45	1,096.98	100	1,096.98	54,053
DIXON, TRAVIS S	47	65	4,310	3,385.15	1,650.23	100	1,650.23	68,120
DOUD, MARK J	57	65	3,833	2,442.39	1,645.79	100	1,645.79	126,026
DRIVER, STEPHEN P	58	65	5,325	4,320.70	3,248.66	100	3,248.66	265,558
FERREIRA, PETER M	37	65	7,147	6,086.13	1,727.62	100	1,727.62	69,309
FRANKLIN, DONALD	39	65	5,125	3,826.58	1,157.24	100	1,157.24	58,523
FRAZIER, ROBERT A	61	65	3,247	1,252.30	924.48	100	924.48	91,431
GRASSO, DARREN	55	65	3,855	2,038.89	1,179.77	100	1,179.77	79,710
GREEN, CHRISTOPHER B	53	65	4,346	3,245.59	1,970.29	100	1,970.29	111,233
GREEN, JOHNNIE M	63	65	6,636	2,229.68	1,821.10	100	1,821.10	203,018
GUENTHER, JEFFREY S	61	65	4,568	2,897.94	2,205.68	100	2,205.68	209,985
GUNNLAUGSSON, JULIE	61	65	3,081	1,226.46	896.66	100	896.66	92,602
HALL, JOHN L	56	65	4,973	3,766.79	2,567.05	100	2,567.05	179,198
HENDRIETH, IZELL A	64	65	2,494	643.17	575.50	100	575.50	69,238
HICKS, MELISSA A	38	65	4,186	3,679.50	1,295.09	100	1,295.09	64,613
HOOD, LEWIS J	59	65	3,728	2,114.24	1,534.00	100	1,534.00	133,132
HUPF, DEBORAH K	64	65	3,340	1,126.84	1,044.55	100	1,044.55	131,945
JOSEPH, DENA M	53	65	4,334	3,350.97	2,154.34	100	2,154.34	127,697
KALISIAK, IWONA M	63	65	2,928	1,099.88	928.37	100	928.37	107,488
KINGSBURY, COREY	46	65	4,777	2,850.05	962.84	100	962.84	48,577
LANNI, DEBORAH M	63	65	3,419	1,119.99	932.32	100	932.32	106,197
LE CLAIR, ROBERT G	65	65	2,789	711.66	711.66	100	711.66	89,918
LEE, LIT Y	51	65	3,176	1,971.37	947.84	100	947.84	47,471

* Using IRS 2020 M/F Post Retirement mortality tables and 6.75% interest. Monthly benefit shown does not include Supplemental Benefits, however present value amount does. Employee contribution account shown if greater than vested present values.

CITY OF PORT ORANGE GENERAL EMPLOYEES
DEFINED BENEFIT RETIREMENT PLAN

APPENDIX D - BENEFIT STATUS REPORT
FOR PLAN YEAR BEGINNING OCTOBER 1, 2021

PARTICIPANT NAME	AA	RA	MONTHLY COMP.	MONTHLY BENEFIT	ACCRUED BENEFIT	-----VESTED----- PCT	BENEFIT	PRES. VAL.*
LENARCIC, ANDREW M	46	65	\$ 2,833	\$1,916.95	\$726.69	100	\$726.69	\$38,806
LEONG, VINSON P	64	65	3,345	1,425.51	1,320.40	100	1,320.40	153,751
LOVALLO, SUSAN L	52	65	11,166	7,161.28	3,759.31	100	3,759.31	213,336
MACKEY, JOHN A	61	65	3,019	861.72	595.63	100	595.63	57,639
MATTER, BRETT J	42	65	3,907	3,514.99	1,549.18	100	1,549.18	58,983
MEADOWS, RICHARD T	58	65	3,775	1,669.25	1,029.67	100	1,029.67	83,712
PEARSON, DEBORAH J	70	65	5,353	2,428.78	2,428.78	100	2,428.78	289,141
PISKURA, JAMES	64	65	2,434	574.72	528.80	100	528.80	63,619
REED, BARBARA J	69	65	3,133	1,142.58	1,142.58	100	1,142.58	141,004
REED, BRENT A	50	65	3,857	2,464.49	1,157.37	100	1,157.37	54,336
ROWLEY, JANOS Y	40	65	3,045	2,106.25	508.08	100	508.08	24,799
RUBIN, HEATHER R	49	65	4,059	2,645.93	1,159.77	100	1,159.77	53,810
SALERNO, PAUL	64	65	6,441	3,408.95	3,233.30	100	3,233.30	391,118
SCHARF, MICHAEL J	68	65	4,510	2,321.48	2,321.48	100	2,321.48	274,824
SISK, JENNIFER L	48	65	5,065	3,215.88	1,307.02	100	1,307.02	61,792
SMITH, MICHAEL R	43	65	3,066	2,358.52	808.19	100	808.19	43,012
SMITH, RICHARD W	65	65	3,635	999.09	999.09	100	999.09	122,845
SOLANA, SHERILYN S	45	65	3,056	2,269.40	945.82	100	945.82	49,671
TALIAFERRO, TROY P	45	65	5,382	3,883.22	1,582.84	100	1,582.84	59,137
TISCHLER, ALLAN H	57	65	8,689	4,458.72	2,685.81	100	2,685.81	202,334
VANTHOFF, DAVID K	61	65	3,518	1,399.41	1,021.32	100	1,021.32	96,704
WESTBERRY-MILLER, CO	31	65	3,889	3,448.17	701.83	100	701.83	34,141
WHELDON, MICHAEL F	54	65	3,572	2,426.75	1,504.22	100	1,504.22	94,174
WIEDEL, CHERYL V	57	65	4,703	2,986.06	1,991.88	100	1,991.88	155,845
WIGGINS, JULIA L	52	65	6,441	5,999.61	3,915.49	100	3,915.49	225,857
WIGGINS, ROBERT H	56	65	3,500	1,865.61	1,074.33	100	1,074.33	74,184
WILLIAMS, DERRICK R	58	65	4,739	3,810.02	2,751.53	100	2,751.53	220,076
WILSON, ADAM B	45	65	3,117	2,281.95	935.60	100	935.60	45,963
WIGGINS, ROBERT H	56	65	3,500	1,865.61	1,074.33	100	1,074.33	74,184
WILLIAMS, DERRICK R	58	65	4,739	3,810.02	2,751.53	100	2,751.53	220,076
WILSON, ADAM B	45	65	3,117	2,281.95	935.60	100	935.60	45,963

* Using IRS 2020 M/F Post Retirement mortality tables and 6.75% interest. Monthly benefit shown does not include Supplemental Benefits, however present value amount does. Employee contribution account shown if greater than vested present values.

CITY OF PORT ORANGE GENERAL EMPLOYEES
DEFINED BENEFIT RETIREMENT PLAN

APPENDIX D - BENEFIT STATUS REPORT
FOR PLAN YEAR BEGINNING OCTOBER 1, 2021

POST 2012 PLAN FORMULA GROUP

PARTICIPANT NAME	AA	RA	MONTHLY		ACCRUED BENEFIT	-----VESTED-----		
			COMP.	BENEFIT		PCT	BENEFIT	PRES. VAL.*
BALLER JR, JOHN	52	65	\$ 4,378	\$1,301.87	\$327.96	40	\$131.18	\$22,149
CROXFORD, RONALD	51	65	2,754	906.85	255.48	55	140.51	16,695
DESAULNIERS, RYAN R	32	65	2,187	1,332.90	132.85	25	33.21	9,701
DILLON, JAMES	62	65	2,738	473.06	339.34	85	288.44	36,416
DOTTEN, EDWIN	46	65	3,422	1,327.59	235.13	40	94.05	15,989
EWING, RANDY	54	65	2,693	696.48	201.58	40	80.63	13,821
GLOVER, DONNY	46	65	2,773	1,168.53	263.77	55	145.07	15,994
HAMPTON, JOHN R	51	65	3,219	1,030.06	251.80	40	100.72	16,248
HARRELL, DAVID	50	65	2,682	826.02	165.49	25	41.37	10,707
KREINER, JOSEPH W	62	65	3,108	467.88	264.20	40	105.68	26,704
LONG, JOSHUA A	34	65	2,780	1,601.15	189.55	25	47.39	11,681
MOORE, ROBERT T	55	65	2,583	588.86	132.66	0	0.00	10,113
NELSON, KEITH A	61	65	2,699	451.20	234.63	55	129.05	22,216
QUARTARARO, SETH	30	65	2,752	1,801.95	232.24	40	92.90	15,008
STAUFFER, GARY P	39	65	3,117	1,595.96	248.87	40	99.55	14,822
ZWENGER, STEVEN J	61	66	2,486	384.09	176.30	25	44.08	15,849

* Using IRS 2020 M/F Post Retirement mortality tables and 6.75% interest. Monthly benefit shown does not include Supplemental Benefits, however present value amount does. Employee contribution account shown if greater than vested present values.

CITY OF PORT ORANGE GENERAL EMPLOYEES
DEFINED BENEFIT RETIREMENT PLAN

APPENDIX E.

SUPPLEMENTAL INFORMATION – October 1, 2021

The State of Florida requires municipalities to report certain items in their defined benefit plan Annual Valuation Reports that are not contained in our “normal” annual report format. This supplement is designed to either direct users to the sections of the current annual report that satisfy various requirements, or present additional schedules/information to ensure that the Plan is in compliance with the Florida State Statutes.

TABLE OF CONTENTS

1. Statement of adequacy of employer and employee contribution rates - Attached
2. A plan to amortize unfunded liabilities - Attached
3. A description and explanation of actuarial assumptions – See Val. Appendix B
4. A schedule illustrating the amortization of unfunded liabilities – See Val. Pg. 8
5. GAS-67 Disclosure Information for September 30, 2021 using 6.75% and 4.75% discount rates. Not included in this report as it will be prepared separately as part of the Sec. 112.664 disclosures that are more comprehensive.
6. A Statement by the enrolled actuary: Attached
7. Comparison of actual to expected salary increases over the preceding 3 year period - Attached
8. Comparison of actual to expected investment returns over the preceding 3 year period. - Attached
9. Reconciliation of the present value of accrued benefits over the prior period.
10. Breakout of the present value of future benefits by decrement for active participants.
11. Summary of prior required or actual contributions made by either employer or employees.
12. Age and service table provided for active participants.

CITY OF PORT ORANGE GENERAL EMPLOYEES
DEFINED BENEFIT RETIREMENT PLAN

APPENDIX E. – Items 1,2,6

I, David G. Leonard, enrolled actuary, do hereby confirm that the attached Actuarial Valuation Report for the City of Port Orange General Employees Defined Benefit Retirement Plan as of October 1, 2021 is complete and accurate, and in my opinion the techniques and assumptions used are reasonable and meet the requirements and intent of this act.

Effective October 1, 2019, the funding method for the plan was changed to Entry Age Normal. The initial unfunded liability is being amortized over 20 years. Future gains and losses from experience as well as plan and/or assumption changes will be amortized over 10 years. (Item #2)

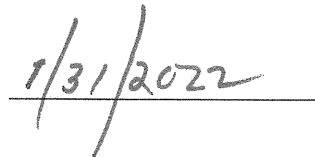
Additionally, there were no events not taken into account nor were there any trends not assumed to continue that were not included in the calculations that make up this report. (Reg. 1.003(4)(g)).

In my opinion, the employer and employee contribution rates are adequate to meet the levels of employee benefits that are provided in the retirement system. In the event the current rates do not appear to be adequate on a long term basis, the plan sponsor has made a commitment to fund the plan per actuarially derived contribution calculations as will be produced in future valuations. (Item #1)

The attached GAS-67/68 statements present the funded position of the plan on a market asset value basis. (Item #1)



*David G. Leonard, A.S.A.
Enrolled Actuary 20-03604*



CITY OF PORT ORANGE GENERAL EMPLOYEES DB RETIREMENT PLAN

October 1, 2021 Valuation Report - Supplemental Information for the State of Florida

Display 2 - Comparison of Actuarial Assumptions and Actual Results. Supplemental Report Schedules #7 and #8

Actuarial Valuation Date	Assumed Interest (A)	Actual Yield Earned (B)	Valuation Yield (C)	Appx. Actuarial Gain/(Loss)	Salary Inc. Assumed (D)	Actual Sal. Incr. (E)	Appx. Actuarial Gain/(Loss)
October 1	(prior year)	(prior year)	(prior year)		(prior year)	(prior year)	
2007	8.0%	12.8%	12.8%	785,653	6.0%	8.8%	(414,434)
2008	8.0%	-12.0%	-12.0%	(3,507,566)	6.0%	3.2%	522,827
2009	8.0%	0.6%	2.9%	(1,023,442)	6.0%	6.1%	(18,747)
2010	7.5%	6.6%	3.9%	(782,986)	4.0%	-0.9%	1,002,958
2011	7.5%	-3.6%	0.5%	(1,526,359)	4.0%	0.5%	631,165
2012	7.5%	16.9%	5.6%	(433,004)	4.0%	1.4%	335,925
2013	7.5%	15.6%	7.5%	(244)	4.0%	2.7%	164,574
2014	7.5%	10.9%	8.1%	162,105	4.0%	3.0%	123,803
2015	7.5%	2.4%	6.5%	(102,758)	4.0%	4.8%	(106,243)
2016	7.5%	11.5%	7.7%	40,817	4.0%	6.5%	(301,185)
2017	7.0%	11.7%	7.9%	258,980	4.0%	3.7%	38,663
2018	7.0%	12.5%	9.2%	659,465	4.0%	2.9%	115,417
2019	7.0%	3.4%	8.6%	480,107	4.0%	6.4%	(257,265)
2020	6.75%	8.7%	8.9%	677,161	4.0%	4.3%	(33,883)
2021	6.75%	21.5%	11.8%	1,697,258	4.0%	9.0%	(517,947)

10 yr ave mkt. yield - 11.38%

10 yr ave - 4.44%

Other pertinent actuarial assumptions used include:

- Preretirement Turnover - None is assumed. Normally, very few employees terminate prior to being eligible for benefits. Because of steep employee contribution rate, a Turnover assumption would have little effect on costs.
- Post Retirement Mortality - PUB-10 General with MP-2020 generational mortality projection.
- Early Retirement Rates - We assume a portion of the eligible population will retire starting at age 55 and each age beyond. Please see the valuation report assumptions review for detailed rates at each age/service combination.

**CITY OF PORT ORANGE GENERAL EMPLOYEES
DEFINED BENEFIT RETIREMENT PLAN**

Rollforward of Present Value of Accrued Benefits -

For the years ended 09/30 -

<u>Supplemental Schedule 9</u>	<u>2021</u>	<u>2020</u>	<u>2019</u>
Actuarial Present Value of Accumulated Plan Benefits at Beginning of Year	\$35,640,172	\$35,023,916	\$33,090,910
Increase (Decrease) During the Year Attributable to:			
Benefits Accumulated, Actuarial Experience (includes ER subsidies)	543,742	987,369	1,403,357
Increase in Interest Due to Decrease in the Discount Period	2,310,843	2,266,204	2,216,233
Benefits Paid	(2,555,372)	(2,637,317)	(2,600,808)
Changes in Plan Provisions	0	0	0
Plan Assumption Changes	0	0	914,224
	-----	-----	-----
Actuarial Present Value of Accumulated Plan Benefits at End of Year	\$35,939,386	\$35,640,172	\$35,023,916
<u>Distribution of Actuarial Value of Accumulated Plan Benefits:</u>			
Vested Accumulated Plan Benefits:			
Retired Participants in Pay Status	\$26,553,362	\$27,131,041	\$27,063,392
Terminated Members with Vested Rights	1,196,432	1,104,578	930,738
Active Members - Employer Funded	3,825,219	3,409,270	3,207,457
Active Members - Employee Funded	<u>4,041,664</u>	<u>3,658,734</u>	<u>3,462,180</u>
Subtotal - Vested Accum. Plan Benefits	\$35,616,677	\$35,303,623	\$34,663,767
Non-vested Accumulated Plan Benefits			
Active Members	322,709	336,549	360,148
TOTAL ACTUARIAL PRESENT VALUE OF ACCUMULATED PLAN BENEFITS:	\$35,939,386	\$35,640,172	\$35,023,915

Note: Post Retirement Mortality - current year's IRS Blended Tables (M/F)
Interest Rates: 6.75%. Inactives measured using Funding Rates (Pub-10 Gen.)
PVAB does not take into account potential ER Subsidies until realized
but does include Supplemental Benefits.

**CITY OF PORT ORANGE GENERAL EMPLOYEES
DEFINED BENEFIT RETIREMENT PLAN**

Breakout of Present Value Future Benefits (PVFB) by
Decrement for Active Plan Participants - Supplemental Rpt. Sch. #10

October 1, 2021 Valuation Report

Interest Rates: 6.75%

Accrued Liability (EAN):
(EAN-AL - Actives only)

	All Decrements	No Decrements
Basic Benefits	\$11,838,537	\$11,337,857
Supplemental Benefits	<u>676,186</u>	<u>472,497</u>
Total	\$12,514,723	\$11,810,354
Increase (Decrease) in AL due to decrements:		\$704,369

Breakdown of Accd. Liab. by component:

	Basic Benefits	Supplemental Ben.	Total
Normal Retirement	\$12,014,043	\$472,497	\$12,486,540
Pre-retirement Mortality	0	0	0
Pre-retirement Turnover	0	0	0
Early Retirement Rates	<u>500,680</u>	<u>203,689</u>	<u>704,369</u>
Total Accrued Liab.	\$12,514,723	\$676,186	\$13,190,909

	All Decrements	No Decrements	Incr. from Decrements
Entry Age Normal Costs	\$473,018	\$464,200	(\$8,817)

CITY OF PORT ORANGE GENERAL EMPLOYEES DB RETIREMENT PLAN

Information on Pension Funding Progress - Supplemental Report Schedule #11

History of Employee Contributions
History of Employer Contributions
Schedule of Annual Required Contribution
Contributions as a percentage of payroll

Year Ended	Covered Payroll (*)	Actual Employer Contribution	ER % of Payroll	Actuarially Required Contribution	ARC as Percentage of Payroll	Percentage of ARC Contributed	Employee Contribution	EE % of Payroll
September 30								
2010	7,320,768	1,005,433	13.7%	1,021,870	14.0%	98.4%	563,787	7.7%
2011	6,768,699	992,875	14.7%	782,046	11.6%	127.0%	534,679	7.9%
2012	6,507,751	912,160	14.0%	779,345	12.0%	117.0%	507,532	7.8%
2013	5,495,483	936,378	17.0%	753,666	13.7%	124.2%	405,427	7.4%
2014	5,170,450	702,741	13.6%	702,741	13.6%	100.0%	459,552	8.9%
2015	5,300,301	673,300	12.7%	673,138	12.7%	100.0%	397,523	7.5%
2016	5,287,951	880,209	16.6%	739,845	14.0%	119.0%	396,597	7.5%
2017	4,802,452	794,333	16.5%	744,380	15.5%	106.7%	360,185	7.5%
2018	4,251,780	735,559	17.3%	735,558	17.3%	100.0%	318,883	7.5%
2019	4,067,432	866,364	21.3%	866,363	21.3%	100.0%	305,057	7.5%
2020	3,678,337	849,692	23.1%	838,661	22.8%	101.3%	275,875	7.5%
2021	3,893,403	966,934	24.8%	965,564	24.8%	100.1%	292,005	7.5%

* Through 2014, covered payroll shown excludes members who terminated or retired during the year, and also includes full annual compensation for new members. Starting with 2015, covered payroll shown includes all active participants at any time during the prior year.

Actuarially Required Contribution is the GASB ARC through 2014, and the prior year's valuation contribution percentage multiplied by the covered payroll, starting with 2015.

CITY OF PORT ORANGE
GENERAL EMPLOYEES
PENGUIN PO VERSION

Schedule SB, line 26
Schedule of Active
Participant Data

Employer Identification Number 00-9595674 Plan Number 9520759
As of October 1, 2021

Attained Age	Under 1	1 to 4	5 to 9	10 to 14	15 to 19	20 to 24	25 to 29	30 to 34	35 to 39	40 & up
Under 25	0	0	0	0	0	0	0	0	0	0
25 to 29	0	0	0	0	0	0	0	0	0	0
30 to 34	0	2	2	0	0	0	0	0	0	0
35 to 39	0	0	1	3	1	0	0	0	0	0
40 to 44	0	0	1	1	3	1	0	0	0	0
45 to 49	0	1	1	3	6	0	0	0	0	0
50 to 54	0	4	3	0	4	4	0	1	0	0
55 to 59	0	0	0	2	3	3	2	2	1	0
60 to 64	0	1	4	10	2	1	3	0	0	0
Ave Comp				41,086						
65 to 69	0	0	0	0	1	0	1	0	0	0
70 & Up	0	0	0	0	0	1	0	0	0	0
Average Age	53.10			Average Service	16.24					



CITY COUNCIL AGENDA ITEM

COUNCIL MEETING DATE 4/5/2022

SUBJECT: (B7) FY2021 Audit Discussion with James Moore & Co

DEPARTMENT: Finance

GOAL: 5 - Fiscal Sustainability

RECOMMENDED MOTION: Presentation only - no motion needed.

SUMMARY: The City's audit firm, James Moore & Co., will discuss the status of the City's Annual Comprehensive Financial Report and Audit for the fiscal year ended September 30, 2021.

PRESENTER: John McKinney

ATTACHMENTS:

1.	Audit Presentation	Audit Presentation.pptx
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John McKinney

Created/Initiated - 3/8/2022

John McKinney

Approved - 3/10/2022

Wayne Clark

Approved - 3/25/2022

Robin Fenwick

Final Approval - 3/25/2022

City of Port Orange, Florida



Annual Audit for the Year Ended September 30, 2021

Presented by: Zach Chalifour, CPA
April 5, 2022



Auditors' Reports - DRAFT

- **Independent Auditors' Report** (pages 8-10)
 - Unmodified Opinion
- **Report on Internal Control and Compliance** (pages 134-135)
 - 1 material weakness
- **Management Letter Required by Ch. 10.550** (pages 136-138)
 - 2 other comments/recommendations
 - 3 prior year comments corrected
- **Independent Accountants' Examination Report** (page 139)
 - In compliance with specified investment statutes

Audit Comment History

	2021	2020	2019	2018	2017
Material Weaknesses	1	3	-0-	-0-	-0-
Significant Deficiencies	-0-	-0-	-0-	1	-0-
Other Comments & Recommendations	2	2	1	1	3
Total	3	5	1	2	3

Other Separate Audits

- **CRA Audits**
 - Separate audits issued; no findings
- **Golf Course Management Agreement**
 - 1 significant deficiency noted
- **Police Pension Plan**
 - No comments or deficiencies
- **General Pension Plan**
 - No comments or deficiencies
- **Fire Pension Plan**
 - No separate audit performed



General Fund (Page 28)

<u>Fund Balance</u>	<u>9/30/2021</u>	<u>9/30/2020</u>	<u>9/30/2019</u>
Nonspendable	\$ 1,584,595	\$ 2,072,419	\$ 1,612,768
Restricted	842,035	829,552	1,075,716
Committed	59,158	22,713	-0-
Assigned	1,608,000	2,052,080	717,581
Unassigned	<u>20,611,838</u>	<u>14,953,868</u>	<u>13,685,516</u>
Total	<u>\$ 24,705,626</u>	<u>\$ 19,930,632</u>	<u>\$ 17,091,581</u>

General Fund (Continued)

Total Assigned/Unassigned Fund Balance	\$22,219,838
2021 Expenditures and Transfers Out	\$37,356,199
Percentage Assigned/Unassigned Fund Balance as a percentage of Expenditures and Transfers out:	59.5%
Prior Year Percentage	43.3%
GFOA Minimum Rec. = 2 Months	At least 16.7%
Internal Minimum Policy	30-35% of expenditures

Business-Type Funds (Page 36)

History of Unrestricted Net Position in Proprietary Funds:

<u>Fund</u>	<u>9/30/2021</u>	<u>9/30/2020</u>	<u>9/30/2019</u>
Water/Sewer	\$26,679,814	\$24,291,554	\$23,452,636
Solid Waste	\$1,879,249	\$2,333,201	\$2,810,114
Stormwater	\$2,687,189	\$4,493,007	\$4,507,181
Golf Course	\$(1,610,142)	\$(1,692,465)	\$(1,711,825)
Internal Service	\$11,844,257	\$10,695,981	\$9,799,671

Pension Funds

- Net Pension Liability – recorded in financial statements
 - Governmental Activities: \$2.6 million deficit unrestricted net position
Primarily due to \$15.3 million liability
 - Proprietary Funds: \$100K allocation of General Employees Plan *asset*
- Net pension liability (asset) history (pages 86-88):

<u>Year</u>	<u>General</u>	<u>Fire</u>	<u>Police</u>	<u>Total</u>
2021	\$ (243,811)	\$ 12,054,099	\$ 3,227,161	\$ 15,037,449
2020	\$ 5,201,322	\$ 15,942,646	\$ 9,831,232	\$ 30,975,200
2019	\$ 5,044,473	\$ 17,473,043	\$ 13,870,320	\$ 36,387,836

- Funded % with Net Pension Liability measurement:

<u>Year</u>	<u>General</u>	<u>Fire</u>	<u>Police</u>
2021	100.60%	77.61%	94.58%
2020	87.02%	68.82%	82.38%
2019	86.91%	64.88%	74.72%

Questions?



REGULAR CITY COUNCIL MEETING MINUTES
COUNCIL CHAMBERS – CITY HALL
1000 CITY CENTER CIRCLE
PORT ORANGE, FLORIDA
MARCH 15, 2022

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

Invocation by Pastor Rebecca Hyvonen of Cross Creek Community Church

Pledge of Allegiance

Roll Call	Present:	Council Member Chase Tramont Council Member Drew Bastian Vice Mayor Scott Stiltner Mayor Donald Burnette
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Absent:	Council Member Reed Foley
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Also Present:	City Manager Wayne Clark City Attorney Matthew Jones City Clerk Robin Fenwick
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SPECIAL AWARDS, REPORTS, RECOGNITION AND PROCLAMATIONS

4. Port Orange Firefighter and Police Officer of the Year Recognition

Council recognized Lt. Ben Walker as the Firefighter of the Year and Detective Kelsie Nugent as the Police Officer of the Year and thanked them for their service.

5. Government Finance Professional's Week Proclamation

Mayor Don Burnette read the Proclamation for Government Finance Professional's Week and presented it to John McKinney, Finance Director.

City Council recessed at 6.42 p.m. to hold the Town Center and Eastport CRA Meetings, minutes of which are under separate cover and reconvened at 7:10 p.m.

CONSENT AGENDA

6. Public Comments on Consent Agenda Items Only

There were none.

7. Agenda Approval

There were no changes requested by Council.

Motion to approve the agenda as presented was made by Council Member Chase Tramont and Seconded by Vice Mayor Scott Stiltner. Motion carried unanimously by voice vote.

8. Approval of Minutes

a. March 1, 2022 - Regular City Council Meeting

9. Resolution No. 22-9 - Revising Parks & Recreation Fees

10. Resolution No. 22-10 - Temporarily Waiving Late Fees and Suspending Shut Offs for Delinquent Utility Accounts

Motion to approve the Consent Agenda as presented was made by Vice Mayor Scott Stiltner and Seconded by Council Member Chase Tramont. Motion carried unanimously by roll call vote.

PUBLIC PARTICIPATION (Non-Agenda – 20 minutes)

Mark Dickinson, citizen, spoke regarding a police chase that occurred from Port Orange to Flagler County and other police activity.

Anonymous asked Council to discuss the IT issues that have happened in the City recently.

COUNCIL COMMENTS

11. Comments/Concerns from Council Members

Vice Mayor Scott Stiltner spoke regarding the temporary sidewalk repairs happening throughout the City currently and the permanent repairs to come.

BOARD APPOINTMENTS, INTERVIEWS, REPORTS

12. Citizen Advisory Committee for TPO

Bobby Ball, member of CAC for TPO, provided an update.

13. Golf Advisory Board Appointments (x2)

Richard Lee and Jane Taylor's terms on the Golf Advisory Board are expiring in April and both have expressed interest in continuing to serve on the Board. There were no other applications received by the City Clerk.

Motion to re-appoint Richard Lee and Jane Taylor was made by Vice Mayor Scott Stiltner and Seconded by Council

Member Drew Bastian. Motion carried
unanimously by roll call vote.

PUBLIC HEARING

14. Second Reading - Ordinance No. 2022-3 - Amending Section 2-57 -
Public Records Management of the Electronic Information System
Standards Utilized by City Board Members

Mayor Don Burnette read Ordinance No. 2022-3.

ORDINANCE NO. 2022-3

AN ORDINANCE OF THE CITY OF PORT ORANGE, VOLUSIA,
FLORIDA, AMENDING SECTION 2-57 RELATED TO PUBLIC
RECORDS MANAGEMENT OF THE ELECTRONIC
INFORMATION SYSTEMS UTILIZED BY CITY BOARD MEMBERS;
PROVIDING FOR CONFLICTING ORDINANCES; PROVIDING
FOR SEVERABILITY AND PROVIDING AN EFFECTIVE DATE.

Motion to adopt Ordinance No. 2022-3
was made by Vice Mayor Scott Stiltner
and Seconded by Council Member Drew
Bastian.

Anonymous would like to see a delay on this vote so people can review it further.

Motion carried unanimously by roll call
vote.

15. Approval of Development Order Modification for the Final Plat and Plans
for Phase 2 of the Woodhaven Subdivision (Case No. 21-52000001)

Motion to approve the Development
Order Modification to the Final Plat and
Plans for Phase 2 of the Woodhaven
Subdivision as presented was made by
Vice Mayor Scott Stiltner and Seconded
by Council Member Chase Tramont.

Penelope Cruz, Planning Manager, provided details of the requested modifications that
include 1) removing 54 single-family lots and 2) expanding the proposed stormwater
ponds at the northeast and southeast portions of Phase 2.

Dick Smith, ICI Homes, spoke regarding the changes to make it a better project.

Motion carried unanimously by roll call
vote.

16. Approval of the Conditional Use Extension Request from Christ the King Community Church (Case No. 22-30000001)

Motion to approve the Conditional Use extension for an additional two years subject to the conditions listed in the Staff Report presented to Council was made by Vice Mayor Scott Stiltner and Seconded by Council Member Chase Tramont.

Gideon Smith, Planner, provided details of the requested extension due to delays in the construction industry that have prevented them from starting construction on the permanent facility. They are asking for an additional two years to continue meeting outdoors and allow for a food truck. Staff recommends approval subject to the conditions listed in the Staff Report.

Scott Kirschner, Pastor of Christ the King Community Church, provided background details and information on the request to extend the conditional use.

Council Member Drew Bastian supports the request and what the church community has done to the property.

Vice Mayor Scott Stiltner agreed and believes they will need to keep some services outdoors long term as the community is loving it.

Motion carried unanimously by roll call vote.

REGULAR AGENDA

17. First Reading - Ordinance No. 2022-5 - LDC Amendment/ Chapter 9, Article II, Section 19 (Case No. 22-25000002)

Mayor Don Burnette read Ordinance No. 2022-5.

ORDINANCE NO. 2022-5

AN ORDINANCE OF THE CITY OF PORT ORANGE, VOLUSIA COUNTY, FLORIDA, AMENDING CHAPTER 9, ARTICLE II OF THE LAND DEVELOPMENT CODE, TO ALLOW FUNDS FROM THE CITY'S TREE BANK TO BE USED FOR EDUCATIONAL OUTREACH PROGRAMS AND TREE GIVEAWAYS; PROVIDING FOR REPEAL OF CONFLICTING ORDINANCES; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

Motion to adopt Ordinance No. 2022-5 on first reading was made by Vice Mayor

Scott Stiltner and Seconded by Council
Member Drew Bastian.

Mrs. Cruz provided details of the ordinance and answered questions from Council.

Kat Atwood, citizen and Environmental Advisory Board member, spoke regarding the intent of the idea and discussions held with the Board.

Motion carried unanimously by roll call
vote.

18. Fourth Amendment to the Property Exchange Agreement (Former
Cardwell Funeral Home Property)

Motion to approve the Fourth Amendment to the Property Exchange Agreement (Cardwell Funeral Home Property); authorize the City Manager and City Attorney to finalize the Post-Closing Agreement; and authorize the Mayor and City Clerk to sign all necessary documents on behalf of the City in furtherance of the transfer of Cardwell Funeral Home Property was made by Council Member Chase Tramont and Seconded by Vice Mayor Scott Stiltner.

This item was discussed in detail with the Town Center CRA Board earlier in this meeting and Council had no further questions. Mayor Don Burnette opened it to public comment but there was none.

Motion carried unanimously by roll call
vote.

19. Third Amendment to the Escrow Agreement (Former Cardwell Funeral
Home Property)

Motion to approve the Third Amendment to the Escrow Agreement subject to removing the language releasing the \$48,000 cash bond, and authorizing the Mayor and City Clerk to sign all necessary documents related to the Escrow Agreement in furtherance of the transfer of Cardwell Funeral Home Property was made by Vice Mayor Scott Stiltner and Seconded by Council

Member Drew Bastian.

This item was discussed in detail with the Town Center CRA Board earlier in this meeting and Council had no further questions. Mayor Don Burnette opened it to public comment but there was none.

Motion carried unanimously by roll call vote.

ADDITIONAL ITEMS

20. City Attorney - There was nothing further.

21. City Manager

Wayne Clark, City Manager, asked Council to waive the bidding requirement relating to uniforms for Parks & Recreation. He spoke on the issues Staff has faced with two bids resulting in no responsive proposals. Staff has received quotes and requests the waiver so uniforms can be ordered for the upcoming sports seasons.

Motion to approve the waiver of bidding requirements to purchase uniforms for the upcoming baseball season and authorize an expenditure of more than \$25,000 was made by Council Member Chase Tramont and Seconded by Council Member Drew Bastian. Motion carried unanimously by roll call vote.

COUNCIL COMMITTEE REPORTS

22. City Council Committee Reports

- a. Fire Pension - Council Member Reed Foley was not present to report.
- b. First Step Shelter - Council Member Chase Tramont had nothing to report.
- c. Port Orange/South Daytona Chamber of Commerce - Mayor Don Burnette - provided details of the recently held meetings and the upcoming events.

ADJOURNMENT - 7:49 p.m.

Mayor Donald O. Burnette

Attest:

Robin Fenwick, MMC
City Clerk

SPECIAL CITY COUNCIL MEETING MINUTES
COUNCIL CHAMBERS – CITY HALL
1000 CITY CENTER CIRCLE
PORT ORANGE, FLORIDA
MARCH 22, 2022

THE SPECIAL CITY COUNCIL MEETING of the City of Port Orange was called to order by Mayor Donald O. Burnette at 5:30 p.m.

Silent Invocation

Pledge of Allegiance

Roll Call	Present:	Council Member Reed Foley Council Member Chase Tramont Council Member Drew Bastian Vice Mayor Scott Stiltner Mayor Donald Burnette
	Also Present:	City Manager Wayne Clark City Attorney Matthew Jones City Clerk Robin Fenwick
		CRA Members: Reed Foley Chase Tramont Drew Bastian Scott Stiltner Don Burnette Michael Benedict Stan Schmidt, Chairman

4. Approval of Contract for Sale of Riverwalk Properties to Bristol

City Council: Motion to approve the contract for the sale of three (3) Riverwalk properties to Bristol Development Group LLC, authorizing the Mayor and City Clerk to execute all documents necessary to complete the conveyance of said property and authorizing the City Manager to execute all necessary documents that may be required for inspections and applications in furtherance of the sale of said properties was made by Vice Mayor Scott Stiltner and Seconded by Council Member Drew Bastian.

CRA: Motion to approve the contract for the sale of three (3) Riverwalk properties to Bristol Development Group LLC, authorizing the Chairman to execute all documents necessary to complete the conveyance of said property and authorizing the City Manager to execute all necessary documents that may be required for inspections and applications in furtherance of the sale of said properties was made by Member Drew Bastian and Seconded by Member Chase Tramont.

Matt Jones, City Attorney, discussed details of the contract presented for approval, including the parcels included in the price, a perpetual easement, and properties included. He thanked Bristol Development Group and their attorney, Mark Watts, for their work on the contract details.

There were no questions from Council or CRA Members.

Mayor Don Burnette thanked Staff for their work on the contract, as well as Colliers Group, Real Estate Broker for the City.

Charles Carlisle, Bristol Development Group, also thanked Staff for their cooperation and work on the contract.

There were no public comments.

Council Motion carried unanimously by roll call vote.

CRA Motion carried unanimously by roll call vote.

Recessed at 5:15 p.m. to execute the contract with Bristol Development Group.

Joint Special Meeting of the City Council and Town Center CRA adjourned at 6:05 p.m.

DISCUSSION ITEM

5. Debt Financing Discussion

John McKinney, Finance Director, provided information on what will be discussed and introduced Toby Wagner, Financial Advisor with Southeastern Investment Securities,

LLC, Mark Galvin & Joel Tindale, both of Hilltop Securities, and Peter Dame, the City's Bond Attorney.

Mr. Wagner spoke regarding the City's existing Debt Management Policy, outstanding debt, and debt roll-off, as well as financing alternatives.

Wayne Clark, City Manager, spoke regarding future capital needs.

Mr. Galvin spoke regarding current market conditions.

Mr. Dame explained his role in the City's financing goals specifically relating to bonds.

Mr. Wagner discussed the next steps to include Council's role in prioritizing projects and answered questions from the Council.

Mayor Don Burnette would like to continue discussions at the CIP workshop relating to the following items:

1. Refunding current debt if it makes sense on current interest rates;
2. Long term capital needs that don't have revenue generated; and
3. General Obligation bond options for certain projects like Coraci expansion, Westside community center land purchase, etc.

Council members agreed.

ADJOURNMENT - 6:51 p.m.

Mayor Donald O. Burnette

Attest:

Robin Fenwick, MMC
City Clerk



CITY COUNCIL AGENDA ITEM

COUNCIL MEETING DATE 4/5/2022

SUBJECT: (C11a) Intent to Award RFP #21-07 to Charter Communications Operating LLC for Internet and Voice-over-IP Services

DEPARTMENT: Administrative Services

GOAL: 2 - Infrastructure

RECOMMENDED MOTION: Move to approve the award of RFP #21-07, Internet and VoIP Services, to Charter Communications Operating, LLC; subject to City Attorney and City Manager review and approval of final contract documents; and to authorize the Mayor and City Clerk to execute all contract documents.

SUMMARY: The City is currently under contract with Spectrum Enterprise for internet access and voice-over-IP services. This contract is set to expire at the end of the year and has no further renewals built in. An RFP was released for these same services earlier this year. Five proposals were received in response to it, consisting of Charter Communications Operating LLC (Spectrum), AT&T Enterprise, ENA Services LLC, Centurylink Communications (d/b/a Lumen), and Interactive Services Network (d/b/a IPFone). An evaluation committee comprised of the Information Technology Manager, Network Administrator, and Systems Administrator from the IT division, met on September 16th to score and rank the proposals. There were several criteria used to score the proposals including the cost, thoroughness and quality of proposals, and references. Charter Communications Operating LLC (Spectrum) was scored as the highest response.

Charter Communications will provide a dedicated 1 gigabit (upload and download speeds are synchronous) fiber optic internet access for the City. This is the current speed of internet access that the City has and staff believes it is still sufficient for the City's needs. Charter will also provide 128 dedicated public IP addresses which is sufficient for all servers, firewalls, and other devices managed by Information Technology that are accessible from the internet. For phone service, Charter will provide a voice-over-IP circuit bundle which will allow the City to have 46 simultaneous phone calls with phones outside of the City at a time. The staff have reviewed in-depth reports regarding the usage of the phone system and believe 46 trunks is sufficient. However, Charter can increase this number at the request of staff. Charter will also provide a block of 25,000 long distance minutes per month. The combined total cost for all these services will be \$3,097/month. This is within the amount budgeted by the IT division for these services in FY22.

There was an error in the pricing sheet included in the original submittal by Charter.

This error was acknowledged by the purchasing staff and Charter was permitted to submit a corrected pricing sheet. The updated pricing sheet was presented to the selection committee well ahead of the scheduled meeting to rank the proposals in order for the correct pricing to be considered as part of the scoring. The pricing sheet is attached.

The contract term will be for an initial term of two years with an option to renew for an additional two years at the discretion of the City. Staff recommends awarding RFP #21-07 Internet and VoIP Services to Charter Communications Operating, LLC.

PRESENTER: Heather Carrizales

ATTACHMENTS:

1.	Charter Spectrum City of Port Orange Enterprise Service Agreement Final (clean)	Charter _ Spectrum _ City of Port Orange _ Enterprise Service Agreement _ Final (clean).pdf
2.	Charter Spectrum Service Order	City of Port Orange - 1000 City Center Cir- FIA (3)_Legal_031622 (003) w SB rev Mayor sign fin for upload.pdf
3.	Charter Communicatons Operating LLC- New Proposal Form 8.3.2021	Charter Communicatons Operating LLC- New Proposal Form 8.3.2021.pdf
4.	Spectrum RFP 21-07 Bid Response City of Port Orange 07122021 (002)	Spectrum RFP 21-07 Bid Response City of Port Orange 07122021 (002).pdf
5.	RFP 21-07 Internet and VoIP Services FINAL 5.28.21	RFP 21-07 Internet and VoIP Services FINAL 5.28.21.pdf
6.	RFP 21-07 Evaluation Ranking Summary FINAL (9.21.2021)	RFP 21-07 Evaluation Ranking Summary FINAL (9.21.2021).xlsx
7.	RFP 21-07 Notice of Intent to Award FINAL (9.21.2021) JP	RFP 21-07 Notice of Intent to Award FINAL (9.21.2021) JP.pdf
8.	Spectrum Commercial Terms of Service	Spectrum Commercial Terms of Service.pdf
9.	Spectrum SLA	Spectrum SLA.pdf

jhicks jhicks
 Heather Carrizales
 Lupe Reyna-Coffin
 Robin Hayes
 Jill Poolman
 Robin Hayes
 Matthew Jones
 Wayne Clark
 Robin Fenwick

Created/Initiated - 9/24/2021
 Approved - 9/24/2021
 Approved - 9/24/2021
 Approved - 9/28/2021
 Approved - 10/4/2021
 Approved - 10/5/2021
 Approved - 12/17/2021
 Approved - 3/24/2022
 Final Approval - 3/25/2022



SPECTRUM ENTERPRISE SERVICE AGREEMENT

The customer identified below ("Customer") hereby acknowledges and agrees to the Commercial Terms of Service attached hereto ("Terms of Service") with respect to any service order(s) placed by Customer and accepted by Spectrum hereafter (each, a "Service Order"), which together with this agreement constitute the "Service Agreement" by and between the Customer and Charter Communications Operating, LLC on behalf of those operating subsidiaries providing the services hereunder ("Spectrum").

Spectrum Sales Support Contact Information

Spectrum Account Executive: Brittany Clark
Phone: 407-793-7808
Email: brittany.clark@charter.com

Customer Information

Customer Name (Exact Legal Name): CITY OF PORT ORANGE, a Florida municipal corporation

Street Address: 1000 CITY CENTER CIRCLE	City: PORT ORANGE	State: FL	Zip: 32129
Customer's Main Tel. No.: 386-506-5500	Fax. No.: N/A		
Customer Contact Name: JAMES HICKS	E-mail: JHICKS@PORT-ORANGE.ORG	Tel No: 386-506-5545	
Billing Address: 1000 CITY CENTER CIRCLE	City: PORT ORANGE	State: FL	Zip: 32129
Billing Contact Name: JAMES HICKS	E-mail: JHICKS@PORT-ORANGE.ORG	Tel No: 386-506-5545	

Agreement

BY EXECUTING THIS SERVICE AGREEMENT BELOW, CUSTOMER ACKNOWLEDGES THAT: (1) CUSTOMER ACCEPTS AND AGREES TO BE BOUND BY THE TERMS OF SERVICE, INCLUDING THE ARBITRATION SECTION THEREOF, WHICH PROVIDES THAT THE PARTIES DESIRE TO RESOLVE ANY CONTROVERSY OR CLAIM ARISING OUT OF OR RELATING TO THE SERVICE AGREEMENT THROUGH ARBITRATION; AND (2) BY AGREEING TO ARBITRATION, CUSTOMER IS GIVING UP VARIOUS RIGHTS, INCLUDING THE RIGHT TO TRIAL BY JURY AND TO BRING CLAIMS AS CLASS ACTIONS.

Authorized Signature for Customer	Charter Communications Operating, LLC By: Charter Communications, Inc., its Manager
By:	By:
Name: DONALD O. BURNETTE	Name:
Title: MAYOR	Title:
Date:	Date:

ATTEST: _____

ROBIN L. FENWICK, MMC, CITY CLERK

COMMERCIAL TERMS OF SERVICE

These Terms of Service include all Attachments hereto ("Attachment(s)"), and all other documents identified hereunder, each of which are incorporated herein by reference. The Attachments further describe Spectrum's services (each a "Service" or collectively the "Services") and set forth additional terms and conditions for the applicable Service. Spectrum and Customer may each be referred to as a "Party" or collectively as the "Parties." Unless specifically set forth in any Attachment, capitalized terms shall have the meanings set forth in this Service Agreement.

GENERAL

1. SERVICE AGREEMENT TERM. The Service Agreement shall be effective upon the earlier to occur of (a) the latest date of the signatures of the Parties; or (b) Spectrum's commencement of performance (the "Effective Date"). The Service Agreement shall remain in effect until the expiration or proper termination of the final existing Service Order entered into under this Service Agreement (the "Term").

2. SERVICES. Customer shall request Services hereunder by submitting orders in a manner required by Spectrum. All submitted Service Orders are subject to approval and acceptance by Spectrum. Upon Spectrum's acceptance of a Service Order, as indicated either by: (a) Spectrum's written acceptance, (b) by Spectrum's delivery of the Services, or (c) commencement of installation, such Service Order shall be deemed incorporated into the Service Agreement. Spectrum shall provide the Services to Customer at the Service address(es) specified in the applicable Service Order ("Service Location(s)").

3. ORDER TERM. The "Initial Order Term" is the time period starting on the date the Services are functional in all material respects and available for use (the "Billing Start Date"), and continuing for the period of time specified in the Service Order(s). If no Initial Order Term is specified in a Service Order, the Initial Order Term is twelve (12) months from the Billing Start Date. Upon expiration of the Initial Order Term, the applicable Service Order shall automatically renew for successive one-month terms (each a "Renewal Order Term", collectively with the Initial Order Term, the "Order Term"), unless either Spectrum or Customer elects to not renew the Service Order by notice provided to the other at least thirty (30) days in advance of the expiration of the then-current Order Term.

4. AVAILABILITY OF FACILITIES. Customer understands that certain Services, or certain features, may not be available in all Spectrum service areas, may change from time to time and Spectrum may decline to provide any requested Services. Spectrum's ability to provide Services depends upon its ability to secure and retain, without additional expense, suitable facilities, third party connections, and rights to construct and maintain necessary facilities such as pole attachments and conduits to serve the Service Location. If Spectrum is unable to secure and retain such items in accordance with the foregoing, Spectrum may decline to accept or cancel a Service Order upon notice to Customer in accordance with Section 5(f). Spectrum may act as Customer's agent for ordering access connection facilities provided by other providers or entities when authorized by Customer to allow connection of a Service Location to the Network.

5. SERVICE LOCATION ACCESS AND INSTALLATION.

(a) Access. Spectrum requires reasonable access to each Service Location at any time throughout the Term as necessary for Spectrum to provide the Services and to review, install, inspect, maintain, repair, or remove any Spectrum-provided cabling, modems, related splitters, routers or other equipment ("Spectrum Equipment") used to provide the Services. If Customer owns or controls the Service Location(s), Customer hereby grants Spectrum permission to enter the Service Location(s) in order for Spectrum to fulfill its obligations and exercise its rights under the Service Agreement. If a Service Location is not owned or controlled by Customer, Customer will obtain, with Spectrum's reasonable assistance, appropriate right of access. If such right of access for Spectrum is not obtained by either Party, then Spectrum may decline Customer's request for Services, or terminate or amend the affected Service Order with respect to the Service Location that Spectrum cannot access, without any liability to Customer.

(b) Installation Review. Spectrum may perform, either before or after acceptance of a Service Order, an installation review (including a review of Customer's inside wiring) of each proposed Service Location prior to installation of the Services to determine the serviceability of such network location and/or the need to extend Spectrum's facilities, fiber optic cable, electronics, or other equipment (collectively, the "Network") to provide the Services at the Service Location. If during the installation review, review of available facilities and access, site preparation, or installation activities described herein, Spectrum determines that additional work is required to enable Spectrum to deliver the Services to the Service Location, Spectrum will notify Customer of any additional Service Charges (as defined below) in excess of the amounts

previously specified in a quote or Service Order. Upon request, Customer shall provide Spectrum with accurate site and/or physical network diagrams or maps of a Service Location, including electrical and other utility service maps.

(c) Site Preparation. Customer shall be responsible for necessary preparations at the Service Location(s) for delivery and installation of Spectrum Equipment and the installation and ongoing provision of Services, including the relocation of Customer's equipment, furniture, and furnishings as necessary to access the Spectrum Equipment or Services. In addition, Customer shall provide Spectrum with floor space, rack space, other space, inside wiring, and clean power all as is reasonably necessary for the installation, operation, and delivery of Spectrum Equipment and Services at the Service Location(s). Customer shall not charge Spectrum, and shall ensure that Spectrum does not incur, any fees or expenses whatsoever in connection with Customer's provision of space, power, inside wiring, or access as described herein, or otherwise in connection with Customer's performance of its obligations pursuant to this section; and any such fees or expenses charged by any other end user accessing or using the Services ("End User") shall be borne solely by Customer. Any failure or refusal by Customer to be ready to receive Services does not release Customer from its obligation to pay Service Charges for any Services that would otherwise be available for Customer's use.

(d) Installation. Spectrum will schedule one or more installation visits with Customer. At the Customer's request, Spectrum may perform installation or maintenance on weekends or times other than during normal business hours; provided, however, Customer may be assessed reasonable, additional Service Charges based on Spectrum's actual incurred labor, material or other costs for such non-routine installation or maintenance. Customer's authorized representative must be present during installation.

If Spectrum is unable to install the Service as a result of (i) Customer's (or any End User's) failure to deliver any required materials, support or information to Spectrum; (ii) Customer's (or any End User's) failure to provide access to a Service Location; or (iii) Spectrum's inability to obtain access to equipment at the Service Location as necessary for installation of the Service, or (iv) Customer's Equipment (as defined herein) being inadequate to interconnect with the Services, then Customer shall pay Spectrum a Service Charge at Spectrum's then prevailing rates for any installation trip made by Spectrum and an additional Service Charge for each subsequent trip necessary to perform the Service installation. In addition, if Spectrum's installation of the Service is delayed as a result of Customer's actions or inactions as set forth above or if Customer is otherwise refusing or not ready to receive Services, then Spectrum will notify Customer that Spectrum is ready to finalize installation of the Services (the "Ready Notice") and may begin invoicing Service Charges as set forth in Section 7 upon the earlier of the Billing Start Date or sixty (60) days after the date of the Ready Notice.

Customer shall perform interconnection of the Services and Spectrum Equipment with any Customer- provided or End User equipment (collectively, "Customer Equipment"), unless otherwise set forth in an Attachment or agreed in writing between the Parties, and shall conform its Customer Equipment and software, and ensure that each End User conforms its equipment and software, to the technical specifications for the Service provided by Spectrum.

(e) Spectrum shall be responsible for reasonable restoration efforts necessary to address any displacement resulting from excavation and for those damages directly caused by Spectrum's faulty workmanship or installation of the Service, provided that the boring of holes or insertion of fasteners through the surface of walls for attachment of peripheral equipment will not be deemed damages but rather part of normal workmanship. If the installation and maintenance of Services at the Service Locations is or becomes, in Spectrum's sole opinion, hazardous or dangerous to Spectrum's employees or Network, the public, or property, including without limitation due to the presence of asbestos or other hazardous materials, Spectrum may refuse to install and maintain such Service or stop providing Services until such time as the condition is remedied or an alternative Service Location is designated that is not hazardous or dangerous. Customer shall bear any additional costs incurred by Spectrum arising from any such hazardous or dangerous conditions.

(f) Service Order Revisions and Cancellations. If, either before or after a Service Order is executed, or during the course of this Service Agreement, Spectrum determines that: (i) there is a lack of available service as detailed in Section 4, or the criteria outlined in Section 5 are not met; (ii) additional work is necessary to enable Spectrum to deliver the Services to the Service Location; (iii) access, transmission medium, equipment, adequate transmission capacity, services from or interconnection with the services or facilities of other providers, would require an additional cost or are unavailable; (iv) Customer's inside wiring is causing signal leakage which violates the Federal Communications Commission's guidelines; or (v) there is any other cause beyond Spectrum's control that causes an adverse effect on Spectrum's ability to provide the Service, then Spectrum may, at Spectrum's sole discretion, either decline to accept or cancel a Service Order. Alternatively, Spectrum will notify Customer of any additional Service Charges in excess of the amounts previously specified in a quote or Service Order. If Spectrum notifies Customer that additional Service Charges will apply and if Customer does not agree to pay such Service Charges by executing a revised Service Order within five (5) business days of receiving the same, Customer and Spectrum shall each have the right to cancel the applicable Service Order or, if no Service Order has been executed, Spectrum has the right to decline to accept a pending Service Order.

6. EQUIPMENT.

(a) Equipment Responsibilities and Safeguards. Spectrum shall use commercially reasonable efforts to maintain and secure the Spectrum Equipment used by Spectrum to provide Services to Customer. Except as otherwise provided in this Service Agreement or any Service Order(s), Customer shall be responsible for the maintenance or repair of any cable, electronics, structures, equipment, or materials owned or provided by Customer. Customer shall not, and shall not cause any third party to, move, modify, disturb, alter, remove, relocate to another Service Location, install software on the Spectrum Equipment not provided by Spectrum, or otherwise tamper with any portion of the Spectrum Equipment without the prior consent of Spectrum. Customer shall be responsible for loss or damage to the Spectrum Equipment while at Customer's or an End User's facilities. Customer shall also ensure that all Spectrum Equipment at Customer's and End Users' Service Location(s) remains free and clear of all liens and encumbrances.

(b) Customer Security Responsibilities. Customer shall be responsible for all access to and use of the Service, including whether or not Customer has knowledge of or authorizes such access or use. Customer shall be responsible for the implementation of reasonable security measures and procedures with respect to use of and access to the Service Location, Service, and Spectrum Equipment. Customer shall secure and maintain any and all Customer Equipment, including, but not limited to, Private Branch Exchanges (including other non-Spectrum switches, collectively, "PBXs"), where applicable, and any applications accessible through use of Customer Equipment, and shall be solely responsible for any conduct through and any charges incurred on Customer's Service account, regardless of whether such activity or charges are authorized by Customer management or involve fraudulent activity until such time as Customer informs Spectrum of any fraudulent or unauthorized access. Without limiting Customer's responsibilities, Spectrum has the right to implement reasonable measures to track, manage, and secure the connection between any Customer Equipment or applications used by Customer, End Users, or any third party who accesses the Customer Equipment and the Spectrum Network, including without limitation authentication or other security access procedures. Spectrum may suspend any affected Services if Spectrum discovers or becomes aware of any breach or compromise of the security of any Customer Equipment, Service, Service Location, Spectrum Equipment, or connection to the Spectrum Network.

(c) Equipment Return, Retrieval, Repair, and Replacement. Upon termination or expiration of this Service Agreement or Service Order(s) ("Termination"): Customer shall immediately cease all use of and promptly return, if applicable, to Spectrum any software or software services provided by Spectrum ("Software"). Additionally at the discretion and direction of Spectrum: (x) Customer shall return the Spectrum Equipment to Spectrum; (y) Customer shall allow Spectrum to retrieve the Spectrum Equipment, which Spectrum Equipment must be in the condition in which the Spectrum Equipment was originally received by Customer, subject to ordinary wear and tear; or (z) Spectrum may choose not to recover all or certain portions of the Spectrum Equipment at the Customer's Location.

If, upon Spectrum's request, Customer fails to return the Spectrum Equipment, or does not allow Spectrum to retrieve the Spectrum Equipment within fifteen (15) days after Services are terminated, Spectrum may, at its discretion charge Customer an amount equal to: (i) Spectrum's then-applicable unreturned equipment charge, or the retail cost of replacement of the unreturned Spectrum Equipment; plus (ii) any and all costs and expenses associated with Spectrum's unsuccessful attempts to retrieve the Spectrum Equipment. If applicable, Customer shall pay for the repair or replacement of any damaged Spectrum Equipment, except such repairs or replacements as may be necessary due to normal and ordinary wear and tear or material or workmanship defects, together with any costs incurred by Spectrum in obtaining or attempting to regain possession of the Spectrum Equipment. The proper disposition of any Spectrum Equipment that is not returned to, or recovered by, Spectrum will be the sole responsibility of Customer, and must be in accordance with applicable laws. The foregoing Customer obligations will survive the termination of Service.

7. STANDARD PAYMENT TERMS. Customer shall pay recurring and non-recurring charges, taxes, and fees for the Services in the amount specified on the Service Order and other applicable charges as described in this Service Agreement (collectively, "Service Charges").

(a) Charges. Spectrum invoices for monthly recurring charges specific to the Service(s) ("MRCs"), plus applicable taxes, fees, and surcharges, in advance on a monthly basis. Spectrum invoices for non-recurring, one-time charges ("OTCs") for construction or installation charges after the Billing Start Date or as specified in the Service Order. All other charges, including usage-based charges (e.g., phone usage, pay-per view charges), will be invoiced monthly in arrears. Service Charges are payable within **forty-five (45)** days after the date appearing on the invoice. If Spectrum fails to present a Service Charge in a timely manner, such failure shall not constitute a waiver of the charges for the Services to which it relates, and Customer shall be responsible for and pay such Service Charges when invoiced in accordance with these payment terms. Spectrum shall have the right to increase MRCs for each Service after the Initial Order Term for such Service upon thirty (30) days' notice to Customer.

(b) Taxes, Surcharges, and Fees. Customer shall pay all applicable taxes, fees, or surcharges imposed on or in connection with the Services that are the subject of this Service Agreement, including but not limited to applicable

federal, state, and local sales, use, excise, telecommunications, or other taxes, franchise fees, federal and state universal service fund fees, and other state or local governmental charges or regulatory fees, excluding income taxes measured on Spectrum's net income. If a Customer wishes to claim tax-exempt status, then Customer must supply Spectrum with a copy of Customer's tax exemption certificate or other documentation supporting Customer's certification of its entitlement to such exempt status within fifteen (15) days of installation of applicable Services. If Customer supplies such documentation after that time, Spectrum will apply it to Customer's account on a prospective basis, allowing Spectrum at least thirty (30) days for processing. To the extent such documentation is held invalid for any reason, Customer agrees to pay or reimburse Spectrum for any tax or fee not collected or liability incurred, including without limitation related interest and penalties arising from Spectrum's reliance on such invalid certificate or documentation.

Customer hereby consents that Spectrum may disclose such written documentation, which may include a tax exemption form, to any governmental authority. Tax-exempt status shall not relieve Customer of its obligation to pay applicable franchise fees or other non-tax fees and surcharges since the application of such fees and surcharges may not be governed by the tax standing of Customer. Spectrum reserves the right, from time to time, to change the surcharges for Services under this Service Agreement to reflect incurred costs, charges, or obligations imposed on Spectrum to the extent permitted, required, or otherwise not prohibited under applicable law (e.g., universal service fund charges). Furthermore, Spectrum shall have the right to collect or recover from Customer the amount of any state or local fees or taxes arising as a result of this Service Agreement, which are imposed on Spectrum or its services, or otherwise assessed or calculated based on Spectrum's receipts from Customer that Spectrum is entitled under applicable law to pass through to or otherwise charge Customer for Customer's use or receipt of the Services. Such fees or taxes shall be invoiced to Customer in the form of a surcharge included on Customer's invoice.

To the extent that a dispute arises under this Service Agreement as to which Party is liable for fees or taxes, Customer shall bear the burden of proof in showing that the fee or tax is imposed upon Spectrum's net income. This burden may be satisfied by Customer producing written documentation from the jurisdiction imposing the fee or tax indicating that the fee or tax is based on Spectrum's net income. Customer acknowledges that currently, and from time to time, there is uncertainty about the taxability or regulatory classification of some of the Services Spectrum provides and, consequently, uncertainty about what fees, taxes and surcharges are due to or from Spectrum or from its customers. Customer agrees that Spectrum has the right to determine, in its sole discretion, what fees, taxes, and surcharges are due and to collect and remit them to the relevant governmental authorities, or to pay and pass them through to Customer. Customer hereby waives any claims it may have regarding Spectrum's collection or remittance of such fees, taxes, and surcharges.

(c) Change Requests. Any charges associated with Service and Spectrum Equipment or Customer Equipment installations, changes, or additions requested by Customer subsequent to executing a Service Order for the applicable Service Location are the sole financial responsibility of Customer. Spectrum shall notify Customer of any additional OTCs and/or adjustments to MRCs associated with or applicable to such Customer change requests prior to making any such change. Customer's failure to accept such additional charges within five (5) business days of receiving such notice shall be deemed a rejection by Customer, and Spectrum shall not be liable to perform any work giving rise to such charges. For accepted charges, Customer shall be assessed such additional OTCs and/or adjustments of the MRCs either (i) in advance of implementation of the change request or (ii) beginning on Customer's next and/or subsequent invoice(s).

(d) Site Visits and Repairs. If Spectrum visits a Service Location to either inspect the Services or respond to a service request, and Spectrum reasonably determines that the cause of the service issue is not due to a problem arising from Spectrum's Network or Spectrum Equipment, but rather is due to Customer misuse, abuse, or modification of the Services, Customer Equipment or facilities, or due to similar acts by a third party not under Spectrum's control or direction, then Spectrum may invoice Customer at Spectrum's then-prevailing commercial rates for an on-site visit, plus any charges for Spectrum Equipment repair or replacement as a result of Customer or third party damage that may be necessary.

(e) Invoicing Disputes; Late and Collection Fees. Customer must provide notice to Spectrum of any disputed charges within sixty (60) days of the invoice date on which the disputed charges appear for Customer to receive any credit that may be due. Customer must have and present a reasonable basis for disputing any amount charged. Undisputed amounts not paid within thirty (30) days of the invoice date shall be past due and subject to a late fee up to the lesser of 1.5% of the MRC per month or the maximum amount permitted by law. If Services are suspended due to late payment, Spectrum may require that Customer pay all past due charges, a reconnect fee, and one or more MRCs in advance before reconnecting Services. Spectrum may charge a reasonable service fee for all returned checks and bankcard, credit card or other charge card charge-backs. Customer shall be responsible for all expenses, including reasonable attorney fees and collection costs, incurred by Spectrum in collecting any unpaid amounts due under this Service Agreement.

(f) Credit Verification. Spectrum shall have the right to verify Customer's credit standing at any time.

(g) Bundled Pricing. If Customer has selected a bundled offer, meaning a discounted MRC for receiving more than one Spectrum Service ("Bundle"), then the following conditions shall apply:

- i. In consideration for Customer's purchase of all Services in the Bundle, and only with respect to that period of time during which Customer continues to purchase the specific Services in such Bundle and during which such Bundle is in effect, the correlating discount to the Services in such Bundle, ordered pursuant to the Spectrum program governing such Bundle, will be reflected in the MRC for the respective Services.
- ii. Upon Termination by Customer, for any reason other than a Spectrum Default, of any Service component of the applicable Bundle, the pricing for the remaining Service(s) shall revert to Spectrum's unbundled pricing for such Service(s) in effect at the time of Termination. Termination liability applicable to the Services under this Service Agreement shall otherwise remain unchanged.

8. ADMINISTRATIVE WEB SITE. Spectrum may, at its sole option, make one or more administrative web sites, including without limitation www.spectrum.net, available to Customer in connection with Customer's use of the Services (each an "Administrative Web Site"). Spectrum may furnish Customer with one or more user identifications and/or passwords for use on the Administrative Web Site and Customer must promptly change any Spectrum-provided user identifications and passwords to a secure, Customer-designated user identification and password. Customer shall be responsible for the confidentiality and use of such user identifications and passwords, whether provided by Spectrum or designated by Customer, and any equipment or devices used to access any Administrative Web Site, and shall immediately notify Spectrum if there has been an unauthorized release, use, or other compromise of any user identification or password. In addition, Customer agrees that its authorized users shall keep confidential and not distribute any information or other materials made available by the Administrative Web Site. Customer shall be solely responsible for all use of the Administrative Web Site. Spectrum shall not be liable for any loss, cost, expense, or other liability arising out of any Customer use of the Administrative Web Site.

Spectrum may change or discontinue the Administrative Web Site, or Customer's right to use the Administrative Web Site, at any time. Any additional terms and policies applicable to Customer's use of the Administrative Web Site will be posted on the site.

9. SUPPORT. Spectrum shall provide contact information for inquiries and remote problem support for the Services. All such Customer support shall be provided only to Customer's designated personnel or as mutually agreed upon by Spectrum and Customer. Customer is responsible for all communications and support for its End Users. Customer shall provide routine operational support for Spectrum Equipment located at a Service Location, including without limitation, by performing reboots as requested by Spectrum. Customer is responsible for the installation, repair, and use of Customer Equipment, including without limitation, Customer-supplied third-party hardware, or software for the use of Spectrum Service or third party services.

Spectrum does not support third-party hardware or software used in conjunction with third-party services or supplied by Customer. Any questions concerning third-party hardware or software should be directed to the provider of that product. Spectrum assumes no liability or responsibility for the installation, maintenance, compatibility or performance of third-party software, or any Customer Equipment or Customer-supplied software with the Services. If such third-party equipment or software impairs the Services, Customer shall continue to pay all applicable Service Charges. If, at Customer's request, Spectrum should attempt to resolve difficulties caused by such third-party equipment or software, such efforts shall be performed at Spectrum's discretion and subject to Service Charges as set forth in Section 7(d).

10. CUSTOMER REPRESENTATIONS AND OBLIGATIONS.

(a) Representations. Customer represents and warrants to Spectrum that: (i) Customer has the authority to execute, deliver and carry out the terms of this Service Agreement, and (ii) its End Users and any person who accesses any Services at the Service Location, will use the Service and Network for Customer's internal business purposes and will comply with the terms of this Service Agreement.

(b) No Reselling. Customer shall not re-sell or re-distribute (whether for a fee or otherwise) access to the Service(s) or system capacity, or any part thereof, in any manner other than for Customer's internal business without the express prior consent of Spectrum, including without limitation, any use to provide services for the benefit of, or on behalf of, any third party other than Customer or its End Users.

(c) No Illegal Purpose or Unauthorized Access. Customer shall not use or permit End Users or third parties to use the Service(s), including the Spectrum Equipment and Software, for any illegal purpose, or to achieve unauthorized access to any computer systems, software, data, or other copyright or patent protected material.

(d) No Interference. Customer shall not interfere with or cause technical difficulties for other customers' use of equipment or Services or interfere with or disrupt the Spectrum Network, backbone, nodes, other Services, or third-party

providers. Customer shall not install any equipment, including without limitation, any antenna or signal amplification system, at the Service Location that interferes with the Services.

(e) Applicable Laws. With respect to Customer's and End Users' use of the Service (including the transmission or use of any content via the Service), Customer shall comply, and shall ensure that its End Users comply, with all applicable laws and regulations in addition to the terms of this Service Agreement. Spectrum shall have the right to audit Customer's use of the Service remotely or otherwise, to ensure compliance with this Service Agreement.

(f) Acceptable Use. As between the Parties, Customer is solely responsible for (i) all use (whether or not authorized) of the Service by Customer, any End User or any unauthorized person or entity, which use shall be deemed Customer's use for purposes of this Service Agreement, (ii) all content that is viewed, stored or transmitted via the Service, as applicable, and (iii) all third-party charges incurred for merchandise and services accessed via the Service, if any. Customer shall not use, or allow the Services to be used, in any manner that would violate the applicable Spectrum Acceptable Use Policies or that would cause, or be likely to cause, Spectrum to qualify as a "Covered 911 Service Provider" as defined in 47 C.F.R. §9.19 or any successor provision of the rules of the Federal Communication Commission.

For avoidance of doubt, Customer and Spectrum agree that any failure to satisfy the covenants set forth in the preceding sentence shall constitute a material breach of the Service Agreement.

11. PERFORMANCE. Unless otherwise set forth in an Attachment or service level agreement, Spectrum will use commercially reasonable efforts to provide the Services to Customer twenty-four (24) hours per day, seven (7) days per week. It is possible, however, that there will be interruptions of Service. The Service may be unavailable from time-to-time either for scheduled or unscheduled maintenance, technical difficulties, or for other reasons beyond Spectrum's reasonable control. Temporary service interruptions or outages for such reasons, as well as service interruptions or outages caused by Customer, its agents and employees, or by a Force Majeure Event, shall not constitute a failure by Spectrum to perform its obligations under this Service Agreement.

12. MONITORING, EQUIPMENT UPGRADES AND NETWORK MODIFICATIONS. Spectrum has the right, but not the obligation, to upgrade, modify, and enhance the Spectrum Network and the Service and take any action that Spectrum deems appropriate to protect or improve the Service and its facilities. Spectrum shall have the right, but not the obligation, to monitor, record, and maintain oral communications with Customer regarding Customer's account or Services for the purpose of service quality assurance, or as permitted under applicable law.

13. DEFAULT, SUSPENSION OF SERVICE, AND TERMINATION.

(a) Default. A Party shall be in default under this Service Agreement if it has failed to comply with the terms of this Service Agreement or any Service Orders, including without limitation the obligation to pay any amounts due, and such Party fails to correct each such noncompliance within thirty (30) days of receipt of notice from the non-defaulting Party describing in reasonable detail the default or noncompliance ("Default").

(b) Mutual Termination Rights. Either Party may terminate this Service Agreement or a Service Order if: (i) the other Party is in Default; or (ii) the other Party liquidates, is adjudicated as bankrupt, makes an assignment for the benefit of creditors, invokes any provision of law for general relief from its debts, initiates any proceeding seeking general protection from its creditors, or is removed or delisted from a trading exchange.

(c) Termination for Convenience by Customer. Notwithstanding any other term or provision in this Service Agreement, Customer may terminate a Service Order, or this Service Agreement, at any time upon thirty (30) days prior notice to Spectrum, subject to payment of all outstanding amounts due, payment of any applicable Termination Charges (as defined below), and the return of any Spectrum Equipment.

(d) Spectrum's Right to Suspend. Spectrum shall have the right, at its option, without prior notice, and in addition to any other rights of Spectrum expressly set forth in this Service Agreement and any other remedies it may have under applicable law to suspend Services or any component thereof if Customer fails to comply with any applicable laws or regulations or this Service Agreement, or if Customer or its End Users' use of the Service is determined by Spectrum, in its sole discretion, to result in a material degradation of the Spectrum Network until Customer remedies any such noncompliance or degradation. Any suspension shall not affect Customer's on-going obligation to pay Spectrum any amounts due under this Service Agreement. If Spectrum suspends any Service, Spectrum may require the payment of reconnect or other charges before restarting the suspended Service.

(e) Termination Charges. Upon Termination, Customer must pay all Services Charges then due for Services provided through the effective date of Termination. In addition, if Termination is due to Customer Default or for Customer's convenience, Customer must pay Spectrum a termination charge (a "Termination Charge"), which the Parties recognize as liquidated damages and not as a penalty. This Termination Charge shall be equal to 100% of the unpaid balance of all

Service Charges that would have been due throughout the applicable Order Term, including, without limitation, the outstanding balance of any and all unpaid OTCs. The foregoing terms will also apply to any partial Termination impacting one or more Service Orders, but not the entire Service Agreement.

(f) Survival. The provisions of sections 6(c), 7(b), 7(e), 13(e), 13(f), 14, 15, 18-22 and the Attachments shall survive the termination or expiration of the Service Agreement.

14. DISCLAIMER OF WARRANTY; LIMITATION OF LIABILITY.

(a) **DISCLAIMER OF WARRANTY.** CUSTOMER ASSUMES TOTAL RESPONSIBILITY FOR USE OF THE SERVICE AND SPECTRUM EQUIPMENT, AND USES THE SAME AT ITS OWN RISK, AND FOR ACCESS TO AND SECURITY OF CUSTOMER'S EQUIPMENT AND CUSTOMER'S NETWORK. SPECTRUM EXERCISES NO CONTROL OVER AND HAS NO RESPONSIBILITY WHATSOEVER FOR THE APPLICATIONS OR CONTENT TRANSMITTED OR ACCESSIBLE THROUGH THE SERVICE AND SPECTRUM EXPRESSLY DISCLAIMS ANY RESPONSIBILITY FOR SUCH APPLICATIONS OR CONTENT.

EXCEPT AS SPECIFICALLY SET FORTH IN THIS SERVICE AGREEMENT, THE SERVICE, SPECTRUM EQUIPMENT, AND ANY SPECTRUM MATERIALS ARE PROVIDED "AS IS, WITH ALL FAULTS," WITHOUT WARRANTIES OF ANY KIND, EITHER EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO WARRANTIES OF TITLE, NON-INFRINGEMENT, SYSTEM INTEGRATION, DATA ACCURACY, QUIET ENJOYMENT, MERCHANTABILITY, OR FITNESS FOR A PARTICULAR PURPOSE. NO ADVICE OR INFORMATION GIVEN BY SPECTRUM, ITS AFFILIATES OR ITS CONTRACTORS OR THEIR RESPECTIVE EMPLOYEES SHALL CREATE ANY WARRANTY. SPECTRUM DOES NOT REPRESENT OR WARRANT THAT THE SERVICE WILL MEET CUSTOMER'S REQUIREMENTS, PREVENT UNAUTHORIZED ACCESS BY THIRD PARTIES, WILL BE UNINTERRUPTED, SECURE, ERROR FREE, WITHOUT DEGRADATION OF VOICE QUALITY OR WITHOUT LOSS OF CONTENT, DATA OR INFORMATION, OR THAT ANY MINIMUM TRANSMISSION SPEED IS GUARANTEED AT ANY TIME. EXCEPT AS SET FORTH IN THE SERVICE AGREEMENT, SPECTRUM DOES NOT WARRANT THAT ANY SERVICE OR EQUIPMENT PROVIDED BY SPECTRUM WILL PERFORM AT A PARTICULAR SPEED, BANDWIDTH, OR THROUGHPUT RATE. IN ADDITION, CUSTOMER ACKNOWLEDGES AND AGREES THAT TRANSMISSIONS OVER THE SERVICE MAY NOT BE SECURE.

CUSTOMER FURTHER ACKNOWLEDGES AND AGREES THAT ANY DATA, MATERIAL OR TRAFFIC OF ANY KIND WHATSOEVER CARRIED, UPLOADED, DOWNLOADED OR OTHERWISE OBTAINED THROUGH THE USE OF THE SERVICE IS DONE AT CUSTOMER'S OWN DISCRETION AND RISK AND THAT CUSTOMER WILL BE SOLELY RESPONSIBLE FOR ANY DAMAGE TO CUSTOMER'S OR ANY END USER'S EQUIPMENT OR LOSS OF SUCH DATA, MATERIAL OR TRAFFIC DURING, OR RESULTING FROM, CUSTOMER'S OR ANY END USER'S USE OF THE SERVICE, INCLUDING, WITHOUT LIMITATION, VIA SENDING OR RECEIVING, UPLOADING OR DOWNLOADING, OR OTHER TRANSMISSION OF SUCH DATA, MATERIAL OR TRAFFIC. IN ADDITION, CUSTOMER ACKNOWLEDGES AND AGREES THAT SPECTRUM'S THIRD PARTY SERVICE PROVIDERS DO NOT MAKE ANY WARRANTIES TO CUSTOMER UNDER THIS SERVICE AGREEMENT, AND SPECTRUM DOES NOT MAKE ANY WARRANTIES ON BEHALF OF SUCH SERVICE PROVIDERS UNDER THIS SERVICE AGREEMENT, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO THE IMPLIED WARRANTIES OF MERCHANTABILITY, NON-INFRINGEMENT, TITLE, FITNESS FOR A PARTICULAR PURPOSE, SYSTEM INTEGRATION, DATA ACCURACY OR QUIET ENJOYMENT.

(b) **LIMITATION OF LIABILITY.** WITHOUT LIMITING ANY EXPRESS PROVISIONS OF THIS SERVICE AGREEMENT, NEITHER PARTY SHALL BE LIABLE TO THE OTHER, ANY END USER, OR ANY THIRD PARTY FOR ANY INDIRECT, CONSEQUENTIAL, EXEMPLARY, SPECIAL, INCIDENTAL, RELIANCE, OR PUNITIVE DAMAGES (INCLUDING LOST BUSINESS, REVENUE, PROFITS, OR GOODWILL) ARISING IN CONNECTION WITH THIS SERVICE AGREEMENT OR THE PROVISION OF SERVICES, INCLUDING ANY SERVICE IMPLEMENTATION DELAYS OR FAILURES, UNDER ANY THEORY OF TORT, CONTRACT, WARRANTY, STRICT LIABILITY, MISREPRESENTATION, OR NEGLIGENCE, EVEN IF THE PARTY HAS BEEN ADVISED, KNEW OR SHOULD HAVE KNOWN OF THE POSSIBILITY OF SUCH DAMAGES. THE FOREGOING LIMITATION OF LIABILITY SHALL NOT APPLY TO ANY OF CUSTOMER'S PAYMENT OBLIGATIONS UNDER THIS SERVICE AGREEMENT. SPECTRUM'S MAXIMUM LIABILITY TO CUSTOMER WITH REGARD TO ANY SERVICE ORDER SHALL NOT EXCEED THE AMOUNT, EXCLUDING OTCs, PAID OR PAYABLE BY CUSTOMER TO SPECTRUM FOR THE APPLICABLE SERVICE ORDER IN THE THREE (3) MONTHS IMMEDIATELY PRECEDING THE EVENTS GIVING RISE TO THE CLAIM. SPECTRUM SHALL NOT BE RESPONSIBLE FOR ANY LOSSES OR DAMAGES ARISING AS A RESULT OF THE UNAVAILABILITY OF THE SERVICE, INCLUDING THE INABILITY TO REACH 911 OR ANY OTHER EMERGENCY SERVICES, THE INABILITY TO CONTACT A SECURITY SYSTEM OR REMOTE MEDICAL OR OTHER MONITORING SERVICE PROVIDER OR ANY FAILURE OR FAULT RELATING TO CUSTOMER-PROVIDED EQUIPMENT, FACILITIES, OR SERVICES.

15. CUSTOMER RESPONSIBILITY. Customer understands and agrees that Spectrum disclaims and shall not be responsible for any liability to the full extent that such arises from Customer's misrepresentation with regard to or noncompliance with the terms of this Agreement and/or any Service Order, Customer's failure to comply with applicable law, and/or Customer's negligence or willful misconduct. Customer is solely responsible for the use of the Services, for its own personnel and their acts and omissions.

16. COMPLIANCE WITH LAWS. As between the Parties, Spectrum shall obtain and maintain at its own expense all licenses, approvals and regulatory authority required by law with respect to Spectrum's operation and provision of the Services as contemplated in the Service Agreement, and Customer shall obtain and maintain at its own expense all licenses, approvals and regulatory authority required by law with respect to Customer's use of the Services as contemplated in the Service Agreement. Unless specified otherwise in the Service Agreement, each Party shall give all notices, pay all fees and comply with all applicable laws, ordinances, rules and regulations relating to its performance obligations specified in the Service Agreement. The Service Agreement is subject to all applicable federal, state, or local laws and regulations in effect in the relevant jurisdiction(s) in which Spectrum provides the Services. If any provision of the Service Agreement contravenes or is in conflict with any such law or regulation, then the terms of such law or regulation shall take priority over the relevant provision of the Service Agreement. If the relevant law or regulation applies to some but not all of the Services being provided under the Service Agreement, then such law or regulation shall take priority over the relevant provision of the Service Agreement only for purposes of those Services to which the law or regulation applies. Except as explicitly stated in the Service Agreement, nothing contained in the Service Agreement shall constitute a waiver by Spectrum of any rights under applicable laws or regulations pertaining to the installation, construction, operation, maintenance, or removal of the Services, facilities or equipment.

17. REGULATORY CHANGES. In the event of any change in applicable law, regulation, decision, rule or order, including without limitation any new application of or increase in any government- or quasi-government-imposed fees or charges that increases the costs or other terms of Spectrum's delivery of Service to Customer, or, in the event of any increase in pole attachment or conduit charges applicable to any facilities used by Spectrum in providing the Service, Customer acknowledges and agrees that Spectrum may pass through to Customer any such increased fees or costs, but only to the extent of the actual increase. Spectrum shall use commercially reasonable efforts to notify Customer at least thirty (30) days in advance of the increase. In such case, and if such increase materially increases the Service Charges payable by Customer under the Service Agreement for the applicable Service, Customer may, within thirty (30) days after notification of such increase, terminate the affected Service without an obligation to pay Termination Charges, provided Customer notifies Spectrum at least thirty (30) days in advance of Customer's requested termination date. Further, in the event that Spectrum is required to file tariffs or rate schedules with a regulatory agency or otherwise publish or make generally available its rates in accordance with regulatory agency rules or policies respecting the delivery of the Service or any portion thereof, then the terms set forth in the applicable tariff or rate schedule shall govern Spectrum's delivery of, and Customer's use or consumption of the Service. In addition, if Spectrum determines that offering or providing the Service, or any part thereof, has become impracticable for legal or regulatory reasons or circumstances, then Spectrum may terminate the Service Agreement and any affected Service Orders without liability, by giving Customer thirty (30) days prior notice or any such notice as is required by law or regulation applicable to such determination.

18. ARBITRATION. This Service Agreement requires the use of arbitration to resolve disputes and otherwise limits the remedies available to Customer in the event of a dispute. Subject to the "Exclusions" paragraph below, Spectrum and Customer agree to arbitrate disputes and claims arising out of or relating to this Service Agreement, the Services, the Spectrum Equipment, Network, or marketing of the Services. Notwithstanding the foregoing, either Party may bring an individual action on any matter or subject in small claims court. The arbitrator of any dispute or claim brought under or in connection with this Service Agreement shall not have the power to award injunctive relief, which may only be sought in an appropriate court of law. No claim subject to arbitration under this Service Agreement may be combined with a claim subject to resolution before a court of law. THIS SERVICE AGREEMENT MEMORIALIZES A TRANSACTION IN INTERSTATE COMMERCE. THE FEDERAL ARBITRATION ACT GOVERNS THE INTERPRETATION AND ENFORCEMENT OF THESE ARBITRATION PROVISIONS.

(a) A Party who intends to seek arbitration must first send to the other a written notice of intent to arbitrate, entitled "Notice of Intent to Arbitrate" ("Notice"). The Notice to Spectrum should be addressed to: VP and Associate General Counsel, Litigation, Charter Communications, 12405 Powerscourt Drive, St. Louis, MO 63131 ("Arbitration Notice Address"). The Notice must: (a) describe the nature and basis of the claim or dispute; and (b) set forth the specific relief sought. If the Parties do not reach an agreement to resolve the claim within thirty (30) days after the Notice is received, Customer or Spectrum may commence an arbitration proceeding, in which all issues are for the arbitrator to decide (including the scope of the arbitration clause), but the arbitrator shall be bound by the terms of this Service Agreement. The arbitration shall be governed by the Commercial Arbitration Rules and the Supplementary Procedures for Consumer Related Disputes (collectively, "AAA Rules") of the American Arbitration Association ("AAA"), as modified by this Service Agreement, and the arbitration shall be administered by the AAA. The AAA Rules and fee information are available at www.adr.org, by calling the AAA at 1-800-778-7879, or by writing to the Arbitration Notice Address.

(b) EACH PARTY SHALL BEAR THE COST OF ANY ARBITRATION FILING FEES AND ARBITRATOR'S FEES THAT SUCH PARTY INCURS INCLUDING, BUT NOT LIMITED TO, ATTORNEYS FEES OR EXPERT WITNESS COSTS UNLESS OTHERWISE REQUIRED UNDER APPLICABLE LAW. If the arbitrator's award exceeds \$75,000, either Party may appeal such award to a three-arbitrator panel administered by the AAA and selected according to the AAA Rules, by filing a written notice of appeal within thirty (30) days after the date of entry of the arbitration award. The appealing Party must provide the other Party with a copy of such appeal concurrently with its submission of the appeals notice to AAA. The three-arbitrator panel must issue its decision within one hundred twenty (120) days of the date of the appealing Party's notice of appeal.

The decision of the three-arbitrator panel shall be final and binding, except for any appellate right which may exist under the Federal Arbitration Act. The Parties may agree that arbitration will be conducted solely on the basis of the documents submitted to the arbitrator, via a telephonic hearing, or by an in-person hearing as established by AAA rules. Unless Spectrum and Customer agree otherwise in writing, all hearings conducted as part of the arbitration shall take place in the **State of Florida**.

(c) CUSTOMER AGREES THAT, BY ENTERING INTO THIS SERVICE AGREEMENT, CUSTOMER AND SPECTRUM ARE WAIVING THE RIGHT TO A TRIAL BY JUDGE OR JURY. CUSTOMER AND SPECTRUM AGREE THAT CLAIMS MAY ONLY BE BROUGHT IN CUSTOMER'S INDIVIDUAL CAPACITY AND NOT ON BEHALF OF, OR AS PART OF, A CLASS ACTION OR REPRESENTATIVE PROCEEDING. Furthermore, unless both Customer and Spectrum agree otherwise in writing, the arbitrator may not consolidate proceedings or more than one person's claims and may not otherwise preside over any form of representative or class proceeding.

(d) Severability. If any clause within these arbitration provisions is found to be illegal or unenforceable, that specific clause will be severed from these arbitration provisions, and the remainder of the arbitration provisions will be given full force and effect. NOTWITHSTANDING ANYTHING TO THE CONTRARY, IN THE EVENT SOME OR ALL OF THESE ARBITRATION PROVISIONS IS DETERMINED TO BE UNENFORCEABLE FOR ANY REASON, OR IF A CLAIM IS BROUGHT THAT IS FOUND BY A COURT TO BE EXCLUDED FROM THE SCOPE OF THESE ARBITRATION PROVISIONS, BOTH PARTIES AGREE TO WAIVE, TO THE FULLEST EXTENT ALLOWED BY LAW, ANY TRIAL BY JURY. For purposes of the foregoing sentence only, in the event such waiver is found to be unenforceable, it shall be severed from this Service Agreement, rendered null and void and of no further effect without affecting the rest of the arbitration provisions set forth herein.

EXCLUSIONS. CUSTOMER AND SPECTRUM AGREE THAT THE FOLLOWING CLAIMS OR DISPUTES SHALL NOT BE SUBJECT TO ARBITRATION:

ANY INDIVIDUAL ACTION BROUGHT BY CUSTOMER OR BY SPECTRUM ON ANY MATTER OR SUBJECT THAT IS WITHIN THE JURISDICTION OF A COURT THAT IS LIMITED TO ADJUDICATING SMALL CLAIMS.

ANY DISPUTE OVER THE VALIDITY OF ANY PARTY'S INTELLECTUAL PROPERTY RIGHTS.

ANY DISPUTE RELATED TO OR ARISING FROM ALLEGATIONS ASSOCIATED WITH UNAUTHORIZED USE OR RECEIPT OF SERVICE.

19. PROPRIETARY RIGHTS AND CONFIDENTIALITY.

(a) Spectrum's Proprietary Rights. All materials including, but not limited to, any Spectrum Equipment (including related firmware), software, data and information provided by Spectrum, any identifiers or passwords used to access the Service or otherwise provided by Spectrum, and any know-how, methodologies or processes including, but not limited to, all copyrights, trademarks, patents, trade secrets, any other proprietary rights inherent therein and appurtenant thereto, used by Spectrum to provide the Service (collectively "Spectrum Materials") shall remain the sole and exclusive property of Spectrum or its suppliers and shall not become a fixture to the Service Location. Customer shall acquire no title to, interest or right (including intellectual property rights) in the Spectrum Materials by virtue of the payments provided for herein other than the limited, non-exclusive, and non-transferable license to use the Spectrum Materials solely for Customer's use of the Service. Customer may not disassemble, decompile, reverse engineer, reproduce, modify, or distribute the Spectrum Materials, in whole or in part, or use them for the benefit of any third party. Customer shall not cause or permit the disabling or circumvention of any security mechanism contained in or associated with the Services. All rights in the Spectrum Materials not expressly granted to Customer herein are reserved to Spectrum or its suppliers. Customer shall not open, alter, misuse, tamper with, or remove the Spectrum Equipment or Spectrum Materials as and where installed by Spectrum, and shall not remove any markings or labels from the Spectrum Equipment or Spectrum Materials indicating Spectrum (or its suppliers) ownership or serial numbers.

(b) Confidentiality. Customer agrees to maintain in confidence, and not to disclose to third parties or use, except for such use as is expressly permitted herein, the Spectrum Materials and any other information and materials

provided by Spectrum in connection with this Service Agreement, including but not limited to the contents of this Service Agreement and any Service Orders. **Notwithstanding the foregoing, Spectrum understands and agrees that Customer is a public entity subject to the Florida Public Records Law. Except to the extent of an applicable exemption under Florida Statutes §119.071, any documents or records submitted to Customer are subject to disclosure pursuant to the Florida Public Records Law. Neither party may issue a press release, public announcement or other public statements regarding the Service Agreement without the other party's prior consent.**

(c) **Software.** If Software is provided to Customer hereunder, Spectrum grants Customer a limited, non-exclusive, and non-transferable license to use such Software, in object code form only, for the sole and limited purpose of using the Services for Customer's internal business purposes during the Term. Customer shall not copy, reverse engineer, decompile, disassemble, translate, or attempt to learn the source code of any Software. Upon termination of a Service Order, the license to use any Software provided by Spectrum to Customer in connection with the Services provided under the Service Order shall terminate and Customer shall destroy any copies of the Software provided to Customer.

(d) **Florida Public Records Law.** During the Term of the Service Agreement, Spectrum shall comply with any mandatory provisions of public records laws as set forth in Chapter 119, Florida Statutes, to the extent such law is applicable to the Services provided by Spectrum. To the extent applicable, in accordance with Florida Statutes § 119.0701, Spectrum shall:

- i. **Keep and maintain public records required by Customer to perform the Service.**
- ii. **Upon request from the Customer's custodian of public records, provide the Customer with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in this chapter or as otherwise provided by law.**
- iii. **Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the Term of the Service Agreement and following completion of the Service Agreement if Spectrum does not transfer the records to the Customer.**
- iv. **Upon completion of the Service Agreement, transfer, at no cost, to the Customer all public records in possession of Spectrum or keep and maintain public records required by the Customer to perform the Service. If Spectrum transfers all public records to the Customer upon completion of the Service Agreement, Spectrum shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If Spectrum keeps and maintains public records upon completion of the Service Agreement, Spectrum shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the Customer, upon request from the Customer's custodian of public records, in a format that is compatible with the information technology systems of the Customer.**

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

20. PRIVACY. Spectrum also maintains a Privacy Policy with respect to the Services in order to protect the privacy of its customers. The Privacy Policy may be found on Spectrum's website at <https://enterprise.spectrum.com/>. The Privacy Policy may be updated or modified from time-to-time by Spectrum, with or without notice to Customer. Customer's privacy interests, including Customer's ability to limit disclosure of certain information to third parties, may be addressed by, among other laws, the Federal Telecommunications Act, the Federal Cable Communications Act, the Electronic Communications Privacy Act, and, to the extent applicable, state laws and regulations. Customer proprietary network information and personally identifiable information that may be collected, used or disclosed in accordance with applicable laws is described in an Attachment, the Privacy Policy, and, if applicable, in Spectrum's tariff, which are incorporated into, and made a part of, this Service Agreement by this reference. In addition to the foregoing, Customer hereby acknowledges and agrees that Spectrum may disclose Customer's and its employees' personally identifiable information as required by law or regulation, or the American Registry for Internet Numbers or any similar agency, or in accordance with the Privacy Policy or, if applicable, tariff(s). In addition, Spectrum shall have the right (except where prohibited by law), but not the obligation, to

disclose any information to protect its rights, property or operations, or where circumstances suggest that individual or public safety is in peril.

21. NOTICES.

(a) Except for notice to terminate the Service Agreement or to disconnect any Services as set forth in Section 21(b) below, all other notices to be given under this Service Agreement shall be validly given or served only if in writing and sent by nationally recognized overnight delivery service or certified mail, return receipt requested, to the following address:

If to Spectrum:
Charter Communications Operating, LLC
ATTN: Commercial Contracts Management
Corporate - Legal Operations
12405 Powerscourt Drive
St. Louis, MO 63131

Notices to Customer shall be sent to the Customer billing address or as set forth in the Service Agreement. Each Party may change its respective address(es) for legal notice by providing notice to the other Party. Upon Spectrum's request, Customer will also provide Spectrum with a current email address that Customer regularly checks so that Spectrum may provide copies of notices and other communications to Customer by email.

(b) Disconnect Notice. Customer may disconnect a Service or all Services under the Services Agreement by following the instructions available at this link: <https://enterprise.spectrum.com/support/faq/account/how-to-cancel-service.html> (such instructions in the link may be updated from time to time).

22. MISCELLANEOUS.

(a) Entire Agreement. This Service Agreement, including without limitation all Attachments, incorporated documents and any executed Service Orders constitute the entire agreement and understanding between the Parties with respect to the subject matter hereof. This Service Agreement supersedes all prior understandings, promises, and undertakings, if any, made orally or in writing by or on behalf of the Parties with respect to the subject matter of this Service Agreement, including without limitation any prior confidentiality or non-disclosure agreement between the Parties regarding the purchase and sale of Spectrum Services.

Customer should also consult Spectrum's website <https://enterprise.spectrum.com/> to be sure Customer is aware of Spectrum's Acceptable Use Policies, Network Management Practices, applicable tariffs online product descriptions, and other policies or practices that are applicable to Customer's use of the Services (collectively "Policies"). Customer's use of the Services shall be deemed acknowledgment that Customer has read and agreed to Spectrum's Policies as a part of this Service Agreement.

(b) Signatures; Electronic Transactions. This Service Agreement may be executed in one or more counterparts, each of which is an original, but together constituting one and the same instrument. Execution of a facsimile or other electronic copy will have the same force and effect as execution of an original, and a facsimile or electronic signature will be deemed an original and valid signature. The Parties agree to conduct business using electronic means including using electronic records and electronic signatures, except as provided with respect to notices in Section 21. **Notwithstanding the foregoing, unless this requirement is waived by Customer, this Service Agreement or Service Orders will not be executed via electronic signatures.**

(c) Order of Precedence. Each Service shall be provisioned pursuant to the terms and conditions of this Service Agreement. In the event that Spectrum permits Customer to use its own standard purchase order form to order the Service, the Parties hereby acknowledge and agree that the terms and conditions hereof shall prevail notwithstanding any variance with the terms and conditions of any purchase order submitted by Customer, and any different or additional terms contained in such purchase order shall have no force or effect. To the extent that the terms of the Service Agreement or any Service Order are inconsistent with the terms of any applicable tariff, the tariff shall control.

To the extent that the terms of any Service Order are inconsistent with the terms of these Terms of Service, the Terms of Service shall control, excluding pricing discounts, nonrecurring fees, or order fulfillment timing terms to the extent permissible under applicable law set forth in the Service Order that shall control.

(d) No Assignment or Transfer. Customer may not assign or transfer (directly or indirectly by any means, including by operation of law or otherwise) this Service Agreement and the associated Service Order(s), or their rights or obligations hereunder to any other entity without first obtaining consent from Spectrum, and any assignment or transfer in violation of this Section shall be null and void. Spectrum may assign its rights and obligations under this Service Agreement,

in whole or in part, and any Service Order(s) to affiliates controlling, controlled by or under common control with Spectrum, or to its successor-in-interest if Spectrum sells some or all of the underlying communications system(s) without the prior approval of or notice to Customer. Customer understands and agrees that, regardless of any such assignment, the rights and obligations of Spectrum in the Service Agreement may accrue to, or be fulfilled by, any affiliate, as well as by Spectrum or its subcontractors. **In the event Spectrum utilizes a subcontractor pursuant to the foregoing, Spectrum shall remain liable for subcontractor work performed pursuant to this Service Agreement.**

(e) **Severability.** To the extent any term, covenant, condition or portion of this Service Agreement is held to be invalid or unenforceable, the remainder of this Service Agreement shall not be affected and each remaining term, covenant or condition shall be valid and enforceable to the fullest extent permitted by law as nearly as possible to reflect the original intentions of the Parties.

(f) **Force Majeure.** Notwithstanding anything to the contrary in the Service Agreement, neither Party shall be liable to the other for any delay, inconvenience, loss, liability or damage resulting from any failure or interruption of Services, directly or indirectly caused by circumstances beyond such Party's control, including but not limited to denial of use of poles or other facilities of a utility company, labor disputes, acts of war or terrorism, criminal, illegal or unlawful acts, weather, fire, flood, natural causes, mechanical or power failures, fiber cuts, governmental acts or any order, law or ordinance in any way restricting the operation of the Services (each a "**Force Majeure Event**"). Changes in economic, business, or competitive conditions shall not be considered a Force Majeure Event.

(g) **Governing Law; Claims Limitation; Waiver of Jury Trial.** The law of the state of **Florida** shall govern the construction, interpretation, and performance of this Service Agreement, except that any conflicts-of-law principles of such state that would result in the application of the law of another jurisdiction shall be disregarded. Any legal action brought under or in connection with the subject matter of the Service Agreement shall be brought only in the United States District Court for the **Middle District of Florida** or, if such court would not have jurisdiction over the matter, then only in a **Florida** State court. Each party submits to the exclusive jurisdiction of these courts and agrees not to commence any legal action under or in connection with the subject matter of the Service Agreement in any other court or forum. Each Party waives any objection to the laying of the venue of any legal action brought under or in connection with the subject matter of the Service Agreement in the Federal or state courts sitting in the **Middle District of Florida**, and agrees not to plead or claim in such courts that any such action has been brought in an inconvenient forum. Except as otherwise specified in Section 7(e), any claim that Customer wishes to assert under the Service Agreement must be initiated not later than one (1) year after the claim arose. **IN ANY AND ALL CONTROVERSIES OR CLAIMS ARISING OUT OF OR RELATING TO THIS SERVICE AGREEMENT, ITS NEGOTIATION, ENFORCEABILITY OR VALIDITY, OR THE PERFORMANCE OR BREACH THEREOF OR THE RELATIONSHIPS ESTABLISHED HEREUNDER, CUSTOMER AND SPECTRUM EACH HEREBY WAIVES ITS RIGHT, IF ANY, TO TRIAL BY JURY.**

(h) **No Third Party Beneficiaries.** The terms of this Service Agreement and the Parties' respective performance of obligations as described are not intended to benefit any person or entity not a Party to this Service Agreement, and the consideration provided by each Party hereunder only runs to the respective Parties, and that no person or entity not a Party to this Service Agreement shall have any rights hereunder nor the right to require performance of obligations by either of the Parties.

(i) **Waiver.** Except as otherwise provided herein, the failure of Spectrum to enforce any provision of this Service Agreement shall not constitute or be construed as a waiver of such provision or of the right to enforce such provision. To be legally binding on Spectrum, any waiver must be in writing.

(j) **Remedies Cumulative and Nonexclusive.** Unless stated otherwise herein, all rights and remedies of the Parties under this Service Agreement shall be cumulative, nonexclusive and in addition to, but not in lieu of, any other rights or remedies available to the Parties whether provided by law, in equity, by statute or otherwise. The exercise of any right or remedy does not preclude the exercise of any other rights or remedies.

(k) **Sovereign Immunity.** Customer 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 Service Agreement to the contrary, nothing in this Service Agreement shall be deemed as a waiver of immunity or limits of liability of the Customer 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 Customer 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 Service Agreement shall inure to the benefit of any third party for the purpose of allowing any claim against the Customer which would otherwise be barred under the Doctrine of Sovereign Immunity or operation of law.

(l) **E-Verify.** Spectrum acknowledges the requirements of Florida Statutes § 448.095 and has registered with and uses the E-Verify System. Spectrum is aware of the penalties under such statute, including,

but not limited to termination of a contract with a person or entity who has knowingly violated Florida Statutes, Section 448.09(1).

(m) **Record Retention and Access to Records.** To the extent mandatory and required by applicable law, Spectrum shall maintain, in accordance with generally accepted accounting practices, accurate and complete records that it currently keeps in the ordinary course of business in accordance with Spectrum policy, including those records that enable Spectrum to support any invoice supplied to Customer, concerning the Services provided to Customer. Spectrum shall maintain those records for a period of at least three (3) years after the later of the delivery of Service or issuance of an invoice for a Service delivered under the Agreement.

As allowed by applicable law, any audit of such records shall be for the previous 12-month period and not more than one time per year, and audit rights shall be limited to records pertaining to Services provided to Customer and not with respect to other Spectrum customers. Spectrum's confidential financial information, books, records and accounts shall not be made available for audit. Spectrum may require an auditor to sign a reasonable non-disclosure agreement. Audits, if any, shall be upon reasonable notice to Spectrum, at reasonable business hours and in any reasonable manner directed by Spectrum. Audits, if any, shall be at Customer's sole cost and expense.

Attachment A

Spectrum Business TV and Enterprise TV Service (collectively, “TV Service”)

Spectrum Business TV Service: Spectrum Business TV Service includes television programming services, including the package of channels and music programming as designated in a Service Order. Customer must notify Spectrum if Customer's use of the Service will be for private or public viewing. If specified in the Service Order, Spectrum will provide to private-view Customers premium programming such as HBO, Showtime, TMC, Cinemax, STARZ, Encore, or Epix, or Customer premise equipment such as DVRs (collectively, “Premium Services”).

Spectrum Enterprise TV Service: Spectrum Enterprise shall provide the customized multi-channel video programming service (“Enterprise TV Service”) to Customer's Service Location(s) identified in a Service Order. Enterprise TV Service includes Government TV, Healthcare TV, Hospitality TV, and Education/University TV. Enterprise TV Service includes the channel line-up and those premium and other pay-per-view, video-on-demand, or any visual content as mutually agreed upon in the Service Order. If specified in the Service Order, Spectrum will provide Premium Services to Customer.

1. **Music Programming.** Customer is responsible for and must secure any music rights and/or pay applicable fees required by the American Society of Composers, Authors & Publishers, Broadcast Music, Inc., and SESAC, Inc. or their respective successors, and any other entity, person or governmental authority from which a license is necessary or appropriate relating to Customer's transmission, retransmission, communication, distribution, performance or other use of the Services. Customer shall not, and shall not authorize or permit any other person to, do any of the following unless Customer has obtained a then-current music license permitting such activity: (i) charge a cover charge or admission fee to any Service Location(s) at the time the TV Service is being displayed or are to be displayed; or (ii) permit dancing, skating or other similar forms of entertainment or physical activity in conjunction with the performance of the TV Service.

2. **Spectrum Equipment.** Spectrum owns and shall at all times have the exclusive right to access, control, maintain, upgrade, use and operate its TV Service, Network, and Spectrum Equipment, except for (i) any video display terminals (“Connections”) or inside wiring owned and maintained by Customer or a third party, and (ii) any conduit, risers, raceways or other spaces where the Network or Spectrum Equipment is located that are owned by Customer or a third party, in which case (as between Customer and Spectrum) Customer shall own such items and Customer hereby grants to Spectrum the non-exclusive right to access and use such space during the Order Term as provided in the Service Agreement. The inside wiring and Connections shall be provided and installed by Customer, at its sole expense, in consultation with Spectrum and any specifications provided by Spectrum to Customer in writing. Spectrum shall not be responsible for an outage that may be due to a fault or failure with respect to any inside wiring, Connections or any systems, equipment or facilities of Customer or any third party, including but not limited to, instances where such outage is due to the Customer's failure to promptly provide Spectrum with access to the Service Location to inspect, monitor, repair, and/or replace the TV Service or Spectrum Equipment. If changes in technology require the use of specialized equipment to continue to receive Spectrum Business TV Service, Spectrum shall provide such Spectrum Equipment, and Customer shall pay for such Spectrum Equipment at the same rate charged by Spectrum to commercial customers in the same service area as the Service Location.

3. **Provision of Service.** Spectrum may, in its discretion, preempt, rearrange, delete, add, discontinue, modify or otherwise change any or all of the advertised programming comprising, packaging of, channel line-ups applicable to, and/or distribution of its TV Service. Spectrum may make certain TV Service available via mobile applications or third party hardware to Customer and its End Users, which may be subject to additional terms and conditions.

4. **Restrictions.** Customer shall take all necessary precautions to ensure that the TV Service is received only by authorized parties, and that no part of the TV Service is received at any other location, including but not limited to locations where an admission fee, cover charge, minimum or like sum is charged. Customer shall not and shall not authorize or permit any other person to (i) copy, record, dub, duplicate, alter, make or manufacture any recordings or other reproductions of the TV Service (or any part thereof); (ii) transmit the TV Service by any television or radio broadcast or by any other means or use the TV Service outside the Service Location; (iii) move the TV Service to another location after installation; or (iv) insert any commercial announcements into the TV Service or interrupt any performance of the TV Service for the making of any commercial announcements. Customer acknowledges that such duplication, reproduction or transmission may subject Customer to criminal penalties and/or civil liability and damages under applicable copyright and/or trademark laws. TV Service is available for use at commercial establishments and other non-residential buildings (such as a bar, restaurant, hospital, or commercial building). In commercial establishments with public viewing, only the TV Service lineup(s) that is approved for public viewing may be used. Customer may not order or request pay-per-view (PPV) programming for receipt, exhibition or taping in a commercial establishment; or exhibit nor assist in the exhibition of PPV programming in a commercial establishment unless explicitly authorized to do so by agreement with an authorized program provider and subject to Spectrum's prior written consent.

5. Service Inspection. Customer shall permit Spectrum reasonable access to the Service Locations to inspect the Service Location at periodic intervals as needed to ascertain, among other things, the number of television outlets receiving the TV Service, or verify the estimated viewing occupancy. If any Spectrum inspection reveals that Customer's usage of the TV Service exceeds Customer's rights under the Service Agreement or Service Order and without abrogating or otherwise affecting Spectrum's right to consider such activity a breach of the Service Agreement, Customer shall pay Spectrum an amount equal to one and a half times the MRCs that would have been due for such excessive usage as liquidated damages and not as a penalty. In addition, Customer shall either discontinue any excess usage or thereafter continue to pay the applicable MRCs for such additional usage or Spectrum may, in its discretion, suspend or disconnect a TV Service.

6. Noninterference. Customer shall not interfere with, alter or substitute any of the programs, information or content offered as part of the TV Service, which are transmitted over any of the channels provided hereunder without the prior written consent of Spectrum. Under no circumstances shall Customer have any right to encode, alter, reformat, delete or otherwise modify the TV Service, including without limitation delivery method and any programming contained within the TV Service, without the express written consent of Spectrum. The limitations of this paragraph shall not apply to formatting of programming for Enterprise TV Service as agreed by Spectrum and Customer.

7. Charges. Notwithstanding anything to the contrary in the Service Agreement, the MRCs set forth in a Service Order for TV Service: (i) do not include applicable taxes, regulatory fees, franchise fees or public access fees; and (ii) are subject to change in accordance with commercial rate increases applied to commercial customers.

8. End User Support. Customer shall provide all first level contact and support to its authorized users relating to the Network, Spectrum Equipment, Connections, Customer-provided equipment, and Enterprise TV Service. In the event of any disruption, failure, or degradation of the Enterprise TV Service lasting for twenty-four (24) consecutive hours or more, Customer shall use all reasonable efforts to diagnose the cause of the Enterprise TV Service impacting event. If the Enterprise TV Service impacting event is reasonably determined to be caused by the signal delivered by Spectrum, Customer shall contact the designated Spectrum technical support contact for resolution.

9. Set Back Box. Customer's use of the Set Back Box Product ("SBB") available as part of the Enterprise TV Service (the "SBB Offering") is subject to the following additional terms and conditions:

(a) Notwithstanding Section 2 above, Spectrum shall install and program all Connections for the SBB Offering. Customer shall ensure the availability of Connections that are compatible with the SBB Offering including, without limitation, the provision and use of appropriate tuners and Connections having HDTV compatibility.

(b) If Customer desires for the front desk portal and the TV user interface associated with the SBB Offering to be co-branded (with Spectrum's and Customer's brands), then Customer shall provide Spectrum Enterprise a copy of Customer's logo in accordance with Spectrum's technical specifications and hereby grants Spectrum a right and license to use such logo for purposes of such co-branding.

10. SpectrumU and Spectrum Enterprise TV Streaming Access (TVSA). SpectrumU and Spectrum Enterprise TV Streaming Access (available through an app named "Spectrum Enterprise TV" and the website spectrumenterpriseTV.com) are online video services (which are collectively referred to herein as the "Apps") that are accessible via a compatible browser or supported digital media streaming device that permits authorized users to stream video content while connected to Customer's network. Spectrum Apps may not be available through all application stores.

(a) Many factors outside of Charter's control affect the quality of service experienced by Customer and its authorized users, including without limitation, the quality and utilization of Customer's network, service attacks, and the authorized user's device.

(b) Customer acknowledges that Spectrum requires Customer's authorized users to accept separate end user license terms prior to using or downloading either of the Apps.

(c) Spectrum may require that authorized users update the Apps from time-to-time in order to continue use of the Apps.

Attachment B
Spectrum Business Voice Service, PRI/SIP Trunking Service
(collectively “Voice Services”)

Spectrum Hosted Voice, Hosted Voice for Hospitality, Hosted Call Center, and Unified Communications (collectively, “Hosted Communications Services”)

DESCRIPTION OF SERVICES:

1. Voice Services:

- (a) **Spectrum Business Voice Service:** If Customer selects to receive Spectrum Business Voice Service, Customer will receive voice service consisting of one or more lines or connections and a variety of features, as described more fully below and in the applicable Service Order.
- (b) **SIP Trunking Service:** If Customer selects to receive the SIP Trunking Service, Customer will receive voice and call processing services via eight or more concurrent call paths using a Session Initiation Protocol (“SIP”) connection to the Customer’s private branch exchange (including any non-Spectrum switch, collectively, “PBX”) or other Customer Equipment, and a variety of features, as described more fully below and in the applicable Service Order.
- (c) **PRI Trunking Service:** If Customer selects to receive PRI Trunking Service, Customer will receive voice and call processing services via a full (23B+1D channel) or fractional (12B+1D channel) Primary Rate Interface (“PRI”) connection to Customer’s PBX or other Customer Equipment, and a variety of features, as described more fully below and in the applicable Service Order.
- (d) **Trunking Service:** Trunking Service shall mean SIP Trunking Service and/or PRI Trunking Service, as applicable.
- (e) **Analog Lines Over Fiber Service:** If Customer selects to receive Analog Lines over Fiber Service, Customer will receive voice and call processing services via an analog connection to the Customer’s PBX that is equipped with an analog line card interface or other analog line based Customer Equipment like a fax machine. A variety of features, including line hunting, are offered, as described more fully below and in the applicable Service Order.
- (f) **Toll-Free Service for Spectrum Trunking:** If Customer selects Spectrum Toll-Free Service for use with Trunking Service, Customer will receive voice service consisting of one or more toll-free numbers and access to a variety of optional screening and routing features including:
- Origination Screening: Allows or disallows an originating call made to a single toll-free number based on the originating Number Plan Area (NPA) and/or prefix (NXX) of the caller.
 - Origination Routing: Routes an originating call made to a single toll-free number to a pre-determined Direct Inward Dialing (DID) number location based on the originating NPA and/or NXX of the caller.
 - Schedule-Based Routing: Routes an originating call made to a single toll-free number to a pre-determined DID number location based on the time of day, day of week or day of year.
 - Percentage Call Allocation: Routes an originating call made to a single toll-free number to any of two or more pre- determined DID number locations based on the Customer’s allocated traffic percentage between the DID number locations.
 - Toll-Free Dialed Number Identification Service (DNIS): Provides the original called toll-free number to the terminating location, if the toll-free number/call is terminated to the Spectrum Trunking Service.

Note: Spectrum Toll-Free Service must terminate to a Spectrum Trunking Service. Not all Toll-Free Service features may be available in all areas.

- (g) **E911 Location Plus:** If Customer selects Spectrum E911 Location Plus for use with Trunking Service, Customer may add or manage station level address information (for example, floor, suite, or office number) for telephone numbers at a Service Location for Customer’s E911 address records through use of the E911 Location Plus self-service web portal. E911 Location Plus may be used by a Customer operating its own multi-line telephone system in an office or apartment building, or other similar building environment that wishes to provide location information for its station level telephone numbers.

2. Spectrum Hosted Communications Services:

Spectrum Hosted Voice Service: If Customer selects Hosted Voice Service delivered over fiber or coax, Customer will receive a combination of (i) voice service consisting of one or more telephone lines, (ii) a variety of features, and (iii) voice service technical assistance described more fully below and in the applicable Service Order.

- (a) **Spectrum Hosted Voice for Hospitality Service:** If Customer selects Hosted Voice for Hospitality Service delivered over fiber or coax, Customer will receive a combination of (i) voice service consisting of one or more telephone lines, (ii) a variety of features, and (iii) voice service technical assistance. Customer may also receive Property Management System integration and other services, including a variety of features, as described more fully below and in the applicable Service Order.
- (b) **Spectrum Hosted Call Center:** If Customer selects to receive Spectrum Hosted Call Center Service; Customer will receive a combination of (i) voice service consisting of one or more telephone lines, (ii) a variety of features, and (iii) voice service technical assistance, as described more fully below and in the applicable Service Order.
- (c) **Unified Communications Service:** If Customer selects Unified Communications Service, Customer will receive a combination of (i) instant messaging and presence service, (ii) video calling service, (iii) desktop sharing service, (iv) conferencing, and (v) web collaboration service, or other features as described more fully below and in the applicable Service Order. Unified Communications Services may also be available in personal computer, mobile phone, and tablet application formats where features, functionalities, and capabilities will differ based on the device used to access the Unified Communications Service (i.e., "soft phone service"). If Customer selects a soft phone service, it will be offered as a separate inbound and outbound service and Customer must choose one or both services prior to installation. Customer may later modify its selection in writing. If Customer or an End User accesses the Hosted Communications Services through use of an application, certain features, functionalities, or capabilities, such as two-way calling, may not be available. 911 CALLING WILL NOT BE AVAILABLE WITH SOFT PHONE SERVICE. When using such an application, Customer and End Users are subject to the terms of such application and the terms of this Service Agreement (including this Attachment). Changes made to the features, functionalities, capabilities of the Unified Communications Service, or to an application accessing Spectrum Hosted Communications Service, shall be in Spectrum's sole discretion.

BEGINNING ON JANUARY 6, 2022: Notwithstanding the preceding paragraph, if Customer ordered soft phone service on or after February 16, 2020, Customer will have 911 calling capability with its soft phone service beginning on January 6, 2022 if Customer's software and service is properly installed, configured and updated. Customer understands that such soft phone service, including 911 calling capability, will not function properly unless correct and valid address information has been entered into the soft phone service or application that reflects the application and/or associated device location. Failure of Customer to enter correct and valid address information, prior to initiation of such Service and anytime Customer's location of the soft phone changes, will likely result in a delay or inability in dispatching 911 emergency service to the proper location. Customers that ordered ANYWHERE CONNECT soft phone service prior to February 16, 2020 will not have 911 calling capability. EACH CUSTOMER OF SUCH ANYWHERE CONNECT SERVICE UNDERSTANDS THAT IT MUST USE AN ALTERNATE MEANS, OTHER THAN SOFT PHONE SERVICE, TO CONTACT 911 EMERGENCY SERVICES. Additional important 911 use of service terms are located in paragraph 5(g) below.

- (d) **Unified Communications over Wireless Internet Backup:** If Customer selects Unified Communications over Wireless Internet Backup Service, Customer will receive Wireless Internet Backup Service as described in Attachment G for Unified Communications Service provided at Customer's location(s) specified in an applicable Service Order. Unified Communications over Wireless Internet Backup Service is subject to availability and the terms and conditions in Attachment G and the applicable Service Order.
- (e) **Service Descriptions:** Spectrum's Voice Services and Hosted Communications Services listed above are described in Customer's Service Order, and/or in Spectrum's usage pricing plans, and online product descriptions, as applicable, on Spectrum's website at <https://enterprise.spectrum.com/services/voice.html>.

COMMUNICATIONS SERVICES TERMS AND CONDITIONS:

Customer's use of the Voice Services and Hosted Communications Services (collectively, "Communications Service") is subject to the following additional terms and conditions:

3. Availability of Facilities and Service Modifications:

Services and associated products, facilities, equipment, features and functions will be available in accordance with the

terms of this Attachment, where technically and operationally feasible. The quantity of business lines for each Service Location is dependent on the technical feasibility at that specific location. Additional construction and facilities may be required to provide requested Communications Services at Customer's expense. Customer must pay for any special construction prior to the activation of service and/or cancellation of contract.

(a) Spectrum is not obligated to provide Communications Services if Customer intends to or uses the Communications Services (i) to interfere with or impair any service over any facilities and associated Spectrum Equipment or impair the privacy of any communications over such facilities and associated Spectrum Equipment; (ii) to sell, resell, sublease, assign, license, sublicense, share, provide, or otherwise utilize in conjunction with a third party (including, without limitation, in any joint venture or as part of any outsourcing activity) the Communications Services or any component or combination thereof; or (iii) in any manner that results in non-standard calling patterns or practices, including but not limited to, use of the Communications Service for high-volume auto-dialing, continuous or extensive call forwarding, high-volume telemarketing (including, without limitation, charitable or political solicitation or polling), fax or voicemail broadcasting for services with unlimited local and long distance calling plans, and PBX hacking or modem hijacking resulting in excessive usage of long distance service (collectively, "Prohibited Use"). In addition, Prohibited Use shall include augmentation of the Communications Service or Communications Service features, in any way as to change the functionality of the Communications Service or its component features in any manner that is inconsistent with standard commercial calling patterns and practices or the terms of this Service Agreement. Such non-standard calling patterns and practices include, but are not limited to, use of three-way calling, or call forwarding, that results in unusually high traffic volumes or excessive long distance usage. A non-standard calling pattern may also include, when Customer's long distance calling minutes from (i) calls terminating to Alaska, (ii) calls terminating to Guam, (iii) calls terminating to a conference calling service operating in areas with high carrier access rates (e.g., rates that carriers pay one another for network use), or (iv) calls terminating to a chat line service, in the aggregate exceed ten percent (10%) of Customer's total long distance minutes in any one-month billing cycle.

(b) Spectrum may, from time to time, offer additional Communications Service features or functionality, or discontinue certain Communications Service features or functionality. Information about these features or functions will be available at <https://enterprise.spectrum.com/services/voice.html>. These additional Communications Services, features, or functions may be subject to additional specific terms and conditions, and may be subject to change at any time by Spectrum.

4. Communications Service Limitations:

(a) **Unavailable Services; Call Blocking, Fraud, and N11:** Spectrum does not offer or provide certain operator-assisted services such as dial around services (10-10-XXX), pay services, and third-party billing. Spectrum may use network management practices to block calls that have unassigned, invalid, or fraudulent numbers, that are identified as spam or malicious, that have suspicious calling patterns, or as otherwise permitted by applicable law. Calls blocked using these network management practices will not be delivered to Customer. Spectrum also blocks access to calls with 900 and 976 area codes and to international chat lines. Spectrum will initiate toll blocking if Customer's excessive use of any toll has surpassed the threshold set by Spectrum and/or Customer's account is delinquent. Notwithstanding any other provision of the Service Agreement or this Attachment, Spectrum may block calls which (i) are made to certain countries, cities, or central office exchanges, or (ii) use certain authorization codes, as Spectrum, in its sole discretion, deems reasonably necessary to prevent unlawful or fraudulent use of Communications Services. In addition, certain "N11" services (three digit dial codes such as 211) may not be available in all serving areas.

(b) **Service Outages:** Communications Service modems are electrically powered and will not work in a power outage or if the required broadband connection is disrupted or not operating. In the event of power outages, the modem, including all phones and Services connected to or powered by it, will not work. Power outages will disrupt Enhanced 911 ("E911") service and the use of Communications Service as the connection between a security system and central monitoring services. COMMUNICATIONS SERVICE DOES NOT HAVE ITS OWN POWER SUPPLY. IF THERE IS A POWER OUTAGE, OR IF THERE IS A DISRUPTION TO THE SPECTRUM NETWORK OR FACILITIES, COMMUNICATIONS SERVICE WILL NOT WORK. CUSTOMER ACKNOWLEDGES THAT IN SUCH CASES IT WILL NOT BE POSSIBLE TO PLACE OR RECEIVE CALLS INCLUDING CALLS TO ACCESS EMERGENCY 911 SERVICES.

(c) **Security Systems and Alarm Systems:** Although Spectrum will supply a connection (such as an analog line connection), that may allow the operation of Customer's existing security system, alarm system or other non-voice system (such as an elevator alarm line), Spectrum does not guarantee that any such system will be in complete operational order following the installation of Communications Service. As such, it is Customer's obligation to contact its security, alarm or other system provider to inform them of the Communications Services installation, and any change in phone number, and to request a complete operational test of their system immediately following installation of the Communications Services. Spectrum does not provide power back up and is not responsible for the operation of any Customer security, alarm, or any other system in connection with Customer Equipment and, specifically, where the

Customer Equipment does not have power backup (e.g., battery backup). In addition, it is Customer's responsibility to test its system on a regular basis. Spectrum does not represent that the Service is fail-safe.

Customer is solely responsible for obtaining such testing, ensuring that such testing is completed in a timely manner, and confirming that the security system and any related Customer Equipment at the Service Location connected to the Communications Service operate properly. Customer is solely responsible for any and all costs associated with this activity. In all cases, it is Customer's responsibility to ensure that use of the Communications Service meets all applicable regulations.

(d) Prohibited Use: Spectrum prohibits the use of Communications Service as the connection between medical alert systems and a central monitoring station or a fire alarm, and Spectrum will neither connect to such services nor provide technical support for the connection.

5. Use of Services: Customer is solely responsible for: (i) prevention of Prohibited Use and unauthorized, unlawful, or fraudulent use of, or access to, Communications Services, which use or access is expressly prohibited; and (ii) administration and non-disclosure of any authorization codes provided by Spectrum to Customer. Spectrum may require Customer to immediately shut down its transmission of signals if Spectrum concludes, in its sole discretion, that such transmission is a Prohibited Use or causing interference to other customers or with other transmissions generally.

(a) Spectrum reserves the right (i) to refuse to provide, discontinue, or temporarily suspend Communications Services to or from a Service Location where the necessary facilities or equipment are not available under terms and conditions reasonably acceptable to Spectrum, or (ii) to limit or block Communications Services to and from any Service Location or the use of any authorization code, without any liability whatsoever, in the event that Spectrum detects or reasonably suspects either (a) Prohibited Use or fraudulent, or unlawful use of the Communications Services, or use of the Communications Service in violation of the Service Agreement or this Attachment, or (b) consumption of Communications Services in excess of the credit limit (if any).

(b) Customer's outgoing calls must use an active, valid telephone number assigned to Customer. Use of invalid or unassigned telephone numbers are prohibited for outgoing calls. Customer is responsible for (i) securing its Customer Equipment against placement of fraudulent calls, and (ii) ensuring that Customer Equipment is not being used for any Prohibited Use or fraudulent use or access with Communications Services. Customer shall be responsible for payment of all applicable charges for Communications Services and charged to Customer's accounts, even where those calls are originated by fraudulent means either from Customer's Service Location or from remote locations. Spectrum is not liable for any damages, including toll usage charges, Customer may incur as a result of the unauthorized use of its telephone facilities. This unauthorized use of Customer's facilities includes, but is not limited to, the placement of calls from the Service Location, and the placement of calls through Customer Equipment that are transmitted or carried on Spectrum's Network. Customer shall ensure that all uses by Customer, whether authorized by Customer or not, of the Spectrum Equipment or the Communications Services installed at the Service Location comply with all applicable laws, rules, regulations, and the Service Agreement (including this Attachment).

(c) Spectrum has the right to limit the Communications Service to reasonable quantities of minutes and messages used or consumed by Customer to prevent Prohibited Use and to maintain a high level of service for other Spectrum customers.

6. Access to Telecommunications Relay Communications Service: Telecommunications Relay Service ("TRS") enables deaf, hard-of-hearing or speech-impaired persons who use a Text Telephone ("TT") or Caption Telephone (collectively, "TDD") or similar devices to communicate with the hearing population not using TDD. It also allows the hearing population not using a TT to communicate with deaf, hard-of-hearing, or speech-impaired persons who do use a TDD. Customer will be able to access the state provider to complete such calls by either dialing the applicable telephone number directly or by dialing the number 711, where available. Spectrum may bill Customer a monthly surcharge in order to fund the TRS system. If Customer activates Custom Caller ID for Trunks or Customer utilizes its own Customer-defined dialing scheme or PBX configuration, Customer must configure its PBX to out-pulse an active, valid telephone number that is assigned to the Customer and that accurately identifies the Service Location for each outbound call handled by that PBX so that 711/TRS calls complete to the appropriate 711/TRS center.

7. 911 Services:

(a) CUSTOMER ACKNOWLEDGES THAT THE VOICE-ENABLED FIBER CONNECTION, CABLE MODEM, INTEGRATED ACCESS DEVICE ("IAD") OR OTHER SPECTRUM EQUIPMENT USED TO PROVIDE COMMUNICATIONS SERVICE ARE ELECTRICALLY POWERED AND THAT COMMUNICATIONS SERVICE, INCLUDING THE ABILITY TO ACCESS 911 AND E911 SERVICES AND ALARM, SECURITY, AND OTHER MONITORING SERVICES, MAY NOT OPERATE IN THE EVENT OF AN ELECTRICAL POWER OUTAGE, A SPECTRUM NETWORK SERVICE INTERRUPTION, OR A THIRD-PARTY NETWORK SERVICE INTERRUPTION IF

THE COMMUNICATIONS SERVICE IS PROVIDED AS AN OVER-THE-TOP OR OFF-NET (TYPE II) SERVICE USING A THIRD PARTY'S NETWORK. CUSTOMER ALSO ACKNOWLEDGES THAT, IN THE EVENT OF A POWER OUTAGE AT A SERVICE LOCATION, ANY BACK-UP POWER SUPPLY PROVIDED WITH A SPECTRUM-PROVIDED VOICE-ENABLED CABLE MODEM, IAD, OR OTHER SPECTRUM EQUIPMENT USED IN DELIVERING THE COMMUNICATIONS SERVICE MAY ENABLE SERVICE FOR A LIMITED PERIOD OF TIME OR NOT AT ALL, DEPENDING ON THE CIRCUMSTANCES, AND THAT THE USE OF A BACK-UP POWER SUPPLY DOES NOT ENSURE THAT COMMUNICATIONS SERVICE WILL BE AVAILABLE IN ALL CIRCUMSTANCES. CUSTOMER SHALL ADVISE EVERY END USER OF COMMUNICATIONS SERVICE THAT SPECTRUM VOICE-ENABLED CUSTOMER EQUIPMENT IS ELECTRICALLY POWERED AND, IN THE EVENT OF A POWER OUTAGE OR SPECTRUM NETWORK SERVICE INTERRUPTION, COMMUNICATIONS SERVICE AND 911 OR E911 MAY NOT BE AVAILABLE. CUSTOMER SHALL DISTRIBUTE TO ALL END USERS OF COMMUNICATIONS SERVICE LABELS/STICKERS (TO BE SUPPLIED BY SPECTRUM) AND INSTRUCT ALL END USERS OF COMMUNICATIONS SERVICE TO PLACE THEM ON OR NEAR THE EQUIPMENT USED IN CONJUNCTION WITH THE COMMUNICATIONS SERVICE.

(b) Customer is not permitted to move Spectrum Equipment from the Service Location in which it has been installed. If Customer moves any of the voice-enabled cable modem, IAD, or other Spectrum Equipment to an address other than the Service Location identified on the Service Order, calls from the modem, IAD, or other Spectrum Equipment to E911 will appear to E911 emergency service operators to be coming from the Service Location identified on the Service Order and not the new address. Customer shall be solely responsible for directing emergency personnel at the customer premises at each Service Location.

(c) Customer will be notified by Spectrum as to whether the Communications Service to which Customer subscribes includes the capability to support E911 service from multiple locations or from a location other than the Service Location. Customer agrees that Spectrum will not be responsible for any losses or damages arising as a result of the unavailability of Communications Service, including the inability to reach 911 or other emergency services, the inability to contact a security system or other monitoring service provider or any failure or fault relating to Customer Equipment, facilities or services, the use of third-party enterprise 911 solutions, or Customer's attempt to access Communications Service from a remote location.

(d) In some geographic areas, Communications Service does not provide the capability to support E911 service from any location other than the Service Location. In those areas, if Customer intends to assign telephone numbers to one or more locations other than the Service Location, Customer shall obtain from the incumbent LEC, a competitive LEC, or Spectrum a local telephone line or lines and ensure that (i) the address(es) associated with the additional location(s) are loaded into the 911 database by the provider of the local telephone line(s) such that 911 calls will deliver to the 911 answering point the actual location and address of the 911 caller and (ii) all 911 calls originated from the additional location(s) are transported and delivered over those local telephone lines.

IN SUCH AREAS, CUSTOMER AGREES TO DEFEND, INDEMNIFY AND HOLD HARMLESS SPECTRUM, ITS AFFILIATES, ITS SERVICE PROVIDERS AND SUPPLIERS AND THEIR RESPECTIVE OFFICERS, DIRECTORS, EMPLOYEES AND AGENTS, FROM AND AGAINST THIRD PARTY CLAIMS, LIABILITIES, DAMAGES AND EXPENSES, INCLUDING REASONABLE ATTORNEYS' AND OTHER PROFESSIONALS' FEES, ARISING OUT OF OR RELATING TO 911 CALLS MADE BY END USERS OF THE COMMUNICATIONS SERVICE FROM LOCATIONS OTHER THAN THE SERVICE LOCATION.

(e) If Customer orders E911 Location Plus, (i) Customer may add and/or manage station level address information for telephone numbers at the Service Location through use of the E911 Location Plus self-service web portal; (ii) Customer shall be solely responsible for complying with all applicable local, state, and federal laws, rules, regulations and requirements for operation and use of a multi-line telephone system and for providing accurate station level address information (i.e., the applicable characters for display at a 911 operator) for Customer's telephone numbers; (iii) Customer will transmit the telephone number to Spectrum that is associated with the station that placed a 911 call; and (iv) Customer will ensure the initial and continuing accuracy of the station level address information for each Customer telephone number in the E911 Location Plus self-service web portal.

Updates or modifications to station level address information in the E911 Location Plus self-service web portal may require up to 24 hours for implementation and/or updating. Non-Spectrum telephone numbers are not supported and may not be entered into the E911 Location Plus self-service web portal. Notwithstanding Customer's use of E911 Location Plus, Customer is solely responsible for directing emergency personnel at the Service Location.

(f) Customer shall not use the Communications Services, or allow the Communications Services to be used, (i) to provide 911 or E911 services; (ii) route 911 or E911 traffic to any public safety answering point, statewide default answering point, or appropriate local emergency authority or emergency responders; or (iii) for any automatic location information services related to E911 or in any other manner that would cause, or be likely to cause, Spectrum

to qualify as a "Covered Service Provider" as defined in 47 C.F.R. §9.19 or any successor provision of the rules of the Federal Communication Commission. Any breach of this provision shall constitute a material breach of the Service Agreement.

(g) CUSTOMER ACKNOWLEDGES THAT SPECTRUM'S "ANYWHERE CONNECT" OR OTHER SOFTPHONE SOFTWARE OR APPLICATIONS (COLLECTIVELY "SOFTPHONE APPLICATIONS") ARE NOT A REPLACEMENT FOR MOBILE OR FIXED LINE VOICE SERVICES. SOFTPHONE APPLICATIONS DO NOT PERMIT END USERS TO MAKE 911 OR OTHER EMERGENCY CALLS. CUSTOMER SHALL PROVIDE ALTERNATIVE COMMUNICATION OPTIONS TO ENABLE END USERS TO MAKE 911 AND OTHER EMERGENCY CALLS WHEN USING SPECTRUM'S SOFTPHONE APPLICATIONS.

BEGINNING ON JANUARY 6, 2022: Notwithstanding the preceding paragraph, if Customer ordered soft phone service and/or a Softphone Application on or after February 16, 2020, Customer will have 911 calling capability with its soft phone service or Softphone Application beginning on January 6, 2022 if Customer's software and service is properly installed, configured and updated. Customer understands that such soft phone service and Softphone Application, including 911 calling capability, will not function properly unless correct and valid address information has been entered into the soft phone service or Softphone Application that reflects the application and/or associated device location. Customer further understands that such soft phone service and Softphone Application will not function or will not function properly: (i) if a user attempts a 911 call from a location different than the address provided in the soft phone service or Softphone Application; (ii) during any disruption of power or Internet connectivity at the user's location; (iii) during any period of services or E911 outage or failure beyond Spectrum's control; (iv) if incorrect or invalid address information is provided or if such information is not updated by user in the event of a change in user's location; (v) if user's equipment fails to function, is not properly configured, or is defective; or (vi) if instructions, requirements or obligations for proper operation of the soft phone service or Softphone Application are not executed completely and properly.

8. Custom Caller-ID (Voice Services only): If Customer activates Custom Caller ID for Trunks, which permits a customer to define the telephone number that Spectrum makes available to call recipients for Caller ID purposes, the telephone number chosen must be an active, valid telephone number that is assigned to Customer. Custom Caller ID for Trunks may be used only where Customer employs Customer Equipment that ensures that 911 and other emergency calls placed by an end user are routed to an appropriate public safety answering point or other responding agency based on the caller's location, in a manner consistent with applicable law. If Customer activates Custom Caller ID, they must configure their PBX to out-pulse an active, valid telephone number that is assigned to the Customer and that accurately identifies the Service Location for each outbound call including TRS, 711, and emergency 911 calls to be handled by that PBX. By activating Custom Caller ID for Trunks, Customer represents and warrants that it employs such a Customer Equipment solution and agrees to continue using such a solution until Customer discontinues its use of Custom Caller ID for Trunks.

Telemarketers or other entities using Custom Caller ID for Trunks must comply with applicable federal and state laws, including obligations requiring identification of: (i) the telemarketer or the party on whose behalf the telemarketing call is made and (ii) the calling party's number ("CPN"), automatic number identification ("ANI"), or customer service number of the party on whose behalf the telemarketing call is made.

The use of incorrect or fictitious CPN, ANI, or other calling party information on such telemarketing calls is prohibited. Custom Caller ID for Trunks may not be used by any person or entity in connection with any unlawful purpose. Customer shall provide proof of telephone number assignment (e.g., by business agreement or evidence the user has access to use the number) upon Spectrum's request.

9. Cross Rate Center Telephone Numbers: If Customer orders or utilizes telephone number(s) with Spectrum Trunking Service that are associated with a rate center that is different than the rate center where the Spectrum trunking service is located, (i) Customer's telephone number(s) will be provisioned as Direct Inward Dialing (DID) numbers on the Spectrum Trunking Service (referred to as "Cross Rate Center DIDs"); (ii) all calls originated from the Cross Rate Center DIDs will be rated based upon the rate center associated with the Spectrum Trunking Service location; and (iii) the address information for E911 calls from the Cross Rate Center DIDs shall be the address associated with the Spectrum Trunking Service location. Cross Rate Center DIDs may not be available in all Spectrum service areas, and Customer may purchase Remote Call Forwarding (RCF) or Remote Number Forwarding (RNF) in service areas where Cross Rate Center DIDs are not available.

10. Centralized PBX Support: If Customer orders Centralized PBX Support for a Customer PBX that serves multiple Customer locations (each, referred to as a "Remote Site"), Customer will connect each Remote Site to a single site on the Customer's network (referred to as a "Hub Site") and Spectrum Trunking Service will be installed at the Hub Site. The demarcation point for each Remote Site will be the Hub Site location where the Spectrum Trunking Service is installed. Customer is responsible for the quality of the network and connections, including the

voice Quality of Service (QOS), on its side of the demarcation point, unless such network and connections are provided by Spectrum. Additionally, the following requirements are applicable to Centralized PBX Support:

- (a) Telephone numbers utilized at each Remote Site (i) must be associated with the rate center where the Remote Site is located, and (ii) must be in a Spectrum service area.
- (b) Cross rate center telephone number assignment is not permitted with Centralized PBX Support. Customer may purchase Remote Call Forwarding (RCF) or Remote Number Forwarding (RNF) if a Remote Site requires telephone numbers that are associated with a rate center that is different than the rate center where the Remote Site is located.
- (c) The address information for E911 calls from a Remote Site shall be the address associated with the Remote Site. Customer is solely responsible for providing Spectrum with accurate telephone number and service address information for each Remote Site. Customer must contact Spectrum before moving telephones or telephone numbers to any address other than the Remote Site, otherwise calls from the telephones or telephone numbers will appear to E911 emergency service operators to be coming from the Remote Site and not the new address.
- (d) Spectrum will calculate and remit 911 fees for each Remote Site based on state and local regulations at the address where telephone(s) and telephone number(s) are located and emergency services are dispatched.
- (e) All calls from a Remote Site will be rated based upon the rate center associated with telephone number(s) at the Remote Site.

11. Access: Customer agrees to provide Spectrum and its authorized agents with access to Customer's internal telephone or local area network wiring at the network interface device or at some other minimum point of entry in order to facilitate the installation and operation of Communications Service over existing wiring. Customer hereby authorizes Spectrum to make any requests to Customer's landlord, building owner and/or building manager, as appropriate, and to make any requests to other or prior communications service providers, as necessary and appropriate, to ensure that Spectrum has all access to inside wiring and cabling necessary and sufficient to efficiently and securely install Communications Service and all related Spectrum Equipment. The agents and employees of Spectrum shall have the right to enter the Service Location at any reasonable hour for the purpose of installing, inspecting, maintaining, or repairing Spectrum Equipment, instruments and/or lines, or upon termination of the Communications Service, for the purpose of removing such Spectrum Equipment, instruments, and/or lines. Communications Services are offered to businesses only and are not available for residential use.

12. Customer Equipment: Spectrum's obligation is to provide Communications Services to the customer-accessible interface device or equipment installed by Spectrum at the Spectrum Network Demarcation Point at the Service Location. The "Demarcation Point" is the point of interconnection between the Spectrum Equipment or other facilities and the wiring at the Service Location. Customer is responsible for ensuring that all such Customer Equipment conforms to the Federal Communications Commission's requirements set forth in Part 68 of the Code of Federal Regulations (as amended), and Spectrum may discontinue the provision of Communications Services to any location where Customer Equipment fails to conform to such regulations.

Without limiting the foregoing, in the event that Customer-provided fiber, coax, copper wiring, and/or point-to-point wireless, or a segment of the foregoing provided by Customer, (collectively "Customer Facilities") are used in the delivery of Communications Services, Customer shall be solely responsible for the condition, performance, maintenance, repair, and replacement of such Customer Facilities, at all times. Upon request, Customer shall provide Spectrum with access to the Customer Facilities, for Spectrum to inspect the condition of Customer Facilities prior to Spectrum's installation of the Communications Service, provided that Spectrum shall not be required to conduct such inspection, and such inspection or statements made by Spectrum in connection therewith shall in no way constitute a representation, warranty or guarantee that the Customer Facilities are fit for use with the Service. Notwithstanding anything in the Service Agreement to the contrary, Spectrum shall not be liable or responsible, nor shall it provide Service Credits under any Service Level Agreements, for any Service delays, disruptions, degradations, repairs, maintenance, failures or any other Service issues caused by or resulting from Customer Facilities.

Customer shall be solely responsible for satisfying all legal requirements for interconnecting Customer-provided terminal equipment or communications systems with other provider's facilities, including, without limitation, application for all licenses, permits, rights-of-way, and other arrangements necessary for such interconnection. Satisfaction of all legal requirements, any interface equipment or any other facilities necessary to interconnect the facilities of Spectrum and other providers must be provided at Customer's sole expense.

13. CPNI: As a provider of telecommunications and interconnected VoIP services, Spectrum takes seriously its responsibility to protect the confidentiality of its customers' proprietary network information ("CPNI"). Spectrum is committed

to protecting its telecommunications and interconnected VoIP service customers' CPNI in accordance with applicable regulatory and statutory requirements. CPNI is customer-specific data that is collected by Spectrum in the course of providing telecommunications or interconnected VoIP services to its customers, and includes information relating to the quantity, technical configuration, type, destination, location, and amount of telecommunications and interconnected VoIP service usage by Customer, and information contained in Customer's bills that is obtained by Spectrum pursuant to its provision of telecommunications or interconnected VoIP service. Customer CPNI will be protected by Spectrum as described herein, in the Spectrum Privacy Policy and in accordance with applicable federal and state requirements. Notwithstanding anything else in this Agreement, the following shall not be CPNI: (i) Customer's directory listing information (i.e., Customer's name, address, and telephone number), and (ii) aggregated, deidentified and/or compiled information that does not contain individual customer characteristics, even if CPNI was used as a basis for such information.

- (a) Spectrum may use and disclose Calling Details and CPNI when required by applicable law.
- (b) Spectrum may use Calling Details and CPNI and share (including via email) Calling Details and CPNI with its partners and contractors, as well as with Customer's employees and representatives, without Customer consent: (i) to provide services and bills to Customer; (ii) pursuant to applicable law; (iii) to protect the interests of Spectrum, Customer and related parties in preventing fraud, theft of services, abuse, harassment and misuse of telephone services; (iv) to protect the security and integrity of Spectrum Network systems; and (v) to market additional Spectrum services to Customer that are of the same category as the services that Customer purchases from Spectrum.
- (c) Spectrum will obtain Customer's consent before using Calling Details or CPNI to market to Customer Spectrum services that are not within the categories of Services that Customer purchases from Spectrum. Customer agrees that Spectrum will not be liable for any losses or damages arising as a result of disclosure of Calling Details or CPNI in accordance with the terms of this Attachment.
- (d) Spectrum will respond to Customer requests for Customer Calling Details only in compliance with Spectrum's then- current authentication requirements and applicable law. Such authentication requirements may require Customer to obtain a secure password, which may be required for both online and telephone requests for Calling Details. Spectrum will notify Customer of any requests to change account passwords, activate online account access, and change Customer's account address of record. Spectrum may provide such notice by voicemail, by email or by regular mail to Customer's prior account address of record.
- (e) Customer may identify a person or persons who are authorized to request Calling Details by executing an Agency Letter provided by Spectrum upon request. Customer is responsible for: (i) ensuring that Spectrum receives timely notice of any changes to the list of authorized individuals identified in the Agency Letter. Spectrum will not be liable to Customer for any disclosure of Calling Details (including CPNI) that occurs if Spectrum has complied with the Agency Letter.
- (f) Provided that Customer is served by at least one dedicated Spectrum representative under this Attachment B, Spectrum may use any one of the authentication methods specified below to confirm that a person seeking Customer CPNI (including, without restriction, call detail records) is authorized to receive it.
- (g) Spectrum will not be liable to Customer for any disclosure of CPNI (including call detail records) that occurs if Spectrum has complied with one or more of these authentication methods.
 - Agency Letter. As provided in paragraph 12.e, Spectrum may provide CPNI to any individual pursuant to the terms of an Agency Letter.
 - Circuit ID. Spectrum may provide Customer CPNI to an individual that correctly identifies a Customer Circuit ID— i.e., a Spectrum-specific identifier assigned to a data or voice network connection between two locations.
 - Premier Code. Spectrum may provide Customer CPNI to an individual that correctly identifies Customer's Premier Code—i.e., a 4-digit code that Spectrum may provide to Customer.
 - Security Code (CPNI code). Spectrum may provide Customer CPNI to an individual that correctly identifies the account's security code – i.e., a 4-digit code that Spectrum may provide to Customer.
 - Last 4 digits of any MAC addresses listed on account. Spectrum may provide Customer CPNI to an individual that correctly identifies the last 4 digits of the MAC address of any Spectrum-issued device listed on the account – i.e., a cable modem, telephony equipment, set top boxes, etc.
 - Full serial number of any piece of Spectrum Equipment on Customer's account. Spectrum may provide Customer CPNI to an individual that correctly identifies the full serial number of any Spectrum-issued equipment listed on the account - i.e., a cable modem, telephony equipment, set top boxes, etc.

Spectrum reserves the right to add, remove, or alter these authentication methods in its sole discretion.

In the event of a conflict or inconsistency between the CPNI terms in this Attachment B and the remainder of the Service Agreement, the CPNI terms in Attachment B shall control.

14. Directory Listings: Spectrum will facilitate the inclusion of its business customers in alphabetical white and yellow pages directories and/or electronic compilations, as requested and available in Spectrum's service area. These listings are intended as a resource for interested parties who can use them to find the telephone numbers of Spectrum customers who subscribe to Communications Services. Spectrum, in its sole discretion, may limit the length of any listing in a directory or electronic compilation by abbreviating the listing. Listings may be subject to additional rules and restrictions. Toll free and private number service may be available to Customer for an additional charge. A listing may be omitted from a directory or electronic compilation upon Customer's request.

IN THE EVENT THAT A MATERIAL ERROR OR OMISSION IN CUSTOMER'S DIRECTORY LISTING INFORMATION, REGARDLESS OF FORM, IS CAUSED BY SPECTRUM, CUSTOMER'S SOLE AND EXCLUSIVE REMEDY SHALL BE A SERVICE CREDIT IN AN AMOUNT SET BY SPECTRUM'S THEN-CURRENT STANDARD POLICIES OR AS PRESCRIBED BY APPLICABLE REGULATORY REQUIREMENTS, IF ANY. SPECTRUM SHALL HAVE NO OTHER LIABILITY FOR ANY ERROR OR OMISSION IN ANY DIRECTORY LISTING INFORMATION.

15. Usage Rates/Minute Packages: Communications Services may be subject to usage pricing plans or minutes of use packages that apply charges for certain calls, including international calls and inbound toll-free calls. Unless otherwise specified in Customer's Service Order or Contract, usage pricing plans or packages are available for Trunking Service at enterprise.spectrum.com/services/voice/enterprise-trunking/rates.html and for Unified Communications at enterprise.spectrum.com/services/voice/unified-communications/rates.html. Spectrum reserves the right to change its usage pricing plans and packages at any time.

16. Number Porting: Upon submission of a Service Order, Customer may port a telephone number within the rate center for its particular Service Location, or a toll-free number from an existing toll-free service provider, to Spectrum for use with Communications Services. Customer represents and warrants that it has all necessary rights and authority for any porting request, will provide copies of letters of authority authorizing the same upon request, AND SHALL INDEMNIFY, DEFEND AND HOLD HARMLESS SPECTRUM AND ITS AFFILIATES FROM ANY THIRD-PARTY CLAIM RELATED TO OR ARISING OUT OF ANY PORTING REQUEST. Spectrum shall coordinate telephone number porting with Customer's former local service provider ("FLSP") or former toll-free service provider, as appropriate, using the operational process for coordinating telephone number porting as prescribed by the appropriate regulatory authority.

Spectrum may receive requests to port a telephone number currently assigned to Customer to a third -party service provider. Customer agrees that until such time as the porting process has been completed and no further traffic for any ported telephone number traverses the Spectrum Network, Customer shall remain bound by the terms of the Service Agreement and this Attachment (including, without limitation, Customer's obligation to pay for any applicable Services) for any and all traffic which remains on any Customer telephone numbers.

Notwithstanding the foregoing, Customer shall notify Spectrum at least five (5) business days in advance of Customer requesting more than twenty (20) telephone numbers to be ported from Spectrum to another service provider. Customer has no property right in telephone number(s) or any other call number designations associated with the Communication Services, and Spectrum may change such numbers as deemed necessary.

17. Call Redirect: If a PRI Service, Analog Lines over Fiber, or Hosted Communication Service Customer elects to redirect calls to an alternate number and if the receiving telephone number is charged as domestic long distance, charges will be applied against Customer's MOU package on the account or, if exceeded, at the applicable long distance rates.

18. Fiber Internet Access Bundles: If Customer purchases a discounted bundled offering from Spectrum including a SIP Trunking Service or Hosted Communications Services combined with Spectrum Fiber Internet Access, Customer must have the Trunking or Hosted Communications Service installed and billing within four months after the provisioning and turn-up of the bundled data circuit.

The monthly recurring charge will revert to the non-bundled rate for the installed service if Customer fails to accept both Services within this timeframe.

19. Unified Communications Service Data: Spectrum and any third-party service provider Spectrum uses to provide Unified Communications Services may use Customer data provided to such service provider in the course of the performance of the Unified Communications Services, including but not limited to any personal data of Customer's employees ("UCS Data"), other than content transmitted by the Unified Communications Services, to (a) communicate

with Spectrum or Customer, and (b) administer and/or perform this Service Agreement, any Service Order, and/or any agreement between Spectrum and such third-party service provider. Spectrum and such service provider may access or disclose UCS Data and related information, to: (i) satisfy legal requirements, comply with the law or respond to subpoenas, warrants or court orders, or (ii) act on a good faith belief that such access or disclosure is necessary to protect the personal safety of Spectrum's or such service provider's employees, customers or the public.

20. Voicemail; Call Recording and HIPAA: This paragraph shall apply if Customer is a Covered Entity or Business Associate under HIPAA. If Customer is a Covered Entity or Business Associate, and intends to create, receive, maintain or transmit protected health information ("PHI") through the use of the Hosted Communications Services, Customer agrees that with regard to the Voice Services (i.e. telephone service alone), Spectrum is acting solely as a "conduit". Under HIPAA, a "conduit" is a party that transports information but does not access it other than on a random or infrequent basis necessary for the performance of the transportation service or as required by law. However, Customer agrees that it shall notify Spectrum, and the parties shall enter into Spectrum's Business Associate Agreement, if Customer is to receive or store any PHI on the voicemail or call recording features of the Hosted Communications Services, both of which must occur before such receipt or storage of PHI. In such event, Customer further agrees that it shall not enable or otherwise use any "voicemail to e-mail" feature in connection with the Hosted Communications Services. As used herein, "HIPAA" means the Health Insurance Portability and Accountability Act of 1996, as amended, and its implementing rules and regulations, and "Covered Entity," "Business Associate," and "protected health information" shall have their respective meanings as defined by HIPAA.

21. Webex End User Terms: When using Webex products or services offered through Spectrum, Customer and each End User agrees and accepts Cisco's applicable Webex terms, including the following:

(i) Cisco Privacy Data Sheets for Webex Meetings and Webex Teams available at: https://trustportal.cisco.com/c/r/ctp/trust-portal.html#/customer_transparency, and

(ii) Cisco End User License Agreement for the Cisco client software installed by Customer or End User available at www.cisco.com/go/eula.

Attachment C

Spectrum Business High-Speed Internet Service ("Internet Service")

Spectrum Business High-Speed Internet Service¹: Internet access service implemented using a hybrid fiber/coax ("HFC") or a fiber access network. Customer interface to the data network is via Ethernet connection. Internet Service enables a variety of upstream and downstream rates. If Customer elects to receive Internet Service, Spectrum shall provide connectivity from Customer site(s) to Customer's data network.

Certain Internet Services, or features of Internet Services, may not be available in all service areas and may change from time to time, in Spectrum's sole discretion. In addition, certain non-facilities-based services provided by third parties may be offered to Customer by Spectrum ("Third-Party Services"). Third Party Services may be subject to additional terms and conditions. Except to the limited extent described in this Attachment, Spectrum makes no warranties of any kind (express or implied) regarding Third-Party Services and hereby disclaims any and all warranties pertaining thereto (including implied warranties of title, non-infringement, merchantability, and fitness for a particular purpose). Spectrum does not have title to and is not the manufacturer of any software or hardware components of any Third-Party Services nor is Spectrum the supplier of any components of such software or hardware. IN NO EVENT SHALL SPECTRUM BE LIABLE FOR ANY DAMAGES ARISING FROM THE PERFORMANCE OR NONPERFORMANCE OF ANY THIRD-PARTY SERVICES.

Customer's use of the Internet Service is subject to the following additional terms and conditions:

1. **Minimum Equipment Requirements.** Customer shall maintain certain minimum equipment and software to receive the Internet Service (see www.business.spectrum.com for the current specifications). The minimum configuration standards may change, and Spectrum will make reasonable efforts to support previously acceptable configurations; however, Spectrum is not obligated to continue to provide such support. Spectrum may supply Spectrum Equipment such as modems, gateways, routers, or wireless cards, for a fee, to operate the Internet Service. Spectrum reserves the right to provide service only to users with Spectrum-approved equipment. Customer acknowledges that such Spectrum Equipment may require updates and/or changes to the software resident in the Spectrum Equipment and that Customer may be required to perform such updates and/or changes. Customer hereby authorizes Spectrum to perform updates or changes, on-site or remotely from time to time as Spectrum deems necessary, in Spectrum's sole discretion. Customer will not connect any equipment, other than equipment authorized by Spectrum, to the Spectrum Network. When Spectrum installs the Internet Service, Customer will need a network interface card or adapter providing an Ethernet connection. Alternatively, Customer may connect to a networking device (commonly referred to as a router or gateway).
2. **Software.** At the time of installation of the Internet Service, Spectrum may provide Customer with common Spectrum or third-party software (e.g., a browser and plug-ins) to enable and enhance the Internet Service, subject to the license terms and restrictions in the Spectrum Service Agreement. Customer hereby represents and warrants to Spectrum that Customer owns the operating system software and associated use/license rights thereto for the computers that are connected to the Spectrum Network.
3. **Internet Service Speeds.** Spectrum shall use commercially reasonable efforts to achieve the Internet speed attributable to the bandwidth for the Internet Service selected by Customer, however, actual speed, also known as throughput rate, may vary. Many factors affect speed experienced by Customer as outlined in Spectrum's Network Management Practices.
4. **Security.** Customer shall take commercially reasonable security measures when using the Internet Service and assumes sole responsibility for use of the Internet Service and for access to and use of Customer Equipment used in connection with the Internet Service and Spectrum Network.
5. **Electronic Addresses; Mailboxes.** All non-variant email addresses, email account names, and IP addresses ("Electronic Addresses") provided by Spectrum (and not through Customer's domain) are the property of Spectrum. Customer may not alter, modify, sell, lease, assign, encumber or otherwise tamper with the Electronic Addresses.

¹ Customers that purchased Internet services from Time Warner Cable Business Class, Brighthouse Networks, or Charter before June 11, 2017 may continue to receive the same Internet service plan, features, and supplemental services at the same prices offered as of June 11, 2017 ("Legacy Services") until such time as Spectrum discontinues the Legacy Services by written notice to such Customers. If Customer elects to receive Spectrum Business Internet Services available as of June 11, 2017, then Customer will no longer be eligible to receive any Legacy Services, including, without limitation, any supplemental services or features that may not be available as part of the Spectrum Business Internet Services. Please contact your Spectrum sales representative for further information.

6. Mailboxes. Spectrum owns any and all mailboxes associated with the Internet Service and may reclaim such mailboxes at any time for any reason. Spectrum may also limit the number of new email addresses available per account and the number of email messages that may be sent within a 24-hour time period. Spectrum may lock inactive mailboxes and prohibit the mailbox from receiving new email messages. Customer acknowledges that upon termination of Internet Service, Spectrum will suspend all accounts associated with the Internet Service and delete the contents of all mailboxes, if any. Deleted content cannot be recovered. Email addresses are not permanently retired and become eligible to be reused at Spectrum's sole discretion.
7. Mail Storage. In no event will Spectrum be responsible for maintaining, and Spectrum will not guarantee storage of, email for any period of time. Spectrum also reserves the right to enforce email storage limits.
8. Cookies. Customer may access their Spectrum email account at <https://www.spectrumbusiness.net> or by using the Customer's software application (e.g., Outlook, Outlook Express, Apple Mail). When accessing email at <https://www.spectrumbusiness.net>, Customer must have its Internet browser configured to accept cookies. Spectrum will notify the End User if the browser is not configured to accept cookies.
9. Changes of Address. Spectrum may change addressing schemes, including email and IP addresses provided by Spectrum.
10. Acceptable Use Policy. Customer shall comply with the terms of Spectrum's Acceptable Use Policy ("AUP") found at www.business.spectrum.com and that policy is incorporated by reference into this Service Agreement. Customer represents and warrants that Customer has read the AUP and shall be bound by its terms as they may be amended, revised, replaced, supplemented or otherwise changed from time-to-time by Spectrum with or without notice to Customer. Spectrum may suspend Service immediately for any violation of the AUP.
11. Spectrum Business WiFi. Spectrum Business WiFi supported by a Spectrum-provided wireless router is a service available to certain Customers and provides wireless access to the Internet Service within the Service Location ("WiFi Network"), for which Customer may be charged a fee consistent with Spectrum's then-current practices. Customer must purchase Spectrum Internet Service in order to receive Spectrum Business WiFi. The Spectrum-provided WiFi router comes programmed with certain default settings and configurations for the WiFi Network. Customer may modify the default settings and configurations on the Spectrum-provided WiFi router although Spectrum recommends maintaining the default configuration and settings. Spectrum does not guarantee the security of the Spectrum-provided WiFi router and Customer's connection to the Internet Service via the WiFi Network. Customer understands and agrees that Customer is solely responsible for the security of its WiFi Network and must enable and use encryption in order to access Spectrum-provided applications. Customer understands that this service is intended to be used by the Customer and its End Users and that Spectrum accepts no liabilities for any third-party usage.
12. The Spectrum-provided WiFi router will collect and maintain certain information regarding access to and use of the WiFi Network, which information shall include but not be limited to device identifiers, device name, device type, applications and protocols, connections, and traffic flows. Such information will be used by Spectrum to provide the Internet Service and support, as well as for Spectrum's internal business analytics regarding the use of the Internet Service. Customer acknowledges and agrees that Spectrum shall have access to the network name and password associated with the Spectrum-provided WiFi router in order to provide support and diagnostic services. Spectrum reserves the right to modify the WiFi network name and password for the Spectrum-provided WiFi router in order to safeguard Internet security, the security and privacy of Customer's information, where required by law, or for other good cause to provide, upgrade, and maintain the Internet Service, and protect the network, other users of the Internet, or our customers and subscribers. Abusive, vulgar, offensive, inappropriate or profane WiFi Network names are prohibited and may be modified in Spectrum's sole discretion. Customer acknowledges that the Spectrum-provided WiFi router is Spectrum Equipment.
13. Spectrum Business WiFi Hotspot. Spectrum reserves the right to preconfigure the Spectrum-provided WiFi router to distribute a wireless Internet access point (i.e., a Spectrum Business WiFi Hotspot, a "WiFi Hotspot") separate from the WiFi Network. Any use of bandwidth from such wireless access point by third parties will not be considered to be use by the Customer for any purpose. Customer shall have the right to disable such WiFi Hotspot, and shall not be responsible for the security of the WiFi Hotspot.
14. To be eligible to receive the WiFi Hotspot, Customer must be receiving Spectrum Internet Service. Subject to the foregoing, Spectrum will, and Customer grants Spectrum permission to, attach, install, maintain, operate, and upgrade WiFi-related equipment, cables and devices ("WiFi Equipment") on and within the Service Location. The WiFi Equipment will be operated by Spectrum, at no cost to Customer, in order to provide the WiFi Hotspot at the Service Location(s). Customer agrees to provide a standard power source for operation of the WiFi Equipment.

- (a) Customer's use of the WiFi Hotspot is subject to the following additional terms and conditions:

- i. The WiFi Hotspot made available at Service Location(s) may be accessed by Customer and its End Users through their Spectrum accounts for no additional charge.
- ii. To access the WiFi Hotspot, Customer and its End Users and patrons must have a WiFi-enabled device that meets the technical specifications for the WiFi Hotspot.
- iii. Customer grants Spectrum the right to advertise, market and otherwise promote Customer's location(s) as a WiFi Hotspot access point(s), in any and all forms of media now known or hereafter developed, in Spectrum's sole discretion, and Customer grants Spectrum a license to use Customer's names, trademarks and logos in connection with such advertising, marketing and promotion.
- iv. Customer will not be entitled to receive any refunds or credits should the WiFi Hotspot be interrupted or fail, regardless of the length of time during which the WiFi Hotspot is unavailable.
- v. All WiFi Equipment constitutes Spectrum Equipment. Customer may not relocate or disconnect the WiFi Equipment.

15. Desktop Security Service. Desktop Security Service is made up of software and hardware components. Spectrum is not the manufacturer or supplier of any software or hardware components of the Desktop Security Service. Spectrum shall update the Desktop Security Service from time-to-time based on manufacturer-provided updates.

Attachment D

Fiber Internet Access Service ("FIA Service")

Fiber Internet Access: If Customer elects to receive the FIA Service, Spectrum shall provide Customer with a dedicated, scalable connection over a packet-based infrastructure with Internet service provider ("ISP") peering between Customer's data network identified on a Service Order and Spectrum's facilities.

FIA Service, or features of FIA Service, may not be available in all service areas. Spectrum's FIA Service is "On-Net" if it is provided by Spectrum to Service Locations through the Spectrum Network. Spectrum may, in its discretion, provide Customer with "Off-Net" services to geographic locations that are outside of Spectrum's service area or are not currently connected to the Spectrum Network through third party service providers. In addition, certain non-facilities-based services provided by third parties may be offered to Customer by Spectrum ("Third Party Services"). Third Party Services and Off-Net Services may be subject to additional terms and conditions.

Customer's use of the FIA Service is subject to the following additional terms and conditions:

1. FIA Service Speeds. Spectrum shall use commercially reasonable efforts to achieve the Internet speed attributable to the bandwidth for the FIA Service selected by Customer on the Service Order, however, actual speed, also known as throughput rate, may vary. Many factors affect speed experienced by Customer as outlined in Spectrum's Network Management Practices.

2. Bandwidth Management. Spectrum shall have the right, but not the obligation, to (a) monitor traffic on its Network; and (b) monitor Customer's bandwidth utilization and to limit excessive use of bandwidth (as determined by Spectrum) as Spectrum deems appropriate to efficiently manage the Spectrum Network. If Customer purchases Multi-Path FIA Service, Customer must ensure that no individual Path or data flow of such Service exceeds 2 Gbps (i.e. the rate of data transmission between any two MAC addresses and IP addresses). If Customer's Multi-Path FIA Service includes a Path or data flow that exceeds 2 Gbps, Spectrum may limit such Path or data flow to 2 Gbps. For purposes of this Attachment, (i) "Path" shall mean a connection permitting data transmission between a MAC address and IP address and another MAC address and IP address, and (ii) "Multi-Path" shall mean FIA Services permitting data transmission between or among three (3) or more MAC addresses and IP addresses.

3. Acceptable Use Policy. Customer shall comply with the terms of Spectrum's Acceptable Use Policy ("AUP") found at <https://enterprise.spectrum.com> (or the applicable successor URL) and that policy is incorporated by reference into this Service Agreement. Customer represents and warrants that Customer has read the AUP and shall be bound by its terms as they may be amended, revised, replaced, supplemented or otherwise changed from time-to-time by Spectrum with or without notice to Customer. Spectrum may suspend Service immediately for any violation of the Spectrum AUP.

4. DDoS Protection Services.

(a) This Section only applies if Customer elects to purchase DDoS Protection Service (whether by monthly subscription or on a per incident basis) to enable detection of distributed denial of service ("DDoS") attacks, receive notifications of attacks, mitigation services, and post-event reporting of DDoS attack activity. Spectrum monitors Customer Internet traffic as it travels across Spectrum's Network to detect anomalies that are symptomatic of a volumetric DDoS attack, as reasonably determined by Spectrum (a "DDoS Attack"). Spectrum requires that Customer: (i) provide information regarding Customer's Internet traffic before Spectrum can provision the DDoS Protection Service and (ii) cooperate with Spectrum to conduct mitigation testing in order to activate the DDoS Protection Service. After DDoS Protection Service activation, Spectrum will monitor Customer's Fiber Internet Access (FIA) network traffic flow for variations to the baseline traffic patterns. When the DDoS Protection Service detects an anomaly that is symptomatic of a DDoS Attack, the DDoS Protection Service alerts Spectrum. The DDoS Protection Service and associated countermeasures are configured to reduce disruption of Customer's legitimate traffic, but Customer may experience slower Internet traffic speed during a DDoS Attack. Spectrum will remove the countermeasures and redirect Customer's inbound network traffic to its normal path if Spectrum determines that the DDoS Attack has ended and there is no activity symptomatic of a DDoS Attack for an additional 4 hours. Customer may obtain status updates and reporting from Spectrum through a customer portal, or other means as determined by Spectrum. During the provisioning process, Customer may designate whether Spectrum is to provide "Proactive" or "Reactive" mitigation services as further described below. If Customer has designated Proactive mitigation, Customer may switch to Reactive mitigation and if Customer designated Reactive mitigation, Customer may switch to Proactive mitigation, at any time during the Initial Order Term. Spectrum will use commercially reasonable efforts to implement Customer's change request within five (5) business days of receipt of Customer's request.

(b) DDoS Proactive Mitigation Services: If Customer designates Proactive mitigation services, following service activation, Spectrum will automatically implement countermeasures upon Spectrum's detection of a DDoS attack.

(c) DDoS Reactive Mitigation Services: If Customer designates Reactive mitigation services, Customer understands that Spectrum will not automatically initiate any DDoS countermeasures unless and until a Customer representative calls Spectrum to notify Spectrum that Customer may be experiencing a DDoS Attack. If Spectrum has an existing ticket indicating detection of a DDoS Attack, Spectrum will use commercially reasonable efforts to initiate countermeasures within 15 minutes.

(d) Customer Requirements: DDoS Protection Services are only available in connection with Spectrum's On-Net FIA Services and are not available in all locations. Spectrum's DDoS Protection Service is provided on an FIA connection by FIA connection basis. In the event Customer has more than one FIA connection advertising the same IP address(es), Customer is required to purchase DDoS Protection Service for each FIA connection. Spectrum's ability to provide the DDoS Protection Services is contingent on (i) Customer providing accurate and timely information to Spectrum, including IP addresses and (ii) Customer-provided equipment and software being compatible with the DDoS Protection Service as determined by Spectrum in its sole discretion (e.g., Spectrum will not be able to provide a 3GB DDoS Protection Service if Customer has a 1GB Firewall).

(e) Disclaimers: Customer acknowledges the following additional terms for the DDoS Protection Services:

- i. SPECTRUM DOES NOT SUPPORT, AND SHALL HAVE NO OBLIGATION TO PROVIDE, MITIGATION WITH RESPECT TO IPv6.
- ii. DDoS mitigation only mitigates the effects of certain types of DDoS attacks and is not designed as a comprehensive security solution. When Customer Internet traffic is traveling over the Spectrum Network, Spectrum makes no guarantees that only DDoS attack traffic will be prevented from reaching the destination or that only legitimate traffic will reach Customer.
- iii. Spectrum makes no warranty, express or implied, that: (1) with respect to DDoS Protection Service, all DDoS attacks will be detected; (2) DDoS Protection Service will successfully mitigate the incident, including without limitation if the DDoS attack generates a traffic volume that exceeds the amount of traffic that Spectrum can divert; or (3) the DDoS Protection Services will be uninterrupted or error-free.

(f) Termination:
If Customer terminates any FIA Service for which Customer has also subscribed to DDoS Protection Service for any reason other than Spectrum's material, uncured breach, then Customer shall be deemed to have terminated the corresponding DDoS Protection Service and Customer shall pay any applicable Termination Charges in accordance with the Service Agreement.

5. DDoS Protection Incident Services. DDoS Protection Incident Services is available if Customer is not an active DDoS Protection subscriber and requests one-time DDoS attack mitigation.

(a) Email Order. **DUE TO THE URGENT NATURE TO MITIGATE A DDOS ATTACK, CUSTOMER MAY ORDER DDOS PROTECTION INCIDENT SERVICE VIA EMAIL. TO INITIATE DDOS PROTECTION INCIDENT SERVICE, CUSTOMER MAY AUTHORIZE COMMENCEMENT OF SERVICES VIA SPECTRUM'S THEN- DESIGNATED EMAIL ACCEPTANCE PROCESS. CUSTOMER'S AFFIRMATIVE REPLY ACCEPTING DDOS PROTECTION INCIDENT SERVICE WILL CONSTITUTE A BINDING AGREEMENT BETWEEN CUSTOMER AND SPECTRUM AND CUSTOMER SHALL PAY AN INCIDENT CHARGE FOR EACH MITIGATION WINDOW (DEFINED BELOW) IN ACCORDANCE WITH THE TERMS OF THE AGREEMENT AND AS OUTLINED IN THE AGREED TO EMAIL ACCEPTANCE PROCESS. The per-Mitigation Window incident charge is based on the FIA circuit bandwidth and will be set forth in the email referenced herein.**

(b) During the provision of DDoS Protection Incident Service, Customer may elect to convert to subscription-based DDoS Protection Service by contacting Customer's sales account representative.

(c) Promptly after Spectrum's receipt of the email indicating acceptance, DDoS Protection countermeasures will start the Mitigation Window. The DDoS Protection Service and associated countermeasures are configured to reduce disruption of Customer's legitimate traffic, but Customer may experience slower Internet traffic speed during a DDoS Attack. Spectrum will continue countermeasures for the duration of each Mitigation Window. Once Spectrum determines that the DDoS Attack has ended and there is no activity symptomatic of a DDoS Attack then, at the conclusion of the Mitigation Window, DDoS Protection Incident Service will end and Spectrum will redirect Customer's inbound network traffic to its normal path.

(d) Mitigation Window: A "Mitigation Window" means Spectrum's provision of DDoS Protection Incident Service for a consecutive 72 hour period that begins when Customer accepts the DDoS Protection Incident Service via email reply to Spectrum and Spectrum commences the DDoS Protection Incident Service. Unless Customer requests termination of DDoS Protection Incident Service, if an attack persists beyond a single 72- hour Mitigation Window, Spectrum will commence new

subsequent 72-hour Mitigation Windows until the DDoS attack subsides or Customer requests termination of DDoS Protection Incident Service. Each subsequent Mitigation Window is subject to additional fees.

Attachment E

WIDE AREA NETWORK (“WAN”) SERVICES

Ethernet, Cloud Connect and Wavelengths

1. **Ethernet Service:** Spectrum will provide Ethernet Services for Customer locations connected over coaxial and/or fiber-optic cable. Connectivity is established between two or more Customer end-points under a unique customer topology. Spectrum will install the coaxial or fiber-optic cable into each Customer site as listed in the Service Order(s). Spectrum will also supply an edge or network interface device, which is Spectrum Equipment, at each site that will be capable of receiving the Service as specified in the Service Order(s).

Spectrum's Ethernet Services are “On-Net” if they are provided by Spectrum to Service Locations through the Spectrum Network. Spectrum may, in its discretion, provide Customer with “Off-Net” services to geographic locations that are outside of Spectrum's service area or are not currently connected to the Spectrum Network through third party service providers. Off-Net Services may be subject to additional terms and conditions.

2. **Cloud Connect Service:** Spectrum will provide a Cloud Connect Service allowing Customer a private, layer 2 connectivity to cloud service providers (CSPs). Therefore, all terms herein shall apply to the Cloud Connect Service in addition to the Ethernet Service.

3. **Wavelengths Service:** Spectrum will provide Wavelengths for Customer locations connected over fiber-optic cable. Wavelengths are a high speed (10Gbps and 100Gbps), optical data transport solution that uses dense wave division multiplexing (DWDM) technology, delivering low-latency bandwidth across Spectrum Enterprise's dense fiber network. Connectivity is established between two Customer end-points in a point-to-point topology. Spectrum will install the fiber-optic cable into each Customer site as listed in the Service Order(s). Spectrum will also supply an edge device, which is Spectrum Equipment, at each site that will be capable of receiving the Service as specified in the Service Order(s).

Spectrum's Wavelengths are “On-Net” if they are provided by Spectrum to Service Locations through the Spectrum Network. Spectrum may, in its discretion, provide Customer with “Off-Net” services to geographic locations that are outside of Spectrum's service area or are not currently connected to the Spectrum Network through third party service providers. Off-Net Services may be subject to additional terms and conditions.

4. **Additional terms of use:** Customer's use of Ethernet Service, Wavelength and, as applicable, Cloud Connect Service, are subject to the following additional terms and conditions:

(a) If Customer purchases Multi-Path Ethernet Service, Customer must ensure that no individual Path or data flow of such Service exceeds 2 Gbps (i.e. the rate of data transmission between any two MAC addresses and IP addresses). If Customer's Multi-Path Ethernet Service includes a Path or data flow that exceeds 2 Gbps, Spectrum may limit such Path or data flow to 2 Gbps. For purposes of this Attachment, (i) “Path” shall mean a connection permitting data transmission between a MAC address and IP address and another MAC address and IP address, and (ii) “Multi-Path” shall mean Ethernet Services permitting data transmission between or among three (3) or more MAC addresses and IP addresses.

(b) Spectrum shall have the right, but not the obligation, to (a) monitor traffic on the Spectrum network, in its sole discretion; and (b) monitor Customer's bandwidth utilization as Spectrum deems appropriate to efficiently manage its Network.

(c) Customer's use of Ethernet and/or Wavelengths Services is presumed by Spectrum to be jurisdictionally interstate, pursuant to the Federal Communications Commission's mixed use “10% Rule” (47 C.F. R. 36.154, 4 FCC Rcd. 1352). It is Customer's sole responsibility to notify Spectrum if Customer's use of the Service is not jurisdictionally interstate pursuant to the 10% Rule and, so long as Customer's use of the Service remains not jurisdictionally interstate, Customer must certify at least annually that this condition remains in effect, using the form and format available upon request from Spectrum. If Customer fails to provide such certification or if the Customer's certification is inaccurate or invalid, Customer shall be liable for any resulting fees, fines, penalties and/or costs incurred by Spectrum.

In addition, if Spectrum determines that Customer's use of the Ethernet Services is likely to be deemed not to be jurisdictionally interstate, and therefore that Spectrum's provision of the Ethernet Services is likely to put Spectrum or its licenses, permits or business at risk, or otherwise cause financial, regulatory or operational problems for Spectrum, then Spectrum may immediately suspend the provision of any or all Ethernet Service under any or all affected Service Orders until such time as either (a) Customer provides Spectrum with satisfactory assurances that Customer's use of Ethernet Services shall be deemed to be jurisdictionally interstate or (b) Customer is otherwise brought into full compliance with any applicable laws and regulations. Unless prohibited under applicable law, Customer at its own expense, shall indemnify, defend, and hold harmless Indemnified Parties against any and all third party claims, liabilities, lawsuits, damages, losses,

judgments, costs, fees and expenses incurred by any Indemnified Parties, including reasonable attorney and other professional fees and court costs incurred by Spectrum Indemnified Parties, to the full extent that such arise from or relate to any fees, fines or penalties incurred by Spectrum as a result of Customer's violation of the 10% Rule.

Attachment F Managed Services

Software-Defined Wide Area Networking Service (“**SD-WAN Service**”), Managed Network Edge Service (“**MNE**”), Managed WiFi Service, Managed Router Service (“**MRS**”), Managed Security Service (“**MSS**”) and Virtual Security Service (“**vSS**”) (collectively, “**Managed Services**,” and each individually, a “**Managed Service**”)

If Customer elects to purchase a Managed Service, Spectrum shall provide Customer with any required customer premises equipment (“CPE”) through which Customer can receive the purchased Managed Service(s) at Customer’s Service Location(s) across Customer’s network, as may be more particularly described and set forth in the applicable Service Order.

Customer’s use of any of the Managed Services, as applicable, is subject to the following additional terms and conditions:

The Managed Services may include software, firmware, and hardware components supplied by Spectrum or third parties. Spectrum is not the manufacturer or supplier of any software or hardware components of the Managed Services. Spectrum may update a Managed Service from time to time based on manufacturer-provided updates.

Technical Configuration Questionnaire.

Spectrum may request that Customer complete a “Technical Configuration Questionnaire” to obtain necessary information in order to provide a Managed Service. Incomplete or incorrect configuration information may adversely affect the Managed Service.

Security Limitations.

In accordance with the Disclaimer of Warranty and Limitation of Liability section of Spectrum’s Terms of Service, Customer assumes sole responsibility for use of the Managed Service and for access to and use of Customer Equipment used in connection with the Managed Service.

1. SOFTWARE DEFINED WIDE AREA NETWORK SERVICE: This section applies only if Customer purchases SD-WAN Service.

(a) Spectrum shall provide Customer with one or more SD-WAN CPE through which Customer can deploy and use Virtual Private Network connectivity and associated virtualized network functions at Customer’s Service Location(s) across Customer’s network, as may be more particularly described and set forth in the applicable Service Order.

(b) Customer is responsible for Internet connectivity at all Customer’s Service Location(s) in order for Customer to utilize the SD-WAN Service. If Internet connectivity at a Service Location for any reason at any time suffers from degradation or is unavailable, then the SD-WAN Service at such Service Location may be degraded or inoperable.

2. MANAGED NETWORK EDGE SERVICE: This section applies only if the Customer purchases one or more of the following MNE Service categories.

Spectrum shall provide Customer with one or more CPE providing various network functions at Customer’s Service Location(s) across Customer’s network, as may be more particularly described and set forth in the applicable Service Order as per the table below:

Service Category	Service Description
Managed Network Edge	MNE Service provides Customer with router, security, and VPN capabilities at Customer’s Service Locations.
Managed Network Edge WiFi	MNE WiFi Service provides Customer with wireless Networking connectivity at Customer’s Service Locations.
Managed Network Edge Switch	MNE Switch Service provides Customer with Layer 3 switching at Customer’s Service Locations.

Managed Camera	Network Edge	MNE Camera Service provides Customer with CPE for capturing video data at Customer's Service Locations.
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- (a) Customer is responsible for Internet connectivity at all Customer's Service Location(s) in order for Customer to utilize the MNE Service. If Internet connectivity at a Service Location for any reason at any time suffers from degradation or is unavailable, then the MNE Service at such Service Location may be degraded or inoperable.
- (b) Applicable to Spectrum MNE WiFi and MNE Camera: Spectrum will provide Customer with "Wireless Access Plan" with MNE Wireless and/or MNE Camera Services to identify recommended placement locations and coverage areas (based on square footage) consistent with quantity of devices ordered. As with any wireless service, actual coverage may vary from design and is limited based on varying factors such as but not limited to the number of devices deployed, distance from power source, structural impediments, and other interference factors. It is Customer's responsibility to purchase additional Managed Network Edge WiFi or Camera Services to augment coverage as may be needed.

3. MANAGED WIFI SERVICE: This section applies only if Customer purchases the Managed WiFi Service.

- (a) Spectrum will provide Managed WiFi solution with wireless access points ("WAPs") deployed at the designated Service Location to enable designated users of the Customer's choice to wirelessly access the Internet as more specifically set forth in a Service Order. Managed WiFi Service or certain features, may not be available in all service areas and may change from time to time, in Spectrum's sole discretion
- (b) Internet Access. Spectrum may provide Managed WiFi Service to locations that use a centralized Internet access configuration where Spectrum will not be the primary Internet access provider if Customer purchases an Internet access Service for the sole purpose of providing Spectrum Enterprise out of bandwidth management ("OOB"). OOB service would only provide connectivity to the Managed WiFi Service equipment (switches and controllers).
- (c) Connectivity to Local Area Networks. Configuration of the Managed WiFi Service will be as agreed in the WiFi questionnaire completed by the Parties. Managed WiFi Service may provide a separate SSID for employee Internet access if specified on the WiFi questionnaire. A second WLAN will be created on the wireless network with its own VLAN assigned. The aggregation switch will be configured to hand off an Ethernet Service port to Customer. In this scenario, network functions (Dynamic Host Configuration Protocol (DHCP) and Network Address Translation (NAT), for example) may be handled by Customer's LAN. Customer will need to train and engage Customer's staff for all ongoing support issues. The Managed WiFi Service does not include support for connectivity to any device (printers, laptops, computers, routers, etc.).

4. MANAGED ROUTER SERVICE: This section only applies if Customer purchases MRS.

- (a) Spectrum will provide a managed router solution with a router deployed at the designated Service Location configured according to the Questionnaire. MRS or certain features, may not be available in all service areas and may change from time to time.
- (b) Connectivity. MRS is only available when connected via Spectrum FIA, Spectrum High Speed Internet Service, or Spectrum Ethernet services including in-network and Type II connections. A third party connection can be used as a secondary connection where Spectrum is providing the primary connection.
- (c) Termination. If Customer terminates any Spectrum connection service for which Customer has also attached the MRS, leaving the Manager Router connected only to non-Spectrum service for any reason other than Spectrum's material, uncured breach, then Customer shall be deemed to have terminated the corresponding MRS and Customer shall pay any applicable Termination Charges in accordance with the Terms of Service. In all cases, MRS cannot be delivered unless connected to a Spectrum service and shall be considered terminated if there is no Spectrum connection service.

5. MANAGED SECURITY SERVICE: This section only applies if Customer purchases MSS.

- (a) Spectrum will provide a managed firewall solution with a firewall deployed at the designated Service Location configured according to the Questionnaire. MSS or certain features, may not be available in all service areas and may change from time to time.

(b) Connectivity. MSS is only available when connected via Spectrum FIA or Spectrum High Speed Internet services including in-network and Type II connections. A third party connection can be used as a secondary connection where Spectrum is providing the primary connection.

(c) Standard and Advanced. MSS has two service levels with different features available. MSS Standard provides firewall functions such as port forwarding and NAT. MSS Advanced provides the features from MSS Standard plus additional features such as anti-virus/anti-malware, URL and web filtering, content filtering, intrusion prevention system (IPS) and deep packet inspection. Only the features purchased shall be provided to Customer.

(d) Termination. If Customer terminates any Spectrum connection service for which Customer has also attached MSS leaving MSS connected only to a non-Spectrum service for any reason other than Spectrum's material, uncured breach, then Customer shall be deemed to have terminated the MSS and Customer shall pay any applicable Termination Charges in accordance with the Terms of Service. In all cases, MSS cannot be delivered unless connected to a Spectrum service and shall be considered terminated if there is no Spectrum connection service.

6. VIRTUAL SECURITY SERVICE: This section only applies if Customer purchases vSS

(a) vSS delivers firewall capabilities through a virtual firewall hosted in a Spectrum Data Center. The Data Center location is based on the geographic location of Customer site(s) and other considerations made at Spectrum's sole discretion.

(b) Connectivity. vSS is only available when connected via Spectrum Ethernet, Spectrum FIA, and/or SD-WAN Service(s) including in-network and Type II connections.

(c) Standard and Advanced. vSS has two service levels with different features available. vSS Standard provides firewall functions such as port forwarding, VPN support and NAT. vSS Advanced provides the features from vSS Standard plus additional features such as anti-virus/anti-malware, URL and web filtering, content filtering, intrusion prevention services (IPS) and deep packet inspection. Only the features purchased shall be provided to Customer.

(d) Termination. If Customer terminates any Spectrum connection service for which Customer has also attached the vSecurity Service then Customer shall be deemed to have terminated the corresponding vSS and Customer shall pay any applicable Termination Charges in accordance with the Terms of Service. In all cases, vSS cannot be delivered unless connected to a Spectrum service and shall be considered terminated if there is no Spectrum connection service.

Attachment G

Wireless Internet Access Service

Spectrum Wireless Internet Access Service: Wireless Internet access service is a fixed-location data service, not a voice service that is implemented using 4G LTE Internet access technology ("WIA Service"). The network used to transmit the data services that support WIA Service is owned and operated by a licensed commercial mobile network operator(s) and not Spectrum (the "Third-Party Network"). WIA Service may not be available in all Spectrum service areas.

Spectrum offers two types of WIA Service: **Wireless Internet** and **Wireless Internet Backup**. Customer's use of Wireless Internet and/or Wireless Internet Backup Service is subject to the following additional terms and conditions:

1. **Wireless Internet:**

(a) Plan Terms. Wireless Internet is available in multiple service plans with either unlimited data usage per month or with a data allowance limit per month. For Wireless Internet ordered with unlimited data usage, Spectrum reserves the right to revise the wireless data rate of such service plan to 600Kbps when Customer has used 70GB of data within a single monthly billing cycle. At the start of the next billing cycle, the data usage and data speed will reset. For Wireless Internet ordered with a data allowance, once the data allowance is reached in a given monthly billing cycle, excess data charges may apply as outlined in Section 4 below.

(b) Data Sharing; Excess Data Charges. If Customer purchases more than one of the same Wireless Internet service plans (excluding unlimited plans), all such same service plans will participate within the same data pool ("Data Pool"). For example, if Customer purchases 3-1GB Wireless Internet service plans and 2-5GB Wireless Internet service plans, then Customer will have two separate Data Pools, a 1GB service plan Data Pool and a 5GB service plan Data Pool. The maximum Data Allowance for a Data Pool is calculated as the Wireless Internet service plan data allowance multiplied by the number of service plans. Any unused data in the maximum Data Allowance for a single service plan within the Data Pool is first applied to the overages for the service plan with the lowest overage need and then to the next lowest overage service plan until the maximum Data Allowance has been applied. If the total data usage is less than the maximum Data Allowance for the Data Pool, there is no excess usage charge. If, however, all of the service plans within the Data Pool collectively exceed the maximum Data Allowance, then Customer shall be subject to additional Service Charges with respect to the excess usage as stated on the applicable Service Order. Unused Data Allowance in a given billing cycle does not "roll over" to future billing cycles. Wireless Internet service unlimited service plans and Wireless Internet Backup services are not eligible for participation within a Data Pool.

2. Wireless Internet Backup: Wireless Internet Backup is a secondary Internet service and may have limited functionality during failover of the primary Internet service. Customer may only order Wireless Internet Backup with and for the same Order Term as a new or existing FIA Service (up to a maximum of 200 Mbps) provided by Spectrum, and not a third party provider, for the same Service Location, which service shall be cancelled if the FIA Service is terminated for any reason. The wireless data rate will not exceed 10 Mbps. Spectrum may terminate the Wireless Internet Backup Service if Spectrum determines, in its sole discretion, that: (a) Spectrum is unable to provide the Wireless Internet Backup at the requested Service Location; or (b) Customer is using the Wireless Internet Backup as a primary Internet service. Spectrum's termination of the Wireless Internet Backup Service shall have no effect on the FIA Service, which Service Order will remain in effect.

3. WIA Billing and Data Usage. The Service Charges will be billed in the amounts stated on the applicable Service Order. Spectrum invoices for monthly recurring Service Charges, plus applicable taxes, fees, and surcharges, in advance on a monthly basis. All usage-based charges will be invoiced monthly in arrears. Except as set forth below with respect to data sharing, if a Service Order for Wireless Internet sets forth a maximum "Data Allowance" (defined below), then Customer shall be subject to the additional Service Charges with respect to such excess usage that is stated on the applicable Service Order. "Data Allowance" means the aggregate number of gigabytes of data that may be sent and received using the Wireless Internet services in a single monthly billing cycle under the applicable Wireless Internet service plan, rounded up to the nearest gigabyte.

4. Service Quality. Spectrum selects the Third-Party Network from multiple network operators for each Service Location. Customer acknowledges that (i) WIA Service may be unavailable if the wireless device used in providing WIA Service is not in range of a transmission site; and (ii) there are many factors that may impact availability and quality of WIA Service, including without limitation, network capacity, signal strength, terrain, trees, placement of buildings, environmental conditions, the characteristics of the physical wireless device and any device to which it is attached, government regulations, maintenance, or other activities affecting service operations; (iii) service interruptions may occur as a result of acts of third parties that damage or impair the Third-Party Network or in connection with modifications, upgrades, relocations, repairs or other similar activities conducted by the Third-Party Network operator; and (iv) data delays and omissions may occur. Spectrum does not guarantee any bandwidth specifications and

actual Internet upload and download speed, also known as throughput rate, may vary. The Third-Party Network operators may also suspend services from time-to-time. Customer waives all rights and claims against Spectrum and the Third-Party Network operators related to, or the result of, the unavailability OR QUALITY of WIA SERVICE AND/OR the Third-Party Network.

5. Power Disruptions. The WIA Service equipment is electrically powered and will not work in a power outage. Spectrum may supply Customer with a battery backup for use in the event of a power outage in connection with the Wireless Internet Backup service. WIRELESS INTERNET ACCESS SERVICE DOES NOT HAVE ITS OWN POWER SUPPLY. IF THERE IS A POWER OUTAGE, WIRELESS INTERNET ACCESS SERVICES WILL NOT WORK.

6. Acceptable Use Policy; Third Party Network Terms.

(a) Customer shall comply with the terms of Spectrum's Acceptable Use Policy ("AUP"), found at www.enterprise.spectrum.com (or the applicable successor URL) and that policy is incorporated by reference into this Service Agreement. Customer represents and warrants that Customer has read the AUP and shall be bound by its terms as they may be amended, revised, replaced, supplemented or otherwise changed from time-to-time by Spectrum with or without notice to Customer. Spectrum may suspend Service immediately for any violation of the AUP. The AUP shall apply even though the traffic is delivered over a Third-Party Network.

(b) Customer shall not resell the WIA Service, either alone or as part of a solution, to end users. Customer must also comply with the applicable service terms and conditions and acceptable use and other policies of the Third-Party Network operators ("Third-Party Terms") found at:

AT&T Internet of Things Wireless Communications Service Guide
http://serviceguidenew.att.com/sq_flashPlayerPage/M2M

Verizon ThingSpace Terms and Conditions
<https://thingspace.verizon.com/legal/terms-and-conditions/>

The Third-Party Terms may be amended, revised, or supplemented from time to time in the Third-Party Network operator's sole discretion. Customer is solely responsible to verify the applicable Third-Party Terms, including any changes to such Third-Party Terms.

(c) To the extent that the Third-Party Terms or any acceptable use policy are inconsistent with the Spectrum Terms of Service or AUP, the Spectrum Terms of Service and AUP shall control.

7. Security; Use Restrictions. Customer shall take commercially reasonable security measures when using the WIA Service, and Customer assumes sole responsibility for use of the WIA Service and for access to and use of Customer Equipment used in connection with the WIA Service. If Customer Equipment is lost or stolen, Customer shall immediately notify Spectrum in writing so that Spectrum can suspend the WIA Service with respect to such Customer Equipment in order to prevent unauthorized use of the WIA Service. Until Spectrum receives Customer's notification, in a manner directed by Spectrum, of lost or stolen Customer Equipment, Spectrum is entitled to assume that any use of the WIA Service in connection with such device is authorized by Customer and Customer shall be responsible for any such use and associated charges. Customer shall not use WIA Services for any remote medical monitoring or any other activity that is subject to the Health Insurance Portability and Accountability Act. Due to regulatory requirements, Customer must obtain Spectrum's approval before installing, deploying or using any regeneration equipment or similar mechanism (for example, a repeater) to originate, amplify, enhance, retransmit or regenerate WIA Services.

8. Termination.

(a) If Customer cancels a WIA Service, in addition to any applicable Termination Charges, Customer shall pay all Service Charges for the WIA Service through the end of the monthly billing period during which the WIA Service was cancelled, including charges for exceeding any data usage limitations that applied to a WIA Service plan, and applicable taxes and fees.

(b) When a line of service is terminated, Customer shall ensure that the Equipment that was activated on that line ("Terminated Equipment") does not register or attempt to register after such termination on the Third-Party Network on which the WIA Service had been provided.

Spectrum shall have the right to use over-the-air means to access Terminated Equipment for the purpose of downloading software or the Third-Party Network operator's then-current preferred roaming list designed to disable Terminated Equipment to prevent attempts to contact the Third-Party Network.

(c) Spectrum may terminate WIA Service immediately upon notice to Customer if Spectrum is no longer permitted by the Third-Party Network operator to provide WIA Service to its customers for any reason.

NO THIRD-PARTY LIABILITY. CUSTOMER EXPRESSLY UNDERSTANDS AND AGREES THAT IT HAS NO CONTRACTUAL RELATIONSHIP WHATSOEVER WITH THE THIRD-PARTY NETWORK OPERATORS OR THEIR AFFILIATES OR CONTRACTORS AND THAT CUSTOMER IS NOT A THIRD-PARTY BENEFICIARY OF ANY AGREEMENT BETWEEN SPECTRUM OR ITS LICENSORS AND THE THIRD-PARTY NETWORK OPERATORS. IN ADDITION, CUSTOMER ACKNOWLEDGES AND AGREES THAT : (A) THE THIRD-PARTY NETWORK OPERATORS AND THEIR AFFILIATES AND CONTRACTORS SHALL HAVE NO LEGAL, EQUITABLE, OR OTHER LIABILITY OF ANY KIND TO CUSTOMER AND CUSTOMER HEREBY WAIVES ANY AND ALL CLAIMS OR DEMANDS THEREFOR; (B) DATA TRANSMISSIONS AND MESSAGES MAY BE DELAYED, DELETED OR NOT DELIVERED, (C) THE SERVICE IS A FIXED-LOCATION DATA SERVICE, NOT A VOICE SERVICE, AND 911 OR SIMILAR EMERGENCY CALLS MAY NOT BE COMPLETED, AND (D) THE THIRD-PARTY NETWORK OPERATORS CANNOT GUARANTEE THE SECURITY OF WIRELESS TRANSMISSIONS AND WILL NOT BE LIABLE FOR ANY LACK OF SECURITY RELATING TO THE USE OF THE CONNECTIVITY SERVICES.



SERVICE ORDER

THIS SERVICE ORDER ("Service Order"), is executed and effective upon the date of the signature set forth in the signature block below ("Effective Date") and is by and between Charter Communications Operating, LLC on behalf of those operating subsidiaries providing the Service(s) hereunder ("Spectrum") and Customer (as shown below) and is governed by and subject to the Spectrum Enterprise Commercial Terms of Service posted to the Spectrum Enterprise website, <https://enterprise.spectrum.com/> (or successor url) or, if applicable, an existing services agreement mutually executed by the parties (each, as appropriate, a "Service Agreement"). Except as specifically modified herein, all other terms and conditions of the Service Agreement shall remain unamended and in full force and effect.

Spectrum Enterprise Contact Information

Contact: Brittany Clark
Telephone: 4077937808
Email: brittany.clark@charter.com

Customer Information

Customer Name City of Port Orange		Order # 12642801
Address 1000 City Center Cir Port Orange FL 32129		
Telephone (386) 506-5500		Email: jhicks@port-orange.org
Contact Name James Hicks	Telephone (386) 506-5500	Email: jhicks@port-orange.org
Billing Address 1000 City Center Cir Port Orange FL 32129		

NEW AND REVISED SERVICES AT 1000 City Center Cir , Port Orange FL 32129

Service Description	Order Term	Quantity	Monthly Recurring Charge(s)	Total Monthly Recurring Charge(s)
25,000 Minutes	24 Months	1	\$ 0.00	\$ 0.00
DID BLOCK 100 NUMBERS	24 Months	4	\$ 5.00	\$ 15.00
Enterprise Trunking	24 Months	48	\$ 14.00	\$ 672.00
Fiber Internet 1Gbps	24 Months	1	\$2,300.00	\$2,300.00
Up to 61 Static IP Addresses	24 Months	1	\$ 0.00	\$ 0.00
TOTAL*				\$2,987.00

ONE TIME CHARGE(S) AT 1000 City Center Cir , Port Orange FL 32129			
Service Description	Quantity	One Time Charge(s)	Total One Time Charge(s)
FIA Installation	1	0	\$ 0.00
TOTAL*			\$0.00

VOICE SERVICE ORDER INFORMATION			
E-911 Location Address	Current LEC	Current IXC	LEC BTNs

1. **TOTAL CHARGE(S).** Total Monthly Recurring Charges and Total One-Time Charges are due in accordance with the monthly invoice.
2. **TAXES.** Plus applicable taxes, fees, and surcharges as presented on the respective invoice(s).
3. **SPECIAL TERMS.**
For purposes of this Service Order only, the parties hereby agree to the following provisions:

Renewal Options. Customer shall have the option to renew this Service Order for one (1) additional consecutive twenty-four (24) month term (a "Renewal Term" and collectively with the Initial Order Term, the "Order Term"), at the same monthly recurring charge set forth in this Service Order, by providing notice of such renewal to Spectrum at least thirty (30) days prior to expiration of the then-current Order Term (i.e. either the Initial Order Term or a Renewal Term, as applicable). Notwithstanding the foregoing, either Spectrum or Customer may elect to not renew and terminate the Service Order as of the end of the then-current Order Term by providing notice thereof to the other Party at least thirty (30) days in advance of the expiration of the then-current Order Term.

If Customer does not exercise its option to renew the Service Order for an available Renewal Term in accordance with the foregoing, and/or neither Party has terminated the Service Order as of the end of an Order Term as permitted above, then upon reaching the end of the then-current Order Term the Service Order shall automatically renew for successive one-month terms (each, a "Monthly Renewal Term"). Thereafter, either Spectrum or Customer may terminate the Service Order by providing notice of termination to the other Party at least thirty (30) days in advance of, and to be effective as of, the expiration of a Monthly Renewal Term.

Non-Appropriation of Funds. Notwithstanding anything to the contrary, if the funds Customer requests for services under a service order for a fiscal year are not appropriated (a 'Non-Appropriation'), Customer shall have the right to terminate, without penalty, such services at a service location listed on such service order, provided that Customer shall (a) provide Spectrum with at least thirty (30) days written notice prior to the start of such fiscal year setting forth how such Non-Appropriation did not result from the act or failure by Customer; (b) pay Spectrum all amounts due and owing at the time of such Non-Appropriation for all services provided by Spectrum pursuant to the service agreement or applicable terms; (c) pay to Spectrum, upon receipt of invoice, all construction expenses and other non-recurring charges associated with the Services, and any costs and expenses incurred by Spectrum to deal with the Non-Appropriation, including, without limitation, any applicable third-party termination liability



charges; (d) promptly cease all use of any software provided by Spectrum hereunder for such service, and shall return such software to Spectrum; and (e) return to Spectrum or permit Spectrum to remove, in Spectrum's sole discretion, the equipment in the same condition as when received, ordinary wear and tear excepted. Customer shall be responsible for reimbursing Spectrum for the repair or replacement of any equipment not returned in accordance with this paragraph. Except as specifically modified herein, all other terms and conditions of the agreement and/or applicable terms shall remain unamended and in full force and effect.

Any additional domestic and international long distance calls exceeding the minutes of use package will be charged at the rates listed at www.enterprise.spectrum.com. Toll Free calls exceeding the minutes of use package will be charged at the toll free rate plan associated with the toll free number.

The Parties have caused their duly authorized representatives to execute this Service Order.

Authorized Signature for Customer CITY OF PORT ORANGE, a Florida municipal corporation	Charter Communications Operating, LLC By: Charter Communications, Inc. its Manager
By:	By:
Name: DONALD O. BURNETTE	Name:
Title: MAYOR	Title:
Date:	Date:

ATTEST: _____
ROBIN L. FENWICK, MMC, CITY CLERK

Due to limitations in the Proposal Form, Spectrum is not able to accurately represent Spectrum's pricing and service offerings in the format provided. Therefore, please see Spectrum's Service Proposal for a more accurate breakdown of Spectrum's pricing. This Proposal Form is subject to the pricing details set for in Spectrum Service Proposal.

PROPOSAL FORM



**PROPOSAL FORM
CITY OF PORT ORANGE
RFP #21-07**

Internet and VoIP Communication Services

Completed Attachment 1 Proposal form MUST be included with Proposal Submission

Instruction to save Attachment from DemandStar website:

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

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

NAME OF BUSINESS:	Charter Communications Operating, LLC
CONTACT PERSON:	Stephanie Roberts
EMAIL ADDRESS:	Stephanie.Roberts@Charter.com
AUTHORIZED SIGNATURE:	

PROPOSAL PRICING

ITEM #	DESCRIPTION	UNIT	TOTAL COST
1	Internet access synchronous bandwidth based on a dedicated internet access speed of 1Gbps	Monthly	\$2,200.00
2	Internet access static IP addressing based on a bundle of 128 dedicated IP addresses	Monthly	\$210.00
4	Telephony service for session-initiated protocol (SIP) trunking based on 48 concurrent SIP sessions	Monthly	\$672.00
5	Telephony service for portability and ownership for block of 500 direct inward dials (DID)	Monthly	\$15.00
6	Telephony service for bundled/bulk usage packages	Monthly	\$0.00
7	Telephony service for long distance and international calling rates	Minute	\$0.00 25,000 LD minutes
Total Cost of Proposal			\$ 3,097.00

This document must be completed and returned with your Submittal

Spectrum Enterprise

Proposal for City of Port Orange

Presented To:
Joseph Castro
City Clerk
1000 City Center Circle
Port Orange, Florida 32129
jcastro@port-orange.org

Presented By: Ms. Stephanie
Roberts
Strategic Account Manager -
Gov't/Ed
485 N Keller Rd - Suite 100
Maitland, FL 32751
(407) 415-8083
Stephanie.Roberts@charter.com



Charter Communications Operating, LLC SPIN: 143050436
Request for Proposal for City of Port Orange

Spectrum
ENTERPRISE

Monday, July 12, 2021

Mr. Joseph Castro
City Clerk
City of Port Orange
1000 City Center Circle
Port Orange, Florida 32129
jcastro@port-orange.org

Dear Mr. Castro:

Spectrum Enterprise^{*} is pleased to submit the enclosed proposal in response to your Request for Proposal (RFP). Our response demonstrates Spectrum's ability to provide network solutions that will enable City of Port Orange to meet its technology needs.

Spectrum provides advanced broadband services to more than one million business customers nationally, and we are one of the largest Ethernet providers in the country and the largest provider in the major US cities we serve.

Partnering with Spectrum provides the foundation to open opportunity, drive innovation and deliver exceptional experiences. Spectrum's advanced technology and product innovations address customer's growing demands for increased bandwidth, scalability, reliability and mobility. Spectrum is committed to delivering industry-leading client service and support.

Thank you for the opportunity to submit this response to your RFP. Please do not hesitate to call if you have further questions or if there is anything else you need at this time. I look forward to speaking with you soon!

Sincerely,



Rick Brackeen
Sales Director Vertical Accounts

^{*} Spectrum Enterprise is a commercial brand of Charter Communications, Inc. The legal entity proposing hereunder is Charter Communications Operating LLC, a subsidiary of Charter Communications, Inc.

TERMS OF OFFER

This proposal shall not be considered an acceptance of any offer by City of Port Orange or otherwise create a binding contract between City of Port Orange and Spectrum.

Spectrum's bid is based upon services being delivered under the terms of the Spectrum Enterprise Service Agreement which incorporates the Spectrum Enterprise Commercial Terms of Service (available at <https://enterprise.spectrum.com/legal/se-terms-and-conditions.html> or any successor URL), plus any related attachments, Service Level Agreements and applicable Service Order(s) (collectively, the "Agreement").

Spectrum remains open to negotiating the Agreement, and once a mutually negotiated contract is entered into by the parties, it shall supersede and replace any terms and conditions of the RFP.

In the event only a portion of Spectrum's proposal is accepted, Spectrum reserves the right to further negotiate the terms of such partial acceptance prior to final bid award acceptance by Spectrum.

The terms of this proposal are confidential and should not be disclosed directly or indirectly to any third party, except as may be required by law.

The qualifications stated herein apply to all parts, provisions, and documents of the RFP and Spectrum's response, regardless of whether an explicit exception or qualification is taken thereto by Spectrum.

DEFINITIONS OF ABBREVIATED TERMS

Technology evolves at a rapid pace and Spectrum stays on the cutting edge of that evolution. The names of specific technologies or services are sometimes cumbersome and become abbreviated for colloquial use. We have provided a list of the terms used throughout this proposal and have defined them for your convenience.

SINGLE LOCATION TERMS	ABBREVIATION
INFORMATION TECHNOLOGY	IT
SERVICE PROPOSAL TERMS	ABBREVIATION
PRIVATE BRANCH EXCHANGE	PBX
MONTHLY RECURRING CHARGE	MRC
ONE-TIME CHARGE	OTC
QUANTITY	QTY
SERVICE CAPACITY	SVC. CAP.
INTERNET PROTOCOL	IP
DIRECT INWARD DIAL	DID
MINUTES OF USE	MOU
FIA TERMS	ABBREVIATION
FIBER INTERNET ACCESS	FIA
LOCAL AREA NETWORK	LAN
NETWORK OPERATIONS CENTER	NOC
SERVICE LEVEL AGREEMENT	SLA

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EXECUTIVE SUMMARY

Spectrum Enterprise ("Spectrum"), a commercial brand of Charter Communications, is pleased to provide this response illustrating our ability to provide City of Port Orange with broadband services. We take pride in being an innovative resource for businesses, schools and communities. Our reliable and economical service is a natural fit with your mission.

Unsurpassed Expertise and Customer Support

A network of specially trained, industry experts supports Spectrum. We have around-the-clock, U.S.-based business support centers and knowledgeable, locally based technicians who are specifically trained to help with your unique needs. Our dedicated work ethic, shared knowledge, and proprietary systems allow us to ensure that the solutions we are quoting City of Port Orange will match your specific and discrete needs.

When you collaborate with Spectrum for communications services, we assign a dedicated account team who will support your services:

- ▶ **Account Executive:** a dedicated, local market expert who is available for your consultation needs
- ▶ **Sales Engineering:** trained technical experts who customize designs based on your needs.
- ▶ **Project Management:** customer focused experts who manage your build and communicate with you every step of the way
- ▶ **Account Manager:** your point of contact; responsible for providing you with accurate billing and consultation on future growth needs
- ▶ **Network Operations Center:** Spectrum staff that continuously monitors the network

Renewal Plan

As your incumbent provider, we have developed this proposal with the benefit of our experience, and have based it on our knowledgeable understanding of your requirements. Our combination of technology services and proposed cost, based on actual experience with City of Port Orange, provides an incredible value. By choosing once again to collaborate with Spectrum, you will be choosing a vendor with the proven infrastructure and experienced team currently in place to support the program. It is Spectrum's objective to continue our partnership with you while continuing to focus on responsiveness, transparency, and continuity of services. It is with that focus we have developed our proposal response to the RFP.

ABOUT US

Spectrum Enterprise, a commercial brand of Charter Communications, is a national provider of scalable, fiber-based technology solutions serving many of America's largest businesses and communications service providers. The broad Spectrum Enterprise portfolio of networking and managed services solutions includes Internet access, Ethernet and Managed Network Services, Voice and TV solutions. Our team of experts works closely with clients to achieve greater business success by providing solutions designed to meet their evolving needs. For more information, visit enterprise.spectrum.com.

Standing at the intersection of technology and entertainment, we facilitate essential communications that connect more than 28 million residential and commercial customers in 41 states. Our commitment to serving customers and exceeding their expectations is the foundation of our business strategy and this philosophy that guides our 98,000 employees.

All of our services are delivered over our state-of-the-art network and we back them up with professional customer service and support from local technicians. We are dedicated to bringing our clients innovative, reliable services, and responsible care.

THE NEW GOVERNMENT NETWORK, TODAY

Advanced solutions and services for federal, state, and local governments

Spectrum Enterprise delivers the Government solutions that equip staff, agencies and citizens to reliably and securely connect and collaborate. A smart technology partner helps you accomplish your mission-critical objectives.

EVERYTHING BEGINS AND ENDS WITHIN YOUR FOUR WALLS

IT Operations for a Single Location Produces a Unique Set of Challenges

In many ways, the IT needs of a single location are more challenging than a business with hundreds of office locations. A slow connection or an outage for a large multi-location business is an inconvenience, but if a company that operates from a single location that loses connectivity, your operation stops - no phones, no Internet and no clients. Your network not only supports your day-to-day operations, it's also your source for staying ahead of the competition. While businesses of all sizes are using cloud and mobility to fuel their ability to be more efficient and increase revenue, single location operations have a far greater opportunity to more rapidly turn technology into a competitive advantage.

Spectrum Enterprise Enables Innovation

To lead the competition, you need network access that's reliable, secure and affordable, and it needs to be scalable to grow with your business. Our cloud connectivity solutions, high-speed Internet connectivity, highly-performing networking and voice services can give you the access to the innovation you need to establish and maintain a competitive advantage.

With Spectrum, you can:

- ▶ Grow your business with high-performance cloud connectivity that's scalable, reliable, and secure
- ▶ Create a great client experience across every channel – online, in person, and over the phone
- ▶ Save your company time, money, and internal resources with a dedicated account team that is with you every step of the way

FIBER INTERNET ACCESS (FIA)

Accelerate your organization with a reliable, powerful and dedicated Internet access service

Today's organizations depend on high-performing Internet solutions to keep critical applications up and running and business operating. Without a dependable Internet connection, network resources are constrained, impacting both employees and customers.

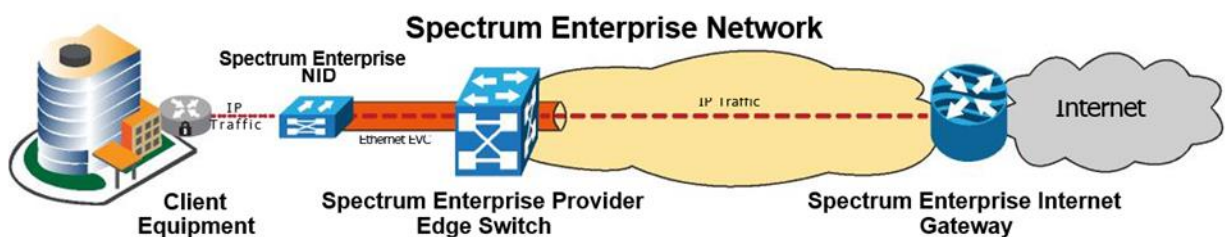
Spectrum Enterprise Fiber Internet Access (FIA) is a dedicated service that offers reliable nationwide connectivity with performance and support you can always count on. Delivering scalable Internet access, we offer 99.99% service availability all the way to the equipment at your location. Connect wherever you are with a service available nationwide that accelerates the pace of your organization.

Product Highlights

- Superior performance – Improves business productivity through a high-performing Internet service ensuring reliable connectivity
- Scalability and reach – Provides an easily scalable platform with national reach and dense metro coverage to support current and future bandwidth needs
- Business continuity – Optional diversity solutions to support Internet uptime in the event of a wireline disruption
- End-to-end support – Reduces complexity via a single, nationwide partner providing one resource team, one contact point for services and support including the in-building connection
- Cost effective – FIA delivers value with competitive, straightforward pricing

Key Features

- Dedicated connection that is not shared with others, delivered over a reliable advanced fiber network
- Industry-leading service-level agreement (SLA) metrics offer availability, low latency, jitter and packet loss all the way into the client suite
- Symmetrical access that scales from 25 Mbps to 10 Gbps from a single provider
- 24/7/365 US-based support and local technicians
- Multiple physical diversity and redundancy options to help protect your network



PRODUCT BRIEF FIBER INTERNET ACCESS

Optional managed network services

- Enhance FIA with a suite of complementary managed services products designed to protect, simplify and improve the performance of your network.
- Managed Security Service – Reduce the risk of external Internet threats with a comprehensive security service

- DDoS Protection – Protect your network from malicious volumetric attacks with world-class threat identification and mitigation
- Managed WiFi – Connect to the Internet seamlessly, anywhere with consistent and easily accessible WiFi
- Managed Router Service – Optimize your network routing with an all-inclusive expertly managed service

FIA technical specifications

Network

- IP over IEEE 802.3-based, full-duplex, noncircuit switched services
- Provisioned via our advanced fiber-rich network from the client premises to one of many hub locations throughout the Spectrum Enterprise network footprint
- Multiple levels of network fault tolerance provide a highly reliable and secure Internet access service
- Fiber access circuit is unaffected by electromagnetic interference

Routing

- Static or border gateway protocol (BGP) traffic routing options

Internet Access Demarcation

- Fiber connections to the Spectrum Enterprise network are monitored 24/7/365 via a dedicated network interface device (NID)
- Traffic is routed over the Spectrum Enterprise IP network until it is required to travel to the public network in order to reach its destination
- Demarc extension included for most buildings in footprint

Static IP addresses

- Initial IP block is included
- Additional IP address space available upon request
- Support for dual stacking of IPv4 and IPv6

VOICE AND UNIFIED COMMUNICATIONS SOLUTIONS

To thrive in today's global business economy, you need voice systems that keep your clients connected and your employees productive. Spectrum Enterprise provides next generation communications solutions that deliver superior quality and cost advantages with modern collaboration features to keep your workforce and clients connected.



Quality that scales

Elastic voice solutions that adapt as your business grows



Cost effective

Simplified pricing without hidden costs for long distance



Hands on support

Real time visibility and control through one pane of glass.* Monitored 24/7 and backed by industry leading SLAs

*Available in select areas

Increase productivity and reduce cost with next generation communication solutions

Unified Communications

Empower employees with anywhere, anytime communication across any device with an all-inclusive and managed cloud-based voice and collaboration solution that features instant messaging, file sharing, video calling and mobile device integration.

Hosted Call Center

Designed for today's modern call center with the scalability to grow as your needs expand. Take advantage of Unified Communications to support both small and complex call center operations with robust analytics and reporting.

Interoperable and feature-rich support for fiber solutions for premise based phone systems

PRI

Increase productivity with an easy to scale solution that can be managed with your existing PRI compatible phone system

SIP Trunking

Scale across multiple configurations with a reliable and easy to manage solution, compatible with enterprise IP-PBXs

ENTERPRISE TRUNKING

Get reliable, secure and highly scalable connectivity to the Public Switched Telephone Network (PSTN) over the Spectrum Enterprise private fiber network.

Enterprise Trunking overview

Organizations with on-premises Private Branch Exchanges (PBXs) and key systems need to access the PSTN easily and cost-effectively. Enterprise Trunking enables clear, reliable voice service that can easily scale to shifting business needs. SIP and PRI trunk solutions deliver flexibility and productivity, backed by competitive service level agreements (SLAs) over a private fiber network to ensure quality, reliability and security. And Enterprise Trunking offers superior value, with unlimited local calling and a bundle of long distance and inbound toll free calling included with every trunk. An optional analog lines capability enables consolidation of all your voice communications needs under one service provider.

Product highlights

- ▶ **Leverage dedicated voice bandwidth:** Enterprise Trunking provides dedicated bandwidth for voice calls, so voice and traffic never competes with your data service
- ▶ **Match your trunk to your business requirements:** Trunks are delivered as your choice of ISDN SIP or PRI solutions. SIP trunks can be expanded by as few as 4 call paths and PRI is available as a full 23B+D or a fractional 12B+D trunk. Analog line options over our private fiber network are also available, all to meet your specific needs.
- ▶ **Keep your network secure:** Leverage the power of a private, fiber network, separate from the public Internet, ensuring a reliable voice solution
- ▶ **Monitor call detail and reporting:** Configure trunk features in real time with an online portal that enables secure access to call usage details and reporting
- ▶ **Ensure speed and reliability to the PBX:** Calls are carried over our dedicated all-fiber network, proactively monitored 24/7/365—and backed by stringent SLAs
- ▶ **Maximize business continuity:** Calls can be received at another facility even in the event of a service disruption
- ▶ **Online access and control:** Manage peak business demands by rerouting overflow calls and utilize valuable features such as caller ID and call blocking from anywhere
- ▶ **Assure IP PBX compatibility:** IP PBX equipment is tested and pre-approved, either internally or externally, with leading IP PBX manufacturers - including Avaya, Cisco, Mitel, NEX, Panasonic and more - to ensure interoperability (SIP only). SIPconnect™ certification provides additional assurance of interoperability
- ▶ **Streamline business operations:** Bundle Internet, voice, television, network services and cloud services with a single-source provider
- ▶ **Value:** Get more value for your communications dollar with unlimited local calling and generous MOU packages
- ▶ **Future-proof service:** evolve on your own path at your own pace with the technology that fits your strategy

PRODUCT BRIEF ENTERPRISE TRUNKING

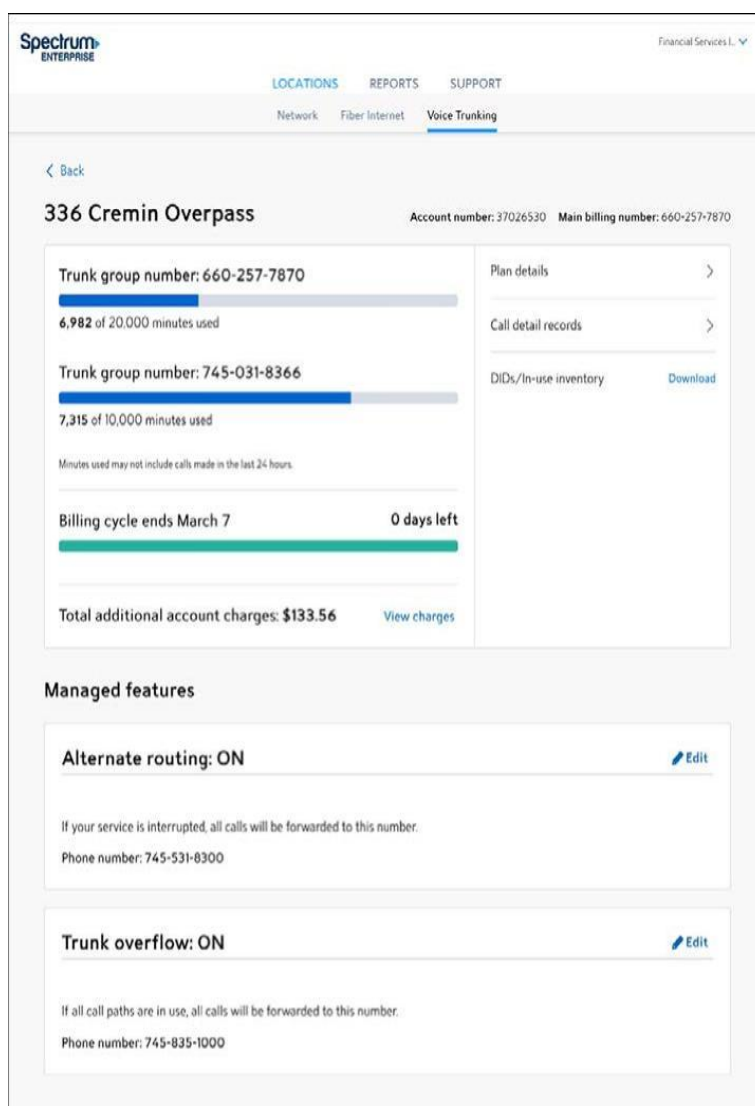
Simplified management and robust reporting

The [SE.net](#) portal enables easy, convenient, real-time management of key trunk service features. Secure and accessible from any Internet connection, the [SE.net](#) Portal allows a company's administrator to:

- ▶ Manage Spectrum Enterprise services, including Trunking, in real time
- ▶ See call activity and MOU usage; manage Trunking inventory to help optimize voice services
- ▶ Simplify expense management with online account detail including:
 - ▷ Call type
 - ▷ Time of day or specific days
 - ▷ Lead number of a trunk group
 - ▷ Long distance and international usage

Learn more

enterprise.spectrum.com/voice



The screenshot displays the Spectrum Enterprise portal interface. At the top, there are navigation tabs for 'LOCATIONS', 'REPORTS', and 'SUPPORT', with sub-tabs for 'Network', 'Fiber Internet', and 'Voice Trunking'. The main heading is '336 Cremin Overpass', with account and billing numbers listed. Below this, two trunk groups are shown with their respective minute usage and progress bars. A 'Billing cycle ends March 7' with '0 days left' is indicated. A 'Total additional account charges: \$133.56' is displayed with a 'View charges' link. On the right, there are links for 'Plan details', 'Call detail records', and 'DIDs/In-use inventory' (with a 'Download' link). Under the 'Managed features' section, two features are listed: 'Alternate routing: ON' and 'Trunk overflow: ON', each with an 'Edit' link and a description of the forwarding behavior.

SPECTRUM SERVICE PROPOSAL

These prices will remain in effect throughout the Initial Order Term, subject to the following contingencies:

- ▶ final engineering, design and site visits; and acceptance of and entering into the Spectrum Enterprise Service Agreement (as may be negotiated by the parties as stated in the Terms of Offer section above), which shall govern the contractual relationship between the parties and the provision of the services under such contract

Investment for Spectrum Services Based on a 24 Month Initial Order Term

LOCATION	SERVICE	QTY/ SVC. CAP	OTC	MRC
1000 City Center Circle	FIA	1 GB	\$0.00	\$2,200.00
1000 City Center Circle	FIA	2 GB	\$0.00	\$2,450.00
1000 City Center Circle	FIA	5 GB	\$0.00	\$4,000.00
1000 City Center Circle	FIA	10 GB	\$0.00	\$6,000.00
1000 City Center Circle	SIP	0-48	\$0.00	\$14.00 Per trunk
1000 City Center Circle	SIP	49-100	\$0.00	\$12.00 Per trunk

Pricing is provided only for the sites shown in the Service Proposal. Pricing for additional sites shall be determined upon Spectrum's receipt of site information for the new service location, evaluation of the requested services, performance of surveys, and other information that may be required.

Pricing shown above is exclusive of taxes, fees and surcharges. MRCs and OTCs are subject to taxes, fees and surcharges as described in Section 7(b) (Taxes, Surcharges and Fees) of the Spectrum Enterprise Service Agreement.

SPECTRUM'S RESPONSE TO CITY OF PORT ORANGE

Spectrum is pleased to submit this formal proposal for Internet and PRI/SIP Services to City of Port Orange. On the pages to follow, Spectrum has responded to your Request for Proposal and addressed each requirement to demonstrate that we can provide you with the best, most timely, cost effective solution to meet your needs. We based our responses on an understanding of your needs from both a technical and a business perspective. Whenever possible, we linked our responses back to your needs to show you not only what we offer, but also why it matters to you. We also provided evidence of our competence to deliver solutions in a professional manner, and have indicated the value of our recommendations for you.

As the second largest cable operator in the United States, Spectrum can provide customized solutions in several marketplaces that are unified, powerful, cost-effective, easily managed, and perhaps most importantly, reliable.

Spectrum owns and operates our network from end-to-end and offers one phone number to call after installation for all support and service inquiries. There is never any question as to how to get help, or who will be supporting you should you ever need assistance.

- ▶ **Service and Savings:** Owning our network allows us to not only manage and monitor your services, but also pass cost savings on to our end customers with highly competitive rates
- ▶ **Reliable connectivity:** With dedicated connectivity up to 10 Gbps, Spectrum can offer the newest technology and services
- ▶ **Adaptability:** Spectrum offers future-proof solutions that are scalable and flexible to adapt to our customers changing requirements
- ▶ **Service:** We serve all of our customers with a dedicated team of Account Executives with supporting teams that understand complex requirements for acquiring, funding and installing solutions like yours

We understand that not all businesses have the same needs and are committed to working with our clients to move past limitations, integrating the most valuable solutions, and achieving greater success together. We invite you to review the following response and discover how Spectrum can provide a solution for you. Our customers value our knowledge and understanding of their challenges, objectives, operating environments, and rely on our accumulation of best practices from the industry. We realize that your initiatives can often create more ways to use our services than was originally anticipated, so you need to be able to adapt quickly, as demand increases. Since we design solutions that solve your specific needs and anticipate future growth needs, we know that you will achieve the results that you expect from your broadband provider now, and into the future.

CITY OF PORT ORANGE, FLORIDA

REQUEST FOR PROPOSAL

RFP #21-07

INTERNET AND VoIP SERVICES



City of Port Orange Purchasing Division

Prepared by Michael Hall, Purchasing Agent Release Date: June 7, 2021

**Proposal Due Date and Time:
July 12, 2021 at 2:30 P.M.**

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

purchdiv@port-orange.org
www.port-orange.org



Legal Notice to Proposers

RFP 21-07 INTERNET AND VoIP SERVICES

Notice is hereby given that the City of Port Orange is soliciting proposals for RFP 21-07 Internet and VoIP Services. Proposals will be accepted in the City Clerk's Office, Port Orange City Hall, 1000 City Center Circle, Port Orange, Florida 32129 until 2:30 P.M. on July 12, 2021, which may be amended by addendum issued by the City. All untimely proposals will not be considered and will be returned to the proposer unopened. All proposals will be evaluated to ensure they contain all required forms in order to deem the proposer responsive or non-responsive. Proposals will be opened, and proposers names will be read aloud at 2:30 P.M. in the Council Chambers located on the first floor of City Hall, 1000 City Center Circle, Port Orange, Florida, 32129.

There will be a Non-Mandatory Pre-Proposal Conference for the project at 10:00 A.M. (local time) on June 21, 2021 at City Hall, Council Chambers (1st floor), 1000 City Center Circle, Port Orange, Florida 32129. All attendees to the Pre-Proposal Conference MUST sign in. The representative of each proposer shall be an authorized employee of the proposer and shall sign in accordingly. Proposers are encouraged to attend the Non-Mandatory Pre-Proposal Conference and are urged to obtain RFP documents and familiarize themselves with the documents prior to the Pre-Proposal Conference.

DESCRIPTION: *The City of Port Orange is soliciting sealed proposals to obtain dedicated Internet Access and VoIP Service. Proposers must be a commercial entity licensed to do business in the State of Florida and perform the services identified herein. Proposers must be properly registered and licensed to provide the services identified in the scope of work, by all applicable state and local agencies.*

All Requests for Proposals are solicited and will be evaluated on the criteria outlined in the RFP. An evaluation committee primarily comprised of City staff has been appointed to evaluate and rank the proposals received in accordance with the Code of Ordinances, City of Port Orange, Chapter 2, Article VI, Division 2, and the Policies and Procedures as set forth in the City's Purchasing Manual. Code of Ordinances, City of Port Orange is on file in the Office of the City Clerk, City Hall, 1000 City Center Circle, Port Orange, Florida, 32129, and at www.municode.com.

Copies of the proposal documents, requirements, scope of service and all other pertinent information necessary to submit a complete package may be obtained electronically from the City of Port Orange website at www.port-orange.org/bids.aspx and DemandStar via their website at www.demandstar.com. All questions shall be directed in writing to the to the Purchasing Agent, Michael Hall, mhall@port-orange.org or purchdiv@port-orange.org and reference "Questions on RFP 21-07 Internet and VoIP Services" in the subject line. Last day for questions will be June 28, 2021 at 5:00 P.M.

Spectrum has read and understands.

[Remainder of this page left intentionally blank]

SEALED PROPOSAL DO NOT OPEN

SEALED PROPOSAL NO.	RFP 21-07
PROPOSAL TITLE:	<u>Internet and VoIP Services</u>
DUE DATE/TIME:	July 12, 2021 at 2:30 P.M.
SUBMITTED BY:	(Name of Company)
DELIVER TO: City of Port Orange City Clerk's Office Attn: Michael Hall Purchasing Agent Finance Department 1000 City Center Circle Port Orange, Florida, 32129	
DATE/TIME RECEIVED: _____ (To be stamped by Clerk's Office)	

SECTION 1 – PURPOSE AND OVERVIEW

The purpose for this Request for Proposals (RFP) is to solicit competitive sealed proposals from certified firms or companies (proposers) to obtain dedicated Internet Access and VoIP Service.

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

Spectrum has read and understands, provided that Spectrum shall have no responsibility for any errors or omissions in City's RFP documents. Any errors in Spectrum's proposal due to errors or omissions in this RFP shall not be the responsibility of Spectrum.

[Remainder of this page left intentionally blank]

SECTION 2 – INSTRUCTIONS TO PROPOSERS

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

TIMELINE (Local Time)

The City reserves the right to alter dates as needed.

Date of Distribution:.....	June 7, 2021
Non-Mandatory Pre-Proposal Conference:	June 21, 2021 at 10:00A.M.
Deadline for Questions:	June 28, 2021 by 5:00 P.M.
Final Addendum Posting:	July 5, 2021 by 5:00 P.M.
Proposals Due:.....	July 12, 2021 by 2:30 P.M.
Evaluation Period:	July 13 – July 20, 2021
Evaluation Committee Meeting:	To Be Determined
City Council Meeting for Approval of Recommendation of Award	To Be Determined

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

City of Port Orange City Clerk's
Office Attn: Michael Hall, Purchasing
Agent 1000 City Center Circle
Port Orange, FL, 32129

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

Proposals shall be sealed, and proposers must indicate on the outside of their proposal the following:

- a) Request for Proposal (RFP) Number and Title
- b) Date of Opening
- c) Name of Proposer
- d) Address of Proposer

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

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

All proposals will be opened publicly, and the names of all proposers shall be read aloud. All conferences and meetings regarding this RFP are recorded electronically (audio only). The City of Port Orange reserves the right to reject any or all proposals or parts of proposals, if it is in the best interest of the City.

Spectrum has read and understands the above instructions. In the event only a portion of Spectrum's proposal is accepted, Spectrum reserves the right to further negotiate the terms of such partial acceptance prior to final bid award acceptance by Spectrum.

PRE-PROPOSAL CONFERENCE

There will be a Non-Mandatory Pre-Proposal Conference for the project at 10:00 A.M. (local time) on June 21, 2021 at City Hall, Council Chambers (1st floor), 1000 City Center Circle, Port Orange, Florida 32129. All attendees to the Pre-Proposal Conference **MUST** sign in. The representative of each proposer shall be an authorized employee of the proposer and shall sign in accordingly.

Proposers are encouraged to attend the Non-Mandatory Pre-Proposal Conference and are urged to obtain RFP documents and familiarize themselves with the documents prior to the Pre-Proposal Conference. All prospective Proposers are strongly encouraged to attend because the Pre-Proposal Conference will offer potential proposers the opportunity to ask questions and discuss the project directly with staff.

Spectrum has read and understands.

QUESTIONS REGARDING THIS RFP

All questions shall reference **"Questions on RFP 21-07 Internet and VoIP Services"** in the subject line. All questions concerning this RFP shall be submitted in writing no later than the date and time referenced in the Timeline above to:

Michael Hall
Purchasing Agent
1000 City Center Circle Port
Orange, FL, 32129
mhall@port-orange.org
[or_purchdiv@port-
orange.org](mailto:or_purchdiv@port-orange.org)

Spectrum understands and has complied.

ADDENDA REGARDING THE REQUEST FOR PROPOSALS

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

It is the proposer's responsibility to be sure all correct number of addenda was received. The proposer should verify with the designated contact persons prior to submitting a proposal that all addenda have been received. Proposers should acknowledge the correct number of addenda received as part of their proposals. It is the responsibility of the proposer to ensure all addenda have been received prior to submitting a proposal.

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

Spectrum understands.

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

Spectrum understands.

CLARIFICATIONS

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

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

Spectrum understands. Please refer to the Terms of Offer of Spectrum's proposal.

MINIMUM QUALIFICATIONS

Proposers must be commercial entity licensed to do business in the State of Florida or appropriate qualified commercial entity licensed in the area specified in the scope of work and to perform the services identified herein.

Proposers must be properly registered and licensed to engage in the scope of work pertaining to this RFP, by all applicable state and local agencies.

Proposers must provide a minimum of three (3) verifiable references from similar scopes of work as identified in this RFP following the requirements in Section 7. Failure to provide references that verify required experience will cause the proposer to be deemed non-responsive. The City of Port Orange is not to be used as a reference.

Spectrum understands and has complied.

NO LOBBYING

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

Spectrum has read and understands.

EXCEPTIONS TO SPECIFICATIONS

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

Spectrum understands. Please refer to the Terms of Offer of Spectrums' proposal. Spectrum's bid is based upon services being delivered under the terms of the Spectrum Enterprise Service Agreement which incorporates the Spectrum Enterprise Commercial Terms of Service (available at <https://enterprise.spectrum.com/legal/se-terms-and-conditions.html> or any successor URL), plus any related attachments, Service Level Agreements and applicable Service Order(s) (collectively, the "Agreement").

Spectrum remains open to negotiating the Agreement, and once a mutually negotiated contract is entered into by the parties, it shall supersede and replace any terms and conditions of the RFP.

The qualifications stated herein apply to all parts, provisions, and documents of the RFP and Spectrum's response, regardless of whether an explicit exception or qualification is taken thereto by Spectrum.

PROPOSAL SUBMISSION AND WITHDRAWAL

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

Spectrum understands.

CORRECTION OF PROPOSALS

Correction of inadvertently erroneous proposals shall be permitted up to the time of RFP opening. Proposers shall not be allowed to modify their proposals after the opening time and date.

Spectrum understands, provided that any errors or omissions in Spectrum's proposal due to errors or omissions in this RFP shall not be the responsibility of Spectrum. Spectrum reserves the right to revise this proposal in the event of any gross errors or omissions of which the City knows or should have known.

WITHDRAWAL OF PROPOSALS

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

Spectrum understands.

OPENING OF PROPOSALS

Proposals will be received until the date and time stated in this RFP and will be publicly opened and read at the place, time and date stated. No responsibility will attach the Purchasing Division for the premature opening of a proposal not properly addressed and identified.

Spectrum has read and understands.

REJECTION OF PROPOSALS

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

PROPOSALS MAY BE REJECTED AND/OR PROPOSER(S) DISQUALIFIED FOR THE FOLLOWING REASONS

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

Spectrum has read and understands.

OWNERSHIP OF DOCUMENTS

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

Spectrum understands.

AMERICANS WITH DISABILITIES ACT (ADA)

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

Spectrum understands.

SECTION 3 – SCOPE OF WORK

Introduction & Background

The City of Port Orange is requesting proposals from qualified service providers for enterprise grade internet access and telephony service. The intent of this RFP is to enter into a contract or contracts for Internet Access and Telephony Service for a two (2) year term with an option to renew for an additional two (2) years beginning October of 2021.

The City of Port Orange is currently connected to the internet via Spectrum Enterprise at the synchronous rated bandwidth of 1Gbps with a Class C IP address range of 75.112.90.130 through 75.112.90.254.

Telephony service is currently provided by the means of 48 concurrent SIP sessions with a block of 500 direct inward dials in the 386-506-5500 through 386-506-5999 range.

Please see Spectrum's Service Proposal for pricing, Initial Order Term, Service Location(s), bandwidth information, and service offering.

Upon expiration of the Initial Order Term, the applicable Service Order shall automatically renew for successive one-month terms (each a "Renewal Order Term", collectively with the Initial Order Term, the "Order Term"), unless either Spectrum or Customer elects to not renew the Service Order by notice provided to the other at least thirty (30) days in advance of the expiration of the then-current Order Term. Upon award, Spectrum can negotiate optional renewal terms in addition to Spectrum's standard month-to-month renewal terms.

Specifications

Qualified service providers will be required to provide all necessary connections and equipment in order to deliver enterprise grade internet connectivity and telephony access at the point of presence (POP) at Port Orange City Hall, located at 1000 City Center Circle, Port Orange, FL.

INTERNET ACCESS

- Minimum synchronous bandwidth of 1Gbps, scalable up to 10Gbps using existing leased circuits/networks or using circuits/networks bundled as part of the solution.
- Minimum of 128 contiguous static IP addresses reserved exclusively for the use of the City of Port Orange.
- Internet Access delivered to point of presence (POP) at Port Orange City Hall.
- All equipment to include connections, routers, media converters, battery backups, etc.
- Industry standard 99.9% uptime service level agreement (SLA).
- Access to network operations center (NOC) technical support and troubleshooting service 24 hours per day, 365 days per year.

Please see Spectrum's Service Proposal for pricing, Initial Order Term, Service Location(s), bandwidth information, and service offering. Please review Spectrum's Service Level Agreement herein for more information.

Customer shall have the option to add Services and increase speed and bandwidth during the Order Term of the Service Order. Customer will notify Spectrum of its desired additional Services or increased speed and bandwidth and, provided that Spectrum is able and willing to provide the requested change in Services, Customer shall be responsible for the corresponding increase in Monthly Recurring Charges for such additional Services or increased speed and bandwidth, as well as construction and installation costs (if applicable). Added services may be coterminous if the parties agree upon appropriate Monthly Recurring Charges and any non-recurring charges to correspond with the decreased initial term for such additional Services.

Spectrum's obligation is to provide Communications Services to the customer-accessible interface device or equipment installed by Spectrum at the Spectrum Network Demarcation Point at the Service Location. The "Demarcation Point" is the point of interconnection between the Spectrum Equipment or other facilities and the wiring at the Service Location. Additional charges may be applicable to extend the Demarcation Point for any sites identified as a Type II Service Location.

Spectrum Equipment will be provided and maintained as set forth in Section 6 (Equipment) of Spectrum's Commercial Terms of Service. Spectrum's Service Level Agreement for the Services included in the RFP response applies to the technical specifications, credits, outages, and requirements of the provision of Services.

TELEPHONY SERVICE

- Session Initiation Protocol (SIP) Trunk with minimum 48 concurrent calls, scalable up to a minimum of 100 concurrent calls.
- Local number portability for continued use of current direct inward dial (DID) block of 386-506-5500 through 386-506-5999.
- Trunk shall provide local, long distance, and international calling with the option for bundled usage packages and/or pricing per minute.
- Trunk shall provide E911 calling with PS/ALI service.
- Trunk should be engineered for voice quality of service.
- Compatibility and interface with Cisco Unified Communications Manager call control platform.
- Industry standard 99.9% uptime service level agreement (SLA).
- Access to network operations center (NOC) technical support and troubleshooting service 24 per day, 365 days per year.

Please see Spectrum's Service Proposal for pricing, Initial Order Term, Service Location(s), bandwidth information, and service offering. Spectrum's Service Level Agreement for the Services included in the RFP response applies to the technical specifications, credits, outages, and requirements of the provision of Services.

Please review the Enterprise Trunking section above for more information on SIP Trunking and protocols. Spectrum is the incumbent and currently reserves the block of DID's.

Term

The term of this contract shall be for two (2) years with an option to renew for an additional two (2) years at the discretion of the City of Port Orange.

Please see Spectrum's Service Proposal for pricing, Initial Order Term, Service Location(s), bandwidth information, and service offering.

Upon expiration of the Initial Order Term, the applicable Service Order shall automatically renew for successive one-month terms (each a "Renewal Order Term", collectively with the Initial Order Term, the "Order Term"), unless either Spectrum or Customer elects to not renew the Service Order by notice provided to the other at least thirty (30) days in advance of the expiration of the then-current Order Term. Upon award, Spectrum can negotiate optional renewal terms in addition to Spectrum's standard month-to-month renewal terms.

Proposal Submission Requirements

The successful proposer shall submit a proposal to include the following requirements:

- Provide internet access synchronous bandwidth monthly pricing based on a dedicated internet access speed of 1Gbps.
- Provide internet access static IP addressing monthly pricing based on a bundle of 128 dedicated IP addresses.
- Provide internet access sample service level agreements (SLA).
- Provide telephony service monthly pricing for session-initiated protocol (SIP) trunking based on 48 concurrent SIP sessions.
- Provide telephony service monthly pricing for portability and ownership for block of 500 direct inward dials (DID).
- Provide telephony service monthly pricing for bundled/bulk usage packages and pricing per minute for long distance and international calling rates.
- Provide telephony service sample service level agreements (SLA).
- Provide minimum of three (3) verifiable references from similar scopes of work.

Spectrum understands.

EVALUATION CRITERIA

1 .	Fee Proposal	50
2 .	Quality of Response	25
3 .	References	25

[Remainder of this page left intentionally blank]

SECTION 4 – STANDARD PURCHASE DEFINITIONS

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

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

19. Evaluator is a member of the evaluation committee/team.
20. Intent to Award is a document that informs the public and respondents of the City's decision to award a contract pursuant to a previously issued competitive solicitation.
21. Issues means points, matters, or concerns to be addressed during negotiations.
22. Non-Professional Services are services performed that are not of a professional nature such as lawn care, security, janitorial, etc.
23. Offer means a complete signed Response submitted to the City in response to a Solicitation including, but not limited to, a Bid submitted in response to an Invitation to Bid, a proposal submitted in response to a Request for Proposal, a Quote submitted in response to a Request for Quotation, a Statement of Qualifications and interest submitted in response to a Request for Statements of Qualifications, or a Reply submitted in response to an Invitation to Negotiate.
24. Outlier is a proposal which is determined by the Purchasing Director or Manager to be significantly dissimilar to or inconsistent with, competing bids or offers.
25. Pre-Proposal Conference means a meeting conducted by the Purchasing Office, held in order to allow proposers to ask questions about the proposed Contract and particularly the Contract specifications with the City department requesting the goods/services.
26. Price Analysis is an evaluation of the total cost of a contract in order to determine if the price is reasonable.
27. Procurement (Process) is a term used in the governmental sector for the combined functions of acquiring (purchasing) needed goods and/or services, receiving and inspection, inventory management, contract administration, and disposal/surplus.
28. Professional Services means those services within the scope of the practice of architecture, professional engineering, landscape architecture, or registered surveying and mapping, as defined by the laws of the state, or those performed by any architect, professional engineer, landscape architect, or registered surveyor and_mapper in connection with his or her professional employment or practice.
29. Protest is a formalized process by which respondents have an opportunity to challenge a procurement practice or contract award.
30. Proposal is a complete, properly signed Response to a Request for Proposal, based on performance that is_offered rather than on that of price alone, which if accepted, would bind the proposer to perform the resultant Contract.
31. Purchase Order is an order placed by the Purchasing Division for the purchase of Goods or Services written on the City's standard Purchase Order form and which, when accepted by the proposer, becomes a contract. The Purchase Order is the Bidder's authority to deliver and invoice the City for Goods or Services specified, and the City's commitment to accept the Goods or Services for an agreed upon price.
32. Request for Proposal (RFP) means a formal request to prospective proposers requesting qualifications of the proposer and pricing for a specified Good or Service which has been advertised for proposal in a newspaper.
33. Respondent means an entity that has (or will, i.e. "prospective respondents") submitted a response to a competitive solicitation conducted to create a contractual relationship for the provision of commodities or services.

- 34. Response/Submission** means all materials submitted to the City by a respondent as part of a solicitation. A response may be called a bid, proposal, statement of qualifications, or a reply, depending on the type of competitive solicitation being issued.
- 35. Responsible (Proposer)** is a proposer who has the capability in all respects to fully perform the contract requirements and the integrity and reliability that will assure good faith performance.
- 36. Responsive (Proposer)** is a proposer that has submitted a bid, proposal, statement of qualifications, or reply that conforms in all material respects to the solicitation.
- 37. Scope** means the extent of the area or subject matter that something deals with or to which it is relevant.
- 38. Scope of Work** means a description of the work activities, deliverables, and/or timeline that a proposer must execute in terms of delivering specific commodities or in performance of contractual services.
- 39. Services** include all work or labor performed for the City on an independent contractor basis other than construction.
- 40. Solicitation** means a formal request, as applicable, for prospective proposers to submit responses to a Request for Proposal.
- 41. Solicitation Document** means a document, or collection of documents, either paper or electronic, that contains all information required to conduct a competitive procurement project according to §287.057, Florida Statutes.
- 42. Stakeholder** means an individual, who is not likely to become a proposer, who has an interest in the commodities/contractual services needed.
- 43. Subcontractor** means a person, firm or entity providing goods or services to a proposer to be used in the performance of the proposer's obligations under the Contract.
- 44. Subject Matter Expert** means a person who has working or expert knowledge about a particular topic or field.

Note to City of Port Orange, in regards to Section 5 – General Terms and Conditions, please refer to the Terms of Offer section of Spectrum's proposal. Spectrum's bid is based upon services being delivered under the terms of the Spectrum Enterprise Service Agreement which incorporates the Spectrum Enterprise Commercial Terms of Service (available at <https://enterprise.spectrum.com/legal/se-terms-and-conditions.html> or any successor URL), plus any related attachments, Service Level Agreements and applicable Service Order(s) (collectively, the "Agreement").

Spectrum remains open to negotiating the Agreement, and once a mutually negotiated contract is entered into by the parties, it shall supersede and replace any terms and conditions of the RFP.

The qualifications stated above and herein apply to all parts, provisions, and documents of the RFP and Spectrum's response, regardless of whether an explicit exception or qualification is taken thereto by Spectrum.

SECTION 5 – GENERAL TERMS AND CONDITIONS

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

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

1. ADDENDUM

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

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

2. ANTI-COLLUSION STATEMENT

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

3. APPLICABLE LAWS

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

4. ASSIGNMENT

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

5. AUTHORITY TO CONDUCT BUSINESS IN FLORIDA

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

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

6. AWARDS

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

7. AWARD AND EXECUTION OF CONTRACT

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

8. PROPOSAL RETURNS

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

9. PROTEST

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

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

10. STATEMENT EVALUATION

Proposers who wish to receive a copy of the statement evaluation may obtain it via www.demandstar.com or on the City of Port Orange website, Bid opportunities page at www.port-orange.org/bids.aspx or by email_purchdiv@port-orange.org.

11. BONDS

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

12. CERTIFICATE OF INSURANCE

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

13. CHANGE ORDERS

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

14. CHANGE ORDER REQUEST NOTIFICATION

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

15. CLEAN UP

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

16. CONDUCT OF PROPOSERS

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

17. CONE OF SILENCE

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

Exceptions to the Cone of Silence:

- Written communication directed to the Procurement Officer.

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

18. CONFLICT OF INTEREST

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

19. CONFLICT OF INSTRUCTIONS

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

20. CONTRACT

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

21. CONTRACT OBLIGATION

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

22. CONTRACT RENEWALS

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

23. COOPERATIVE PURCHASING

The City Manager may elect to purchase through or join with other governmental units in cooperative purchasing ventures when the best interest of the City would be served thereby, provided the same is in accordance with all applicable laws. In the event the City Manager should elect to purchase through or join with other governmental agencies in cooperative purchasing ventures, all purchases in excess of twenty-five thousand dollars (\$25,000.00) shall require council approval before the purchasing contracts are entered into. (Code 1981, § 8-33, Ord. 1997-22, § 5.6-1997; Ord. No. 2004-15, § 4, 7-20-2004)

24. COPYRIGHT AND PATENT RIGHTS

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

25. COST INCURRED BY PROPOSER

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

26. DEBARMENT HISTORY

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

27. DEFAULT PROVISIONS

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

28. DISCLOSURE OF CONFLICTS

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

29. EXCEPTIONS TO REQUIREMENTS

For purposes of evaluation, the proposer must indicate any exception to the requirements, terms, and/or conditions, no matter how minor. This includes any agreement or contract forms supplied by the proposer that are required to be signed by the City. If exceptions are not stated by the proposer, in his proposal, it will be understood that the item(s)/services fully comply with

the requirements, terms and/or conditions stated by the City. Exceptions are to be listed by the proposer on an attachment included with the proposal. The City will not determine exceptions based on a review of any attached sales or manufacturer's literature.

30. E-VERIFY

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

31. FACILITIES

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

32. FAILURE TO RESPOND

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

33. FINANCIAL STABILITY

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

34. 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.

35. GOVERNING FORMS

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

36. GOVERNING LAW

Proposers shall comply with all applicable federal, state, and local laws and regulations. All responses are solicited and shall be made pursuant to the Code of Ordinances, City of Port Orange, Chapter 2, Article VI, Division 2, Section 2-263, and all responses will be evaluated in accordance with the provisions thereof. Code of Ordinances, City of Port Orange is on file in the Office of the City Clerk, City Hall, 1000 City Center Circle, Port Orange, Florida and at www.municode.com. The City of Port Orange is also governed by the Consultants' Competitive Negotiation Act, Section 287.055, Florida Statutes, as the method of selecting architects, engineers, and land surveyors. The City has utilized the procedures in the Act for Professional counselors, environmentalists, planners, general contractors, computer systems, designers, telecommunications consultants, maintenance technicians, financial services, and other professional services. Every acquisition equal to or greater than \$10,000.00 must have a

signed, notarized "Public Entity Crimes Form" to comply with Section 287.133(3)(a), Florida Statutes. Also required is the "Drug-Free Preference Form" to comply with Section 287.087, Florida Statutes. Each form is included in the Solicitation.

37. GRANT FUNDING

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

38. HIPAA COMPLIANCE

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

39. INDEMNIFICATION/HOLD HARMLESS

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

40. INDEPENDENT CONTRACTOR

It is expressly understood and agreed by both parties hereto that the City is contracting with the successful proposer as an independent contractor. The parties hereto understand and agree that the City shall not be liable for any claims which may be asserted by any third party occurring in connection with the services to be performed by the successful proposer under this contract and that the successful proposer has no authority to bind the City. The proposer represents itself to be an independent contract or offering such services to the public and shall not represent himself or his employees to be an employee of the City. Therefore, the proposer shall assume all legal and financial responsibility for taxes, FICA, employee fringe benefits, worker's compensation, employee insurance, minimum wage requirements, overtime, etc., and agrees to indemnify, save, and hold the City, its officers, agents, and employees, harmless from and against, any and all loss; cost (including attorney's fees); and damage of any kind related to such matters. The proposer shall further understand that the City cannot save and hold harmless and or indemnify the proposer and/ or the proposer's employees against any liability incurred or arising as a result of any activity of the proposer or any activity of the proposer's employees performed in connection with the Contract.

41. INSPECTIONS AND TESTING

City of Port Orange reserves the right to inspect any item(s) or service location for compliance with specifications and requirements and needs of the using department. If a proposer cannot

furnish a sample of a Response item, where applicable, for review, or fails to satisfactorily show an ability to perform, the City can reject the Response as inadequate and non-responsive.

42.

INSURANCE

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

43.

INSURANCE CANCELLATION

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

44.

INSURANCE REQUIREMENTS

If required, the proposer shall provide to the City a certificate of insurance identifying the City of Port Orange as an additional insured. For workers' compensation coverage, the proposer's insurance certificate shall include the insurer's waiver of subrogation in lieu of naming the city as an additional insured for workers' compensation. Proposer may use leased employees if the proposer ensures that all workers who access the jobsite are employees covered by the employee leasing company, and no non-employees are permitted to access the jobsite. Any proposer using a leased employee shall complete the City's Leased Employee Affidavit Form Exhibit. Policies other than Workers' Compensation shall be issued by insurers licensed and/or duly authorized under Florida Law to do business in the State of Florida and all Insuring companies are required to have a minimum rating of "A" in the "Best Key Rating Guide" published by A.M. Best & Company, Inc. Policies for Workers' Compensation may be issued by companies authorized as a group self-insurer by F.S. 440.572. The proposer shall not commence work under the contract until the City has received a certificate or certificates of insurance and endorsement. Evidencing in the required insurance. The proposer shall provide the City written notice of cancellation, non-renewal, 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.

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Standard Insurance Requirements			
	Insurance	Standards	Additional Requirements
U Requir	Workers'	Contract Amount Limits	U If Contract requires work on or about navigable waters, Longshoreman's and Harbor Workers' Coverage required. U If vessels involved, Jones Act coverage with limits of \$500,000 required.
	The Contractor shall maintain coverage for its employees with statutory workers' compensation limits, and no less than the limits indicated in the Schedule of Limits for Employers' Liability. Said coverage shall include a waiver of subrogation in favor of the City. The City will not accept elective exemptions. Any contractor using an	Up to \$10 million Statutory/ \$500,000 \$10 - \$20 million Statutory/ \$1,000,000 Contracts over \$20 million to be determined by the City.	
U Requir	Comprehensive General Liability (including Completed Operations and Contractual Liability)	Limits: Combined Single Limit	U When work is on or under Railroad rights of way or properties, the Contractor shall take out and maintain during the life of the Contract, Railroad protective liability and property damage insurance in amounts as requested by the Railroad.
		Injury and Property damage \$1,000,000 occurrence \$1,000,000 aggregate	
U Requir	Comprehensive Business, Automobile Liability to include all owned, hired, and non-owned	Limits: Auto Liability Body	
		Property Damage: \$1,000,000 each occurrence \$1,000,000	
Additional Insurance Requirements			
☐	Property Insurance Builders Risk.	Limits: Buildings - Completed value of Contract.	If Agreement requires handling or installation of Owner's equipment, coverage should be furnished on "All Risk" form, including transit and Owner shall be named.
		"All Risk" coverage on latest SO for or its equivalent.	
U	Professional Liability	Limits: Coverage - \$1,000,000	
U	Installation Floater (IT)	Limits: Coverage - \$ To be	
U	Contractor Pollution Liability	Limits: Coverage - \$1,000,000	
U	Errors and Omissions	Limits: Coverage - \$1,000,000	
U	Umbrella Policy	Limits: Coverage – \$ To be	

U	Payment and Performance Bond Required	Limits: Coverage - Equal to amount of Contract.	
	City Manager waives Payment and Performance Bond for work under \$25,000.00.		
U	Unless otherwise required by law, City Manager waives Insurance for FOB goods under \$25,000.00.		

45. INVOICES AND PAYMENTS

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

46. IRREVOCABILITY OF RESPONSES

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

47. LATE SUBMISSIONS, LATE MODIFICATIONS AND LATE WITHDRAWALS

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

48. LEGAL REQUIREMENTS

Applicable provision of all federal, state, county and local laws, and all ordinances, rules, and regulations shall govern development, submittal and evaluation of all responses received in response hereto and shall govern any and all claims and disputes which may arise between person(s) submitting a response to a Solicitation hereto and the City by and through its officers, employees and authorized representatives, or any other person, natural or otherwise; and lack of knowledge by any proposer shall not constitute a cognizable defense against the legal effect thereof. Upon execution of a contract, the successful proposer shall hold harmless, indemnify and defend the City of Port Orange, its members, officials, officers and employees against any claim, action, loss, damage, injury, liability, cost and expense of whatsoever kind or nature (including, but not by way of limitation, attorneys' fees and court costs) arising out of or incidental to the performance of the Contract, whether or not due to or caused by negligence of the City of Port Orange, its members, officials, officers or employees. This Contract requirement shall be reflected in the insurance coverage certificate.

49. LICENSES, PERMITS AND TAXES

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

50. LITERATURE (if applicable)

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

51. LOCAL PREFERENCE

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

- A. Request for proposals, qualifications, or other qualitative submittal(s). In any ranking conducted pursuant to a request for proposals, qualifications, or other qualitative submittal(s) where the proposers are rated by a point system, local businesses shall be granted the following preference:
 - 1. Port Orange business shall be granted up to eight (8) percent of the available points.
 - 2. Volusia County business shall be granted up to five (5) percent of the available points.
 - 3. Florida business shall be granted up to three (3) percent of the available points.
 - 4. Tied bid preference. In case of a tie between a local business and a non-local business, the local business shall prevail. In case of a tie between two or more local businesses, the following order of preference shall control: first priority to Port Orange business, second priority to Volusia County business, and third priority to Florida business.
- a) Misrepresentation prohibited, penalty. Any business that misrepresents the local preference status of its firm in a proposal or bid submitted to the city shall lose the privilege to claim preference status and shall lose eligibility to claim local preference status for a period of one year.
- b) Local preference not required. This section shall not be deemed to require the granting of a local preference, and nothing herein prohibits the award of a contract to a non-local business where such award is in the public interest.
- B. Definitions. The following words, terms, and phrases, when used in this section, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

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

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

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

52. NON-DISCRIMINATION

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

53. NON-EXCLUSIVITY OF CONTRACT

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

54. NON-PERFORMANCE

Failure to meet the expected quality of workmanship, schedule, or other criteria agreed upon, shall be considered a default. In case of default, the City may procure the required services from other sources and hold the Consultant responsible for any excess costs occasioned thereby and may immediately cancel the contract.

55. NOTICE TO CONTRACTOR

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

56. OPTIONAL CONTRACT USAGE

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

57. PRE-PROPOSAL CONFERENCE

The Purchasing Manager shall determine if a pre-proposal conference is required and provide the date, time and location in the Solicitation legal advertisement and Solicitation requirements. The conference shall normally be held in the Council Chambers, located on the first floor of City Hall, 1000 City Center Circle, Port Orange, Florida. A site visit may be included and shall immediately follow. Attendance to the pre-proposal conference is non-mandatory. The representative of each proposer shall be an authorized employee of the proposer and shall sign in accordingly.

58. POSTPONEMENT/CANCELLATION/WAIVER OF IRREGULARITIES

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

59. PROPRIETY INFORMATION

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

60. PROTECTION

Precaution shall be exercised at all times for the protection of persons, (including employees) and property. All existing structures, utilities, services, roads, trees, shrubbery, etc. shall be protected against damage or interrupted service at all times by the proposer during the term of

contract, and the proposer shall be held responsible for any damage to the property occurring by reason of his operation on the property.

61. PUBLIC ENTITY CRIMES

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

62. PUBLIC RECORDS COMPLIANCE

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

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

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

63. PUBLIC RECORDS/PUBLIC MEETINGS EXEMPTION STATEMENT

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

portions of these meetings must still be recorded and are subject to disclosure at the time of an intended award decision or within 30 days of the bid or proposal opening, whichever is earlier. Portions of the meetings that do not involve presentations, questions and answers, or negotiation strategy or negotiation sessions are still open to the public and competing proposers, but the new law limits public attendance to portions of such meetings.

64. QUESTIONS, INTERPRETATIONS

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

65. RECORDS/AUDIT

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

66. REQUEST FOR ADDITIONAL INFORMATION

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

67. REVIEW OF RESPONSES/SUBMISSIONS

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

68. RIGHT OF NEGOTIATION RFP

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

69. RIGHT OF WITHDRAWAL

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

70. RIGHTS TO SOLICITATION SUBMITTED MATERIAL

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

71. RULES, REGULATIONS AND LICENSING REQUIREMENT

The proposers shall comply with all laws, ordinances, and regulations applicable to the services contemplated herein, including those applicable to conflict of interest and collusion.

Proposers are presumed to be familiar with all federal, state, and local laws, ordinances, codes, and regulations that may in any way affect the services offered.

72. SEPARATION AND DISTRIBUTION

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

73. SEVERABILITY

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

74. SIGNATURE REQUIRED

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

75. SIGNED RESPONSE CONSIDERED AN OFFER

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

76. SOLICITATION FORM COMPLETION, SUBMISSION AND RECEIPT OF RESPONSES

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

77. STATE LICENSING REQUIREMENTS

All entities defined under Chapters 607, 608, 617 or 620, Florida Statutes, seeking to do business with the City shall be on file and in good standing with the State of Florida's Department of State.

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

78.SUBCONTRACTING

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

79.TAXES

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

80.TERMINATION

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

81.TERMINATION NOTICE

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

82.USE OF SOLICITATION FORMS

The proposer shall complete the appropriate Solicitation Form(s) included in the Solicitation. All blanks on the Solicitation Forms shall be completed. If a question or confirmation is not applicable, it should be answered with an "N/A." Supplemental information may be attached to the Solicitation Forms. Failure to fully complete the appropriate Solicitation Forms may result in disqualification of the Response. If additional space for a response is required, attach an additional page to the page on which the question is stated. Clearly identify the number of the question to which the response is attached. Further, if additional Solicitation Form pages are needed, photocopy or replicate as appropriate, and attach such additional pages to the page on which the question or chart is stated. The signature of the Authorized Person or Entity must be that of an officer, partner or a sole proprietor of the entity making the response. The original Response, and each copy submitted shall contain an original signature on the proposer's Acknowledgement Form contained in each Solicitation.

83. VARIANCES

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

84. WAIVER OF IRREGULARITIES

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

[Remainder of this page left intentionally blank]

SECTION 6 – SPECIAL CONDITIONS

PERIOD OF OFFER VALIDITY

Proposals offered in this RFP must remain firm for a period of ninety (90) Days from the RFP opening date.

Spectrum understands.

CONTRACT TERM

The term of this contract shall be for two (2) years with an option to renew for an additional two (2) years at the discretion of the City of Port Orange.

Please see Spectrum's Service Proposal for pricing, Initial Order Term, Service Location(s), bandwidth information, and service offering.

Upon expiration of the Initial Order Term, the applicable Service Order shall automatically renew for successive one-month terms (each a "Renewal Order Term", collectively with the Initial Order Term, the "Order Term"), unless either Spectrum or Customer elects to not renew the Service Order by notice provided to the other at least thirty (30) days in advance of the expiration of the then-current Order Term. Upon award, Spectrum can negotiate optional renewal terms in addition to Spectrum's standard month-to-month renewal terms.

ELIGIBILITY OF PROPOSER

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

INSURANCE

See Section 5, Pages 41 and 42 for Insurance Requirements.

PAYMENT AND PERFORMANCE BOND

Should the City of Port Orange not select the incumbent for these services, a Payment and Performance Bond may be required from the awarded proposer.

Spectrum's Services shall be provided in accordance with the Spectrum Enterprise Service Agreement as mutually agreed upon between the parties and any applicable Service Level Agreements. Spectrum does not provide performance or payment bonds related to the provision of Spectrum Services.

NOTICE

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

[Remainder of this page left intentionally blank]

SECTION 7 – PROPOSAL SUBMITTAL & REQUIREMENTS

Proposals shall include all of the information solicited in this RFP, and any additional data that the respondent deems pertinent to the understanding and evaluation of the proposal. The respondent should not withhold any information from the written response in anticipation of presenting the information orally or in a demonstration, since oral presentations or demonstrations may not be solicited.

Submittal of a proposal shall constitute the Vendor's agreement and intent to follow and adhere to all statements, offerings and monetary incentives contained within this proposal.

The sections of the submitted proposals that will be scored during the evaluation process are identified with the maximum attainable points. Additional areas used for awarding evaluation points are addressed in "Section 8 – Evaluation of Proposals."

In conjunction with other material and information requested in the RFP, all Vendors responding to this solicitation shall provide one (1) original, and one (1) identical digital version in pdf format on CD or USB flash/thumb drive. The digital version **must** be an identical copy of the fully signed original submission. All required attachments are to be in 8 1/2" by 11" format, clearly legible, tabbed and bound in the following order:

Spectrum has read and understands.

TABLE OF CONTENTS

The Table of Contents should outline in sequential order the areas of submittal. All pages, including enclosures, must be clearly and consecutively labeled and/or numbered and correspond to the Table of Contents.

Spectrum has read and has complied.

STATEMENT OF INTEREST

The responding firm will provide a letter, on letterhead, not exceeding two (2) pages, which serves as a statement of interest and introduction to the submittal. The Statement of Interest shall show the RFP number and title. This letter must be signed by the person authorized to bind the firm, company, or corporate entity. The Statement of Interest should also include the name and contact information of a customer contract manager who will serve as the main point of contact for all issues related to the services performed under the scope of this RFP.

Spectrum understands.

COMPANY HISTORY, QUALIFICATIONS, ABILITY, and CAPACITY

- Legal name and principal office address.
- Telephone number and e-mail address.
- State of incorporation of the entity.
- List of names and addresses of the primary owners/board members.
- Name of agent who is authorized to negotiate with the City of Port Orange.
- List of currently or previously performed projects of similar work.
- Provide a summary of qualification and experience of providing internet and VoIP Services.

Spectrum understands.

BUSINESS LICENSES/SUNBIZ

- Include copy of license to do business in the State of Florida or Sunbiz report showing your company registered as "Active."

- Include a copy of any and all professional licenses and certifications as required to perform the services described herein and of the professional licenses for each team member.

Spectrum understands and has complied.

FINANCIAL STABILITY/LITIGATION and DEBARMENT HISTORY

- All Respondents shall be prepared to supply a financial statement upon request, preferably a certified audit of the last available fiscal year. A third party prepared financial statement and the latest Dunn & Bradstreet report will be accepted in lieu thereof.
- It is essential that the Vendor clearly demonstrates the financial ability to reliably deliver services. This Tab shall contain information on the nature and magnitude of any litigation or proceeding whereby, during the past five (5) years, a court or any administrative agency has ruled against the firm in any matter related to the professional activities of the firm.
This shall include any class actions within your company where named, industry investigations by the Attorney General, in addition to individual cases.
- This Tab shall contain information on the nature and magnitude of any debarment or proceeding during the past five (5) years against the firm in any matter related to the professional activities of the firm.
- This shall include any debarment actions against your company by the City or other public entity.
- Respondent must indicate whether any contract awarded by another government agency has been terminated in default or convenience.
- Respondent has a continuing duty to inform the City of any new claims filed against the Respondent.
- A copy of the most recent external peer review report and any letter of comment.
- Please refer to Spectrum's public investor's page for any requested financial information. <https://ir.charter.com/financial-information/annual-reports>. Spectrum does not comment on prior or ongoing litigation, which may be confidential. Any material litigation would be reported in Charter Communications, Inc.'s public filings at the above link. However, Spectrum is not a party to any lawsuit which will have an adverse impact on Spectrum's ability to perform the services offered in this proposal.

REFERENCES

Include all required City of Port Orange forms. **FAILURE TO PROVIDE ALL INFORMATION** listed on each form may result in the rejection of your proposal or a reduction in evaluation points. Required forms include:

- Provide a minimum of three (3) verifiable references (**DO NOT INCLUDE THE CITY OF PORT ORANGE AS REFERENCES**) within the last five (5) years for the services described in this RFP. Include the name and type of entity, the contact name, email address and telephone number of the public officer in charge of the contract, and the years in which the services have been provided.

***The information provided under this tab, must be current and the City must be able to contact references for verification as part of the evaluation process.**

- All reference contact information MUST be verified as current by the proposer prior to submittal. References which cannot be verified using the provided contact information will receive no points under the evaluation criteria.
- Below is a sample of the verification questions that may be used:
 1. Did they meet the terms of the contract?
 2. Was the project completed on time and within budget?
 3. Did they respond in a timely manner to calls, requests, etc.?
 4. Did they provide adequate staff to take care of the needs of your company/agency?
 5. In your previous projects, were there any change orders? If so, how many?

Spectrum has read and acknowledges the reference section. Spectrum has completed form 9.8 herein.

REQUIRED FORMS

Include all required City of Port Orange forms. **FAILURE TO PROVIDE ALL INFORMATION** listed on each form may result in the rejection of your proposal or a reduction in evaluation points. Required forms include:

- Form 9.1 Proposal Submittal Checklist
- Form 9.2 Proposer's Acknowledgement Form
- Form 9.3 Addendum and Change Order Procedure Acknowledgement Form
- Form 9.4 Drug-Free Preference Statement
- Form 9.5 Sworn Statement on Public Entity Crimes
- Form 9.6 Affidavit of Anti-Collusion Form
- Form 9.7 Statement of Qualifications
- Form 9.8 Professional References for Previous Experience
- Form 9.9 Local Business Affidavit of Eligibility
- Form 9.10 E-Verify Affidavit
- Form 9.11 Certification Regarding Debarment
- Proposal Form

Spectrum understands and complied.

SECTION 8 – EVALUATION OF PROPOSALS

EVALUATION CRITERIA

Firms submitting the required criteria will have their proposals evaluated and scored for quality of response, references, and cost. The following represents the principal selection criteria, which will be considered during the evaluation process. Criteria will be weighted based on 100% of total value. Category Scores listed below are the maximum number of points to be awarded per each evaluator.

<u>EVALUATION CRITERIA FOR PROPOSALS</u>	CATEGORY SCORE
<i>FEE PROPOSAL</i>	<i>(50 points)</i>
<i>QUALITY OF RESPONSE</i>	<i>(25 points)</i>
<i>REFERENCES.....</i>	<i>(25 points)</i>
<i>Total Maximum Points</i>	<i>(100 points)</i>

BONUS POINTS: Local Preference per Ordinance Sec. 2-275

- *Port Orange Business - eight percent of available points (8 points)*
- *Volusia County Business - five percent of available points (5 points)*
- *Florida Business - three percent of available points (3 points)*

RFP EVALUATION SCHEDULE

Refer to the Timeline in Section 2 of the RFP document regarding proposed evaluation date(s) and time(s). *The City reserves the right to alter dates as needed.*

EVALUATION PROCEDURE

The Evaluation Committee is comprised of City staff and may include City Council Member who will evaluate, and rank proposals based on a weighted score point formula. All interested professionals are hereby cautioned **not** to contact any staff or Council member of the City of Port Orange, or any member of the Evaluation Committee. Any and all questions should be made through the Purchasing Manager and any attempts to lobby or persuade through any other channels may result in disqualification.

All proposals will be subject to a review and evaluation process. It is the intent of the City that all Vendors responding to this RFP, who meet the requirements, will be ranked in accordance with the criteria established in these documents. The City will consider all responsive and responsible proposals received in its evaluation and award process.

The City's evaluation criteria, as identified above, for proposals will include consideration of, but will not be limited to the following:

1. Responsiveness of the proposal related to the Scope of Services;
2. The ability, capability and skill of the Vendor to perform the contract, including the range of services offered.
3. Whether the provider can perform the contract within the time specified without delay or interference.
4. The quality, availability and adaptability of the supplies or contractual services to the particular use required;
5. The character, integrity, reputation, judgment, experience and efficiency of the Vendor;
6. Professional licensure required when service of a skilled nature is required by law to perform such service and/or skill;
7. The quality of performance of previous contracts;
8. The number and scope of conditions attached to the bid or proposal;
9. Responsiveness of client references;
10. Net costs.
11. Local preference policy (if applicable)

Spectrum has read and acknowledges the evaluation of this proposal.

FORMAL ORAL INTERVIEWS/PRESENTATIONS In Person (If Required)

Upon completion of the technical criteria evaluation of written proposals, rating and ranking, the City of Port Orange, through the Proposal Evaluation Committee and Purchasing, reserves the right to interview any, all, or none of the Respondents that responded to the RFP and to require formal presentations with the key personnel who will administer and be assigned to work on behalf of the contract before recommendation of award.

If the City chooses to allow oral interviews and/or presentations, such interviews or oral presentations **will not be open** to the public pursuant to the conditions set forth in Florida Statute § 286.0113. If oral presentations or interviews are held the following guidelines will be used:

The City's Purchasing Division will establish the schedule and proposers will be notified via email at least five (5) calendar days in advance of the date, time and place of the presentations. The specific format of each presentation will be provided to proposers with the notifications.

The City will allot equal time for each proposer divided into two sequential parts: formal presentations and questions and answers. The times allotted are maximums and no proposer will be penalized for using less than the allotted time.

Not applicable.

FINAL RANKING AND RECOMMENDATION FOR AWARD

After evaluations are completed, the Evaluation Committee will score the proposals for qualifications, experience, engagement approach, and schedule to determine a final ranking of the proposers considered to be most capable of performing the required project in the best interest of the City. The aforementioned evaluation criteria represents the principal selection criteria, which will be considered during the evaluation process. Criteria will be weighted based on 100% of total value. Category Scores listed below are the maximum number of points to be awarded per each evaluator.

The Evaluation Committee's final ranking will be provided to the Purchasing Agent to read aloud. The City's Purchasing Agent will provide a notice of intent to award via posting on www.demandstar.com and the City's website, www.port-orange.org. The City project manager will create an agenda item recommending award to the City Council. City Council's decision will be final.

Spectrum understands.

[Remainder of this page left intentionally blank]

SECTION 9 – REQUIRED FORMS

FORM 9.1 – PROPOSAL SUBMITTAL CHECKLIST

- ☒ Form 9.2 – Proposer’s Acknowledgement
- ☒ Form 9.3 – Addendum and Change Order Procedure Acknowledgement
- ☒ Form 9.4 – Drug Free Preference Statement
- ☒ Form 9.5 – Public Entity Crimes Statement
- ☒ Form 9.6 – Affidavit of Anti-Collusion
- ☒ Form 9.7 – Statement of Qualifications
- ☒ Form 9.8 – Professional References for Previous Experience
- ☒ Form 9.9 – Local Business Affidavit of Eligibility
- ☒ Form 9.10 – E-Verify Affidavit
- ☒ Form 9.11 – Certification Regarding Debarment
- ☒ Proposal Form
- ☒ Copy of License (Contractor, Sunbiz, etc.)
- ☒ Submission of one (1) original marked “ORIGINAL” and one (1) digital (CD or flash drive) version in PDF format.

BY: Charter Communications Operating, LLC

Name of Business

Authorized Signature

Date

This document must be completed and returned with your Submittal

FORM 9.2 – PROPOSER'S ACKNOWLEDGEMENT FORM

I have carefully examined the Request for Proposals (RFP), Instructions to Proposers, General and/ or Special Conditions, Specifications, and any other documents accompanying or made a part of this invitation.

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

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

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

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

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

NO EXCEPTIONS ALLOWED AFTER THE PROPOSAL IS SUBMITTED:

Please check one: ☐ I take NO exceptions. ☒ Exceptions (list below; add additional pages if necessary):
Notwithstanding any pre-printed statements in this form to the contrary, the responses stated herein are subject to the Terms of Offer section of Spectrum's proposal

Charter Communications Operating, LLC

12405 Powerscourt Drive

NAME OF BUSINESS

MAILING ADDRESS

St. Louis Missouri 63131

CITY, STATE & ZIP CODE

Rick Brackeen Sales Director Vertical Accounts
NAME, TITLE, TYPED

(407) 415-8083

TELEPHONE NUMBER/FAXNUMBER

43-1843260

FEDERAL IDENTIFICATION #

Stephanie.Roberts@Charter.com

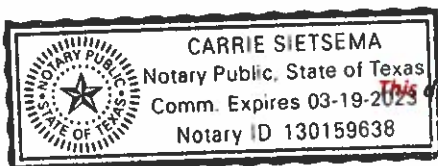
E-MAIL ADDRESS

STATE OF Texas COUNTY OF TRANS

The foregoing instrument was acknowledged before me this day of July 9, 2021 by Ricky Brackeen, who is personally known to me or who has produced ad identification and who did take an oath.

My Commission Expires: 3/19/2023

[Signature]
Notary Public



This document must be completed and returned with your Submittal

FORM 9.3 – ADDENDUM and CHANGE ORDER PROCEDURE ACKNOWLEDGEMENT

ADDENDUM ACKNOWLEDGEMENT

I have carefully examined the Request for Proposals (RFP), Instructions to Proposers, General and/or Special Conditions, Specifications, and any other documents accompanying or made a part of this Request for Statement of Qualifications.

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

Addendum # 1 Date: 6-30-2021 Addendum # _____ Date: _____
Addendum # 2 Date: 7-1-2021 Addendum # _____ Date: _____

CHANGE ORDER PROCEDURE ACKNOWLEDGEMENT

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

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

Please refer to the Terms of Offer section of Spectrum's proposal.
Spectrum requires a service order for evidence to any change orders.

Charter Communications Operating, LLC
Name of Business

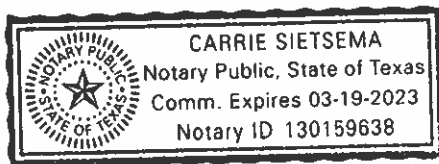
By: [Signature]
Printed Name: Rick Brackeen
Title: Sales Director Vertical Accounts

STATE OF Texas
COUNTY OF Texas

Sworn to (or affirmed) and subscribed before me this 9 day of July, 2021 by
Ricky Brackeen as Director of Sales of
(NAME) (TITLE)
Charter Communications Operating LLC and who:
(NAME OF ORGANIZATION)

[Notary: Please select one]

is personally known to me; or
has produced TXDL as identification.



[Signature]
Notary Public, State of Texas
Printed, typed, or stamped name, commission, and expiration:

This document must be completed and returned with your Submittal

FORM 9.4 – DRUG-FREE PREFERENCE STATEMENT

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

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

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

Charter Communications Operating, LLC

Name of Business

By: [Signature]

Printed Name: Rick Brackeen

Title: Sales Director Vertical Accounts

STATE OF TEXAS
COUNTY OF TRANS

Sworn to (or affirmed) and subscribed before me this 9 day of July, 2021, by
Ricky Brackeen as Director of Sales of

(NAME)

(TITLE)

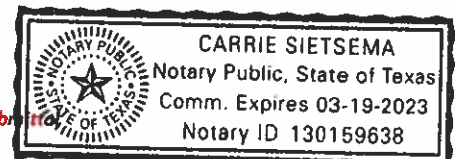
Charter Communications Operating LLC and who:
(NAME OF ORGANIZATION)

[Notary: Please select one]

is personally known to me; or
has produced TXDL as identification.

[Signature]
Notary Public, State of Texas

Printed, typed, or stamped name, commission, and expiration:



This document must be completed and returned with your Submittal.

Spectrum is committed to providing a Drug-Free Workplace and has implemented a comprehensive Drug-Free Workplace policy. Spectrum's signature above indicates compliance with its own Drug-Free Workplace policies and not necessarily those of the City. Spectrum follows all mandatory Florida statutes as applicable to the Services provided.

FORM 9.5 – SWORN STATEMENT UNDER SECTION 287.133(3)(A), FLORIDA STATUTES, ON PUBLIC ENTITY CRIMES
(To be signed in the presence of notary public or other officer authorized to administer oaths.)

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

1. The business address of Charter Communications Operating, LLC (name of Offeror or business) is 12405 Powerscourt Drive St. Louis, Missouri 63131.
2. My relationship to Charter Communications Operating, LLC (name of Offeror or business) is _____ (relationship such as sole proprietor, partner, president, vice-president).
3. I understand that a public entity crime as defined in Section 287.133 of the Florida Statutes includes a violation of any state or federal law by a person with respect to and directly related to the transaction of business with any public entity in Florida or with an agency or political subdivision of any other state or with the United States, including, but not limited to, any proposal or contract for goods or services to be provided to any public entity or such an agency or political subdivision and involving antitrust, fraud, theft, bribery, collusion, racketeering, conspiracy or material misrepresentation.
4. I understand that "convicted" or "conviction" is defined by the Florida Statutes to mean a finding of guilt or a conviction of a public entity crime, with or without an adjudication of guilt, in any federal or state trial court of record relating to charges brought by indictment or information after July 1, 1989, as a result of a jury verdict, non-jury trial, or entry of a plea of guilt or nolo contendere.
5. I understand that "affiliate" is defined by the Florida Statutes to mean (1) a predecessor or successor of a person or a corporation convicted of a public entity crime, or (2) an entity under the control of any natural person who is active in the management of the entity and who has been convicted of a public entity crime, or (3) those officers, directors, executives, partners, shareholders, employees, members, and agents who are active in the management of an affiliate, or (4) a person or corporation who knowingly entered into a joint venture with a person who has been convicted of a public entity crime in Florida during the preceding 36 months.
6. Neither the Offeror or contractor, nor any officer, director, executive, partner, shareholder, employee, member, or agent who is active in the management of the Offeror or contractor, nor any affiliate of the Offeror or contractor has been convicted of a public entity crime subsequent to July 1, 1989. (Draw a line through paragraph 6 if paragraph 7 below applies.)
7. ~~There has been a conviction of a public entity crime by the Offeror or contractor or an officer, director, executive, partner, shareholder, employee, member or agent of the Offeror or contractor who is active in the management of the Offeror or contractor or an affiliate of the Offeror or contractor. A determination has been made pursuant to Section 287.133(3) by order of the Division of Administrative Hearings that it is not in the public interest for the name of the convicted person or affiliate to appear on the convicted proposer list. The name of the convicted person or affiliate is _____.~~ A copy of the order of the Division of Administrative Hearings is attached to this statement. ~~(Draw a line through paragraph 7 if paragraph 6 above applies.)~~

Charter Communications Operating, LLC
Name of Business

By: [Signature]
Printed Name: Rick Brackeen
Title: Sales Director Vertical Accounts

STATE OF TEXAS
COUNTY OF TRANS

Sworn to (or affirmed) and subscribed before me this 9 day of July, 2021 by Ricky Brackeen as Director of Sales of Charter Communications Operating LLC and who:

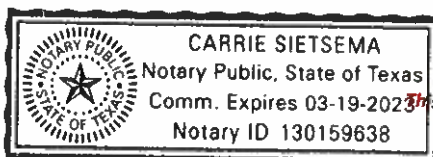
(Notary: Please select one)

is personally known to me; or
has produced TXDL as identification.

[Signature]

Notary Public, State of TEXAS

Printed, typed, or stamped name, commission, and expiration:



This document must be completed and returned with your Submittal

FORM 9.6 – ANTI-COLLUSION FORM

ANTI-COLLUSION STATEMENT PROPOSAL FORM:

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

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

IT IS AGREED BY THE UNDERSIGNED PROPOSER THAT THE SIGNING AND DELIVERY OF THE PROPOSAL REPRESENTS THE PROPOSER'S ACCEPTANCE OF THE TERMS AND CONDITIONS OF THE FOREGOING SPECIFICATIONS, CONTRACT AND PROVISIONS, AND IF AWARDED, THIS CONTRACT WILL REPRESENT THE AGREEMENT BETWEEN THE PROPOSERS AND THE CITY OF PORT ORANGE.

NAME OF FIRM: Charter Communications Operating, LLC

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

PRINTED SIGNATURE: Rick Brackeen

TITLE: Sales Director Vertical Accounts

ADDRESS: 12405 Powerscourt Drive

CITY: St. Louis STATE: MO ZIP CODE: 63131

TELEPHONE: (407) 415-8083 FAX: _____

COMPLETION TIME: _____

F.E.I.N. NUMBER: 43-1843260

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

NO PROPOSAL (REASON): _____

This document must be completed and returned with your Submittal

FORM 9.7 – STATEMENT OF BIDDER'S QUALIFICATIONS

The undersigned warrants that he or she is duly authorized to complete this document, and hereby affirms that the information contained in Form 9.7 is complete, true, and correct to the best of their knowledge and belief. If necessary, questions may be answered on separate paper and attached, with any additional information that may be pertinent.

- A. Name of Bidder: Charter Communications Operating, LLC
- B. Permanent main office address: 12405 Powerscourt Dr. St. Louis, Missouri 63131
- C. Date organized: 1993
- D. If a corporation, where incorporated: Delaware
- E. How many years have you been engaged in the contracting business under your present firm or trade name? 28
- F. Contracts on hand: (Schedule these, showing amount of each contract and the appropriate anticipated dates of completion.) Not applicable
- G. General character of work performed by your company: Telecommunications
- H. Have you ever failed to complete any work awarded to you? If so, where and why? Not applicable
- I. Have you ever defaulted on a contract? If so, where and why? No
- J. List the more important projects recently completed by your company, stating the approximate cost for each and the month and year completed.
- K. List your major equipment currently owned or leased: Confidential information
- L. Experience in work similar to this type of project: Confidential Information
- M. Background and experience of the principal members of your organization, including the officers.
- N. Credit currently available: \$ Confidential Information
- O. Give bank reference: Confidential Information
- P. Will you, upon request, fill out a detailed financial statement and furnish any other information that may be required by the Owner? ☐ Yes ☒ No http://ir.charter.com/phoenix.zhtml?c=112298&p=irol-irhome
- Q. The undersigned hereby authorizes and requests any person, firm, or corporation to furnish any information requested by the Owner in verification of the recitals comprising this Statement of Bidder's Qualifications.

<https://ir.charter.com/financial-information/sec-filings>

Charter Communications Operating, LLC

Name of Business

By: [Signature]

Printed Name: Rick Brackeen

Title: Sales Director Vertical Accounts

STATE OF Texas

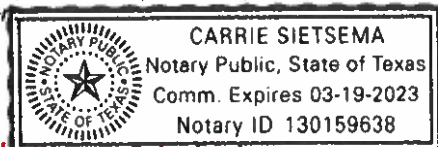
COUNTY OF TRAVIS

The foregoing instrument was acknowledged before me by means of online notarization, this 9 day of July, 2021, by RICKY BRACKEN who is personally known to me or who produced TXDL as identification.

My Commission Expires: 03/19/2023

[Signature]
Notary Public, State of Texas

Printed, typed or stamped name, commission and expiration



This document must be completed and returned with your Submittal.

FORM 9.8 – PROFESSIONAL REFERENCES FOR PREVIOUS EXPERIENCE

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

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

(Do not include the City of Port Orange)

1. Company Name: City of Groveland
Contact Person: Andy Sapp
City, State: Groveland, Florida
Telephone Number: (352) 429-2141
Email Address: Andy.Sapp@groveland-FL.gov
Description of goods or
Services provided: Hosted voice, Fiber, Metro-E, COAX, and Fiber Connect+
Contract Amount: \$10,674.00
Start/End Date of Contract: TBD
2. Company Name: City of Winter Springs
Contact Person: Jonathan Duryea
City, State: Winter Springs, Florida
Telephone Number: (407) 327-7571
Email Address: jduryea@winterspringsfl.org
Description of goods or
Services provided: Fiber , voice, and COAX
Contract Amount: \$1,419.00
Start/End Date of Contract: TBD
3. Company Name: Lake Apopka Natural Gas District
Contact Person: Scott Minter
City, State: Apopka, Florida
Telephone Number: (407) 287-8910
Email Address: Scott.Minter@langd.org
Description of goods or
Services provided: Fiber, Voice, and Metro-E
Contract Amount: \$2,885.00
Start/End Date of Contract: TBD

This document must be completed and returned with your Submittal.

(Form 9.8 – Professional References for Previous Experience Page 2)

LISTING OF PREVIOUS EXPERIENCE

Commercial Client List

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

List clients to whom you currently provide or have in the past provided equal or similar to those required under the City's contract and as outlined in this bid package. A minimum of three (3) projects shall be listed below in order to propose on this contract.

	Contact Name	Phone	Current Client? Y or N	Number of years' service provided	Description of service
1	Andy Sapp	(352) 429-2141	Y	5	Hosted voice, Fiber, Metro-E, and COAX
2	Jonathan Duryea	(407) 327-7571	Y	3	Fiber, Voice, and COAX
3	Scott Minter	(407) 287-8910	Y	N/A	Fiber, Voice, and Metro-E

This document must be completed and returned with your Submittal.

FORM 9.9 - LOCAL BUSINESS AFFIDAVIT OF ELIGIBILITY

City of Port Orange

*This declaration is executed under penalty of perjury of the laws to the United States and State of Florida***THIS AFFIDAVIT IS SUBMITTED IN REFERENCE TO THE FOLLOWING SOLICITATION:**RFSQ/RFP/ITN/BID/CONTRACT/PROJECT #(as applicable): RFP 21-07 Internet and VOIPBUSINESS NAME: Charter Communications Operating, LLC CONTACT PERSON/TITLE: Sales MAILING ADDRESS: 12405 Powerscourt Dr.CITY-STATE-ZIP: St. Louis, Missouri 63131 Length of Time at Address Provided: 28 yearsPhysical Presence of Business: ☐ Headquarters and/or ☒ Principal Place of BusinessAnd within Legal Boundaries: ☐ City of Port Orange ☐ Volusia County ☐ State of FloridaFEIN (Federal Employer Identification Number): 43-1843260BUSINESS STRUCTURE: ☐ Corporation ☒ LLC ☐ Partnership ☐ Sole Proprietorship☐ Other (Specify): _____PHONE NUMBER: (407) 415-8083

FAX: _____

EMAIL: Stephanie.Roberts@charter.com****Please attach a valid business tax receipt, or other such documentation******ATTESTATION – I understand that:**

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

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

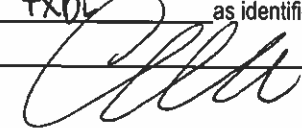
Charter Communications Operating, LLC

Name of Business

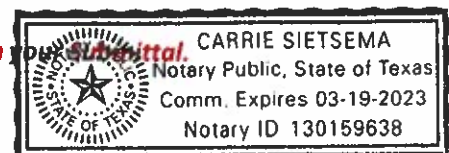
By: _____

Printed Name: Rick BrackeenTitle: Sales Director Vertical AccountsSTATE OF TexasCOUNTY OF TRANS

The foregoing instrument was acknowledged before me by means of ☒ physical presence or ☐ online notarization, this 9 day of July, 2021, by Ricky Brackeen, as Director of Sales of Charter Communications Operating, LLC. He or she is ☐ personally known or ☒ produced TXDL as identification.


Notary Public, State of TEXAS

Printed, typed or stamped name, commission and expiration:

This document must be completed and returned with your Submittal.



**CITY OF PORT ORANGE
CONTRACTOR E-VERIFY AFFIDAVIT
IN ACCORDANCE WITH SECTION 448.095, FLORIDA STATUTES**

Project Name: Internet and VOIP
Solicitation Number: RFP 21-07

I, the undersigned, hereby certify that Charter Communications Operating, LLC [insert contractor company name] does not employ, contract with, or subcontract with an unauthorized alien, and is otherwise in full compliance with Section 448.095, Florida Statutes.

Further, I certify all employees hired on or after January 1, 2021 have had their work authorization status verified through the E-Verify system. I acknowledge that it is my responsibility to insure full compliance with Section 448.095, Florida Statutes. I am aware enrollment in the E-Verify system for employers can be done at www.e-verify.gov.

A true and correct copy of Charter Communications Operating, LLC [insert contractor company name] proof of registration in the E-Verify system is attached to this Affidavit.

By affixing my signature below, I hereby affirm that I am duly authorized to bind the company reference herein and I will comply with all applicable E-Verify requirements.

Rick Brackeen Sales Director Vertical Accounts
(Print or Type Name, Title)

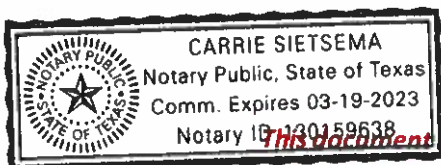
[Signature]
(Signature of Affiant)

43-1843260
(Federal Employer ID Number - FEIN)

261876
(E-Verify Number)

STATE OF ~~FLORIDA~~ Texas
COUNTY OF Travis

The foregoing instrument was acknowledged before me by means of ☒ physical presence or ☐ online notarization, this 9 day of July, 2021, by Ricky Brackeen as Director of Sales of Charter Communications Operating, LLC on behalf of the company. He/she is personally known to me or has produced TXDL (TYPE OF ID) as identification.



[Signature]
Notary Public, ~~State of Florida at Large~~ State of Texas
Printed, typed or stamped name, commission and expiration of commission term

This document must be completed and returned with your Submittal.

FORM 9.11 – CERTIFICATION REGARDING DEBARMENT

**CERTIFICATION REGARDING DEBARMENT, SUSPENSION AND OTHER RESPONSIBILITY
MATTERS**

**PRIMARY COVERED TRANSACTIONS
(TO BE COMPLETED BY PRIME CONTRACTOR)**

1. The prospective primary participant certifies to the best of its knowledge and belief, that it and its principals:
 - (a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;
 - (b) Have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
 - (c) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph (1) (b) of this certification;
 - (d) Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State or local) terminated for cause or default.
2. Where the prospective primary participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

Charter Communications Operating, LLC
Organization Name

RFP 21-07

Bid Number or Project Name

Rick Brackeen Sales Director Vertical Accounts
Name(s) and Title(s) of Authorized Representatives



Signature

7/9/21

Date

This document must be completed and returned with your Submittal

PROPOSAL FORM



**PROPOSAL FORM
CITY OF PORT ORANGE
RFP #21-07**

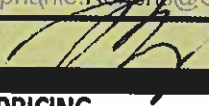
Internet and VoIP Communication Services

Completed Attachment 1 Proposal form MUST be included with Proposal Submission

Instruction to save Attachment from DemandStar website:

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

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

NAME OF BUSINESS:	Charter Communications Operating, LLC
CONTACT PERSON:	Stephanie Roberts
EMAIL ADDRESS:	Stephanie.Roberts@Charter.com
AUTHORIZED SIGNATURE:	

PROPOSAL PRICING

ITEM #	DESCRIPTION	UNIT	TOTAL COST
1	Internet access synchronous bandwidth based on a dedicated internet access speed of 1Gbps	Monthly	\$2,200.00 -
2	Internet access static IP addressing based on a bundle of 128 dedicated IP addresses	Monthly	\$210.00 -
4	Telephony service for session-initiated protocol (SIP) trunking based on 48 concurrent SIP sessions	Monthly	\$672.00 -
5	Telephony service for portability and ownership for block of 500 direct inward dials (DID)	Monthly	\$15.00 -
6	Telephony service for bundled/bulk usage packages	Monthly	\$1,350.00 -
7	Telephony service for long distance and international calling rates	Minute	\$ 0.00 25,000 LD minutes -
		Total Cost of Proposal	\$ 4,447.00 -

This document must be completed and returned with your Submittal

AFFIDAVIT REGARDING WORKERS' COMPENSATION

IMPORTANT

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

State of _____

County of _____

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

WITNESS:

By: _____

Name: _____

CONTRACTOR:

Company: _____

By: _____

Name/Title: _____

STATE OF _____

COUNTY OF _____

The foregoing instrument was acknowledged before me by means of _____ physical presence or _____ online notarization, this _____ day of _____, 20__, by _____, as _____ of _____, a _____. He or she is _____ personally known or _____ produced _____ as identification.

Notary Public, State of _____

Printed, typed, or stamped name, commission, and expiration:

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

LEASED EMPLOYEE AFFIDAVIT
EXHIBIT CONTRACT # _____

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

OR

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

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

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

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

Name of Employee Leasing Company: _____

Workers' Compensation Carrier: _____

A.M. Best Rating of Carrier: _____

Inception Date of Leasing Arrangement: _____

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

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

Name of Contractor: _____

Signature of Owner/Officer: _____

Title: _____ Date: _____



CITY OF PORT ORANGE STANDARD CONTRACT FOR SERVICES

This Standard Contract for Services ("Contract") is entered into this ____ day of _____, 2021, by and between the **CITY OF PORT ORANGE**, a Florida municipal corporation, whose principal address is 1000 City Center Circle, Port Orange, Florida 32129 (the "City"), and _____, a _____ corporation whose principal address is _____ ("Contractor"). The City and Contractor are collectively referred to herein as the "Parties."

1. Provision of Services

(a) The Contractor hereby agrees to furnish an Internet and VoIP, pursuant to Request for Proposal 21-07 ("RFP 21-07"). This Contract together with RFP 21-07, Addenda, and Contractor's proposal, all of which may be referred to as the "Contract" and all of which are made a part hereof by reference, shall constitute the formal written contract between the City and Contractor. For convenience, Section 3, Scope of Services, from RFP 21-07, and the Bid Tabulation as submitted by Contractor in Contractor's Proposal, are attached hereto as **Exhibit "1"**. Vendor Access Security Policy 1-6, revised February 17, 2021, is attached hereto as **Exhibit "2"**. A complete copy of RFP 21-07, Addenda, and Contractor's Proposal are available in the Office of the City Clerk. Contractor represents that they are familiar with the documents that make up the Contract, as referenced hereinabove.

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

Term: The term of this Contract shall become effective on the last date the Contract is signed by the Parties and shall continue for a period of two (2) years ("Term").

Renewal: Upon mutual written agreement of the Parties, this Contract may be renewed for one (1) two-year period, subject to review and approval of the City Manager and budget appropriation.

Manner and Place: The work shall be performed in accordance with and in a manner as required by all current federal, state, county, fire, building and land development codes, laws, ordinances and regulations, and with applicable permits and licenses per the City Code of Ordinances.

Time and Essence: Contractor acknowledges that time is of the essence for this Contract.

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

2. City Obligations. In return for the services identified above, the City agrees to compensate the Contractor at the pricing set forth in Exhibit "1," attached hereto, in an amount not to exceed _____ and

___/100 Dollars (\$_____). All payments shall be governed by the Local Government Prompt Payment Act as set forth in Sections 218.70 through 218.79, Florida Statutes, as amended.

3. Contract Administration. The Information Technology Manager, James Hicks, shall perform contract administration of this Contract. The City may change the contract administrator, from time to time and at any time, upon written notice to Contractor. For notice provisions, see the paragraph below entitled "Notice."

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

5. Termination for Convenience of the City

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

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

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

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

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

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

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

- (i) With respect to all Contract performance prior to the effective date of Notice of Termination, the total of:

- (1) the cost of work performed or supplies delivered;
 - (2) the cost of settling and paying any reasonable claims as provided in paragraph (c) (iv), above;
 - (3) a sum as profit on (a) determined by the Finance Director to be fair and reasonable.
- (ii) The total sum to be paid under (i) above shall not exceed the contract price, as further reduced by the contract price of work or supplies not terminated.

(g) In the event that the Contractor is not satisfied with any payments which the Finance Director shall determine to be due under this clause, the Contractor may appeal any claim to the City Council in accordance with Paragraph 23 of this contract concerning disputes.

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

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

8. Examination of Records

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

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

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

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

(a) Keep and maintain public records required by the City to perform the service.

(b) Upon request from the City's custodian of public records, provide the City with a copy of the requested record or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in Section 119, Florida Statutes, or as otherwise provided by law.

(c) Ensure that public records that are exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the Contract term and following completion of the Contract if the Contractor does not transfer the records to the City.

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

If Contractor does not comply with a public records request, the City shall deem the non-compliance a breach of this Contract, and the Contractor may be subject to penalties under Section 119.0701, Florida Statutes.

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

10. Termination for Non-Appropriation of Funds

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

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

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

Policies other than Workers' Compensation shall be issued by insurers licensed and/or duly authorized under Florida Law to do business in the State of Florida and all insuring companies are required to have a minimum rating of "A-" in the "Best Key Rating Guide" published by A.M. Best & Company, Inc. Contractor shall not commence work under this Contract until the City has received a certificate or certificates of insurance with endorsement evidencing the required insurance. Insurer shall provide the City written notice of cancellation, nonrenewal or any other changes in coverage no later than thirty (30) days prior to the effective date of the change and shall provide notice to the City no later than 10 days after non-payment. The Certificates of Insurance and required insurance policies shall contain provisions that thirty (30) days prior written notice shall be given to the City of any cancellation, intent not to renew, or reduction in the policies or coverages.

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

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

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

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

Standard Insurance Requirements									
	Insurance	Standards	Additional Requirements						
☒	<u>Workers' Compensation</u> The Contractor shall maintain coverage for its employees with statutory workers' compensation limits, and no less than the limits indicated in the Schedule of Limits for Employers' Liability. Said coverage shall include a waiver of subrogation in favor of the City. The City will not accept elective exemptions. Any contractor using an employee leasing company shall complete the Leased Employee Affidavit Form Exhibit.	<table><tr><td><u>Contract Amount</u></td><td><u>Limits</u></td></tr><tr><td>Up to \$10 million</td><td>Statutory/\$500,000</td></tr><tr><td>\$10 - \$20 million</td><td>Statutory/\$1,000,000</td></tr></table> Contracts over \$20 million To Be Determined by the City.	<u>Contract Amount</u>	<u>Limits</u>	Up to \$10 million	Statutory/\$500,000	\$10 - \$20 million	Statutory/\$1,000,000	☐ If Contract requires work on or about navigable waters, Longshoreman's and Harbor Workers' Coverage required. ☐ If vessels involved, Jones Act coverage with limits of \$500,000 required.
<u>Contract Amount</u>	<u>Limits</u>								
Up to \$10 million	Statutory/\$500,000								
\$10 - \$20 million	Statutory/\$1,000,000								
☒	Comprehensive General Liability (including Completed Operations and Contractual Liability)	<u>Limits:</u> Combined Single Limit Bodily Injury and Property damage \$1,000,000 occurrence \$1,000,000 aggregate	☐ When work is on or under Railroad rights of way or properties, the Contractor shall take out and maintain during the life of the Contract, Railroad protective liability and property damage insurance in amounts as requested by the Railroad.						

☒	Comprehensive Business, Automobile Liability to include all owned, hired and non-owned automobiles.	<u>Limits:</u> Auto Liability Body Injury and Property Damage: \$1,000,000 each occurrence \$1,000,000 aggregate	
Additional Insurance Requirements			
☐	Property Insurance Builders Risk. <u>Additional Coverage:</u>	<u>Limits:</u> Buildings - Completed value of Contract. "All Risk" coverage on latest ISO for or its equivalent. Permission granted to occupy. Owner named as insured AIMA	If Agreement requires handling or installation of Owner's equipment, coverage should be furnished on "All Risk" form, including transit and Owner shall be named.
☐	Professional Liability	<u>Limits:</u> Coverage - \$1,000,000	
☐	Installation Floater (IT)	<u>Limits:</u> Coverage - \$ <u>To be determined.</u>	
☐	Contractor Pollution Liability	<u>Limits:</u> Coverage - \$1,000,000	
☐	Errors and Omissions	<u>Limits:</u> Coverage - \$1,000,000	
☐	Umbrella Policy	<u>Limits:</u> Coverage – \$ <u>To be determined.</u>	
☐	Payment and Performance Bond Required	<u>Limits:</u> Coverage - Equal to amount of Contract.	
☐	City Manager waives Payment and Performance Bond for work under \$100,000.00.		
☐	Unless otherwise required by law, City Manager waives Insurance for FOB goods under \$25,000.00.		

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

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

14. Modifications or Changes to this Contract

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

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

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

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

15. Sovereign Immunity. The City expressly retains all rights, benefits and immunities of sovereign immunity in accordance with Section 768.28, Florida Statutes. Notwithstanding anything set forth in any section of this Contract

to the contrary, nothing in this Contract shall be deemed as a waiver of immunity or limits of liability of the City beyond any statutory limited waiver of immunity or limits of liability which may have been adopted by the Florida Legislature or may be adopted by the Florida Legislature and the cap on the amount and liability of the City for damages regardless of the number or nature of claims in tort or equity shall not exceed the dollar amount set by the legislature for tort. Nothing in this Contract shall inure to the benefit of any third party for the purpose of allowing any claim against the City which would otherwise be barred under the Doctrine of Sovereign Immunity or operation of law.

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

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

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

18. Inspection

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

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

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

19. Liability for Loss or Damage.

(a) Contractor shall be liable for any loss of, or damage to, City property caused by the negligence,

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

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

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

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

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

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

21. Disputes. The City Manager, who shall reduce his decision to writing and mail or otherwise furnish a copy thereof to Contractor, shall decide disputes with respect to this Agreement. The decision by the City Manager shall be final and binding unless, within five (5) business days from the date of delivery of the decision of the City Manager, appeal is made to the City Council in writing and delivered to the City Clerk, Robin L. Fenwick, MMC. The decision of the City Council shall be final and binding unless set aside by a court of competent jurisdiction as fraudulent, capricious, arbitrary, or so grossly erroneous as necessary to imply bad faith, or not to be supported by any evidence.

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

23. Controlling Law. **THIS AGREEMENT CONTAINS IMPORTANT MATTERS AFFECTING LEGAL RIGHTS AND IS ACCEPTED AND ENTERED INTO IN FLORIDA AND ANY QUESTION REGARDING ITS VALIDITY, CONSTRUCTION, ENFORCEMENT, OR PERFORMANCE SHALL BE GOVERNED BY FLORIDA LAW. ANY**

LEGAL PROCEEDING ARISING FROM OR IN ANY WAY REGARDING THE AGREEMENT SHALL HAVE ITS VENUE LOCATED EXCLUSIVELY IN THE CIRCUIT COURT OF VOLUSIA COUNTY, FLORIDA, AND THE PARTIES HEREBY EXPRESSLY CONSENT AND SUBMIT THEMSELVES TO THE PERSONAL JURISDICTION AND VENUE OF THE COURT.

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

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

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

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

Copy to: City of Port Orange
Attention: James Hicks, Information Technology Manager
1000 City Center Circle
Port Orange, Florida 32129
(386) 506-5545

Contractor: _____
Attention: _____

() - - Telephone
@ .com

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

27. *Contract Construction*

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

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

[Remainder of this page intentionally left blank]

Witnesses:

Printed Name: _____

Printed Name: _____

By: _____

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

Date: _____

STATE OF _____
COUNTY OF _____

The foregoing instrument was acknowledged before me by means of ____ physical presence or ____ online notarization, this ____ day of _____, 2021, by _____, as _____ of _____, a _____ corporation. He/She is ____ personally known or ____ produced _____ as identification.

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

Witnesses:

CITY OF PORT ORANGE

Printed Name: _____

By: _____
Jamie L. Miller, Interim City Manager

Printed Name: _____

Date: _____

STATE OF FLORIDA
COUNTY OF VOLUSIA

The foregoing instrument was acknowledged before me by means of ____ physical presence or ____ online notarization, this ____ day of _____, 2021, by Jamie L. Miller, as Interim City Manager of the City of Port Orange, a Florida municipal corporation, on behalf of the city. She is ____ personally known or ____ produced _____ as identification.

Notary Public, State of Florida

Printed, typed or stamped name, commission and expiration:

Witnesses:

ATTEST:

Printed Name: _____

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

Printed Name: _____

Date: _____

STATE OF FLORIDA
COUNTY OF VOLUSIA

The foregoing instrument was acknowledged before me, by means of ____ physical presence or ____ online notarization, this ____ day of _____, 2021, by Robin L. Fenwick, as City Clerk of the City of Port Orange, a Florida municipal corporation, on behalf of the city. She is ____ personally known or ____ produced _____ as identification.

Notary Public, State of Florida

Printed, typed or stamped name, commission and expiration:



End of Solicitation Documents

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**THE E-VERIFY
MEMORANDUM OF UNDERSTANDING
FOR WEB SERVICES EMPLOYERS**

**ARTICLE I
PURPOSE AND AUTHORITY**

The parties to this Agreement are the Department of Homeland Security (DHS) and Charter Communications (Web Services Employer). The purpose of this agreement is to set forth terms and conditions which the Web Services Employer will follow while participating in E-Verify.

A Web Services Employer is an Employer who verifies employment authorization for its newly hired employees using a Web Services interface.

E-Verify is a program that electronically confirms a newly hired employee's authorization to work in the United States after completion of the Form I-9, Employment Eligibility Verification (Form I-9). This MOU explains certain features of the E-Verify program and describes specific responsibilities of the Web Services Employer, DHS, and the Social Security Administration (SSA).

For purposes of this MOU, the "E-Verify browser" refers to the website that provides direct access to the E-Verify system: <https://e-verify.uscis.gov/emp/>. You may access E-Verify directly free of charge via the E-Verify browser.

Authority for the E-Verify program is found in Title IV, Subtitle A, of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA), Pub. L. 104-208, 110 Stat. 3009, as amended (8 U.S.C. § 1324a note). The Federal Acquisition Regulation (FAR) Subpart 22.18, "Employment Eligibility Verification" and Executive Order 12989, as amended, provide authority for Federal contractors and subcontractors (Federal contractor) to use E-Verify to verify the employment eligibility of certain employees working on Federal contracts.

Before accessing E-Verify using Web Services access, the Web Services Employer must meet certain technical requirements. This will require the investment of significant amounts of resources and time. If the Web Services Employer is required to use E-Verify prior to completion and acceptance of its Web Services interface, then it must use the E-Verify browser until it is able to use its Web Services interface. The Web Services Employer must also maintain ongoing technical compatibility with E-Verify.

DHS accepts no liability relating to the Web Services Employer's development or maintenance of any Web Services access system.

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ARTICLE II RESPONSIBILITIES

A. RESPONSIBILITIES OF THE WEB SERVICES EMPLOYER

1. By enrolling in E-Verify and signing the applicable MOU, the Web Services Employer asserts that it is a legitimate company which intends to use E-Verify for legitimate purposes only and in accordance with the laws, regulations, and DHS policies and procedures relating to the use of E-Verify.
2. The Web Services Employer agrees to display the following notices supplied by DHS in a prominent place that is clearly visible to prospective employees and all employees who are to be verified through the system:
 - a. Notice of E-Verify Participation
 - b. Notice of Right to Work
3. The Web Services Employer agrees to provide to the SSA and DHS the names, titles, addresses, and telephone numbers of the Web Services Employer representatives to be contacted about E-Verify. The Web Services Employer also agrees to keep such information current by providing updated information to SSA and DHS whenever the representatives' contact information changes.
4. The Web Services Employer agrees to grant E-Verify access only to current employees who need E-Verify access. Web Services Employers must promptly terminate an employee's E-Verify access if the employer is separated from the company or no longer needs access to E-Verify.
5. The Web Services Employer agrees to become familiar with and comply with the most recent version of the E-Verify User Manual. The Web Services Employer will ensure that outdated manuals are promptly replaced with the new version of the E-Verify User Manual when it becomes available.
6. The Web Services Employer agrees that any person accessing E-Verify on its behalf is trained on the most recent E-Verify policy and procedures.
7. The Web Services Employer agrees that any of its representatives who will create E-Verify cases will complete the E-Verify Tutorial before creating any cases.
 - a. The Web Services Employer agrees that all of its representatives will take the refresher tutorials when prompted by E-Verify in order to continue using E-Verify. Failure to complete a refresher tutorial will prevent the Employer Representative from continued use of E-Verify.
8. The Web Services E-Verify Employer Agent agrees to obtain the necessary equipment to use E-Verify as required by the E-Verify rules and regulations as modified from time to time.
9. The Web Services E-Verify Employer Agent agrees to, consistent with applicable laws, regulations, and policies, commit sufficient personnel and resources to meet the requirements of this MOU.
10. The Web Services Employer agrees to comply with current Form I-9 procedures, with two

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exceptions:

- a. If an employee presents a "List B" identity document, the Web Services Employer agrees to only accept "List B" documents that contain a photo. (List B documents identified in 8 C.F.R. § 274a.2(b)(1)(B)) can be presented during the Form I-9 process to establish identity.) If an employee objects to the photo requirement for religious reasons, the Web Services Employer should contact E-Verify at 888-464-4218.
- b. If an employee presents a DHS Form I-551 (Permanent Resident Card), Form I-766 (Employment Authorization Document), or U.S. Passport or Passport Card to complete Form I-9, the Web Services Employer agrees to make a photocopy of the document and to retain the photocopy with the employee's Form I-9. The Web Services Employer will use the photocopy to verify the photo and to assist DHS with its review of photo mismatches that employees contest. DHS may in the future designate other documents that activate the photo screening tool.

Note: Subject only to the exceptions noted previously in this paragraph, employees still retain the right to present any List A, or List B and List C, document(s) to complete the Form I-9.

11. The Web Services Employer agrees to record the case verification number on the employee's Form I-9 or to print the screen containing the case verification number and attach it to the employee's Form I-9.
12. The Web Services Employer agrees that, although it participates in E-Verify, the Web Services Employer has a responsibility to complete, retain, and make available for inspection Forms I-9 that relate to its employees, or from other requirements of applicable regulations or laws, including the obligation to comply with the antidiscrimination requirements of section 274B of the INA with respect to Form I-9 procedures.
 - a. The following modified requirements are the only exceptions to a Web Services Employer's obligation to not employ unauthorized workers and comply with the anti-discrimination provision of the INA: (1) List B identity documents must have photos, as described in paragraph 6 above; (2) When a Web Services Employer confirms the identity and employment eligibility of newly hired employee using E-Verify procedures, it establishes a rebuttable presumption that it has not violated section 274A(a)(1)(A) of the Immigration and Nationality Act (INA) with respect to the hiring of that employee; (3) If the Web Services Employer receives a final nonconfirmation for an employee, but continues to employ that person, the Web Services Employer must notify DHS and the Web Services Employer is subject to a civil money penalty between \$550 and \$1,100 for each failure to notify DHS of continued employment following a final nonconfirmation; (4) If the Web Services Employer continues to employ an employee after receiving a final nonconfirmation, then the Web Services Employer is subject to a rebuttable presumption that it has knowingly employed an unauthorized alien in violation of section 274A(a)(1)(A); and (5) no E-Verify participant is civilly or criminally liable under any law for any action taken in good faith based on information provided through the E-Verify.
 - b. DHS reserves the right to conduct Form I-9 compliance inspections, as well as any other enforcement or compliance activity authorized by law, including site visits, to ensure proper use of

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E-Verify.

13. The Web Services Employer is strictly prohibited from creating an E-Verify case before the employee has been hired, meaning that a firm offer of employment was extended and accepted and Form I-9 was completed. The Employer agrees to create an E-Verify case for new employees within three Employer business days after each employee has been hired (after both Sections 1 and 2 of Form I-9 have been completed), and to complete as many steps of the E-Verify process as are necessary according to the E-Verify User Manual. If E-Verify is temporarily unavailable, the three-day time period will be extended until it is again operational in order to accommodate the Employer's attempting, in good faith, to make inquiries during the period of unavailability. If, however, the Web Services interface is unavailable due to no fault of E-Verify, then the three day time period is not extended. In such a case, the Web Services Employer must use the E-Verify browser during the outage.

14. The Web Services Employer agrees not to use E-Verify for pre-employment screening of job applicants, in support of any unlawful employment practice, or for any other use that this MOU or the E-Verify User Manual does not authorize.

15. The Web Services Employer must use E-Verify for all new employees. The Web Services Employer will not verify selectively and will not verify employees hired before the effective date of this MOU. Employers who are Federal contractors may qualify for exceptions to this requirement as described in Article II.B of this MOU.

16. The Web Services Employer agrees to follow appropriate procedures (see Article III below) regarding tentative nonconfirmations. The Web Services Employer must promptly notify employees in private of the finding and provide them with the notice and letter containing information specific to the employee's E-Verify case. The Web Services Employer agrees to provide both the English and the translated notice and letter for employees with limited English proficiency to employees. The Web Services Employer agrees to provide written referral instructions to employees and instruct affected employees to bring the English copy of the letter to the SSA. The Web Services Employer must allow employees to contest the finding, and not take adverse action against employees if they choose to contest the finding, while their case is still pending. Further, when employees contest a tentative nonconfirmation based upon a photo mismatch, the Employer must take additional steps (see Article III.B below) to contact DHS with information necessary to resolve the challenge.

17. The Web Services Employer agrees not to take any adverse action against an employee based upon the employee's perceived employment eligibility status while SSA or DHS is processing the verification request unless the Employer obtains knowledge (as defined in 8 C.F.R. § 274a.1(l)) that the employee is not work authorized. The Web Services Employer understands that an initial inability of the SSA or DHS automated verification system to verify work authorization, a tentative nonconfirmation, a case in continuance (indicating the need for additional time for the government to resolve a case), or the finding of a photo mismatch, does not establish, and should not be interpreted as, evidence that the employee is not work authorized. In any of such cases, the employee must be provided a full and fair opportunity to contest the finding, and if he or she does so, the employee may not be terminated or suffer any adverse employment consequences based upon the employee's perceived employment

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eligibility status (including denying, reducing, or extending work hours, delaying or preventing training, requiring an employee to work in poorer conditions, withholding pay, refusing to assign the employee to a Federal contract or other assignment, or otherwise assuming that he or she is unauthorized to work) until and unless secondary verification by SSA or DHS has been completed and a final nonconfirmation has been issued. If the employee does not choose to contest a tentative nonconfirmation or a photo mismatch or if a secondary verification is completed and a final nonconfirmation is issued, then the Web Services Employer can find the employee is not work authorized and terminate the employee's employment. Employers or employees with questions about a final nonconfirmation may call E-Verify at 1-888-464-4218 (customer service) or 1-888-897-7781 (worker hotline).

18. The Web Services Employer agrees to comply with Title VII of the Civil Rights Act of 1964 and section 274B of the INA as applicable by not discriminating unlawfully against any individual in hiring, firing, employment eligibility verification, or recruitment or referral practices because of his or her national origin or citizenship status, or by committing discriminatory documentary practices. The Web Services Employer understands that such illegal practices can include selective verification or use of E-Verify except as provided in part D below, or discharging or refusing to hire employees because they appear or sound "foreign" or have received tentative nonconfirmations. The Web Services Employer further understands that any violation of the immigration-related unfair employment practices provisions in section 274B of the INA could subject the Web Services Employer to civil penalties, back pay awards, and other sanctions, and violations of Title VII could subject the Web Services Employer to back pay awards, compensatory and punitive damages. Violations of either section 274B of the INA or Title VII may also lead to the termination of its participation in E-Verify. If the Web Services Employer has any questions relating to the anti-discrimination provision, it should contact OSC at 1-800-255-8155 or 1-800-237-2515 (TDD).

19. The Web Services Employer agrees that it will use the information it receives from E-Verify only to confirm the employment eligibility of employees as authorized by this MOU. The Web Services Employer agrees that it will safeguard this information, and means of access to it (such as PINS and passwords), to ensure that it is not used for any other purpose and as necessary to protect its confidentiality, including ensuring that it is not disseminated to any person other than employees of the Web Services Employer who are authorized to perform the Web Services Employer's responsibilities under this MOU, except for such dissemination as may be authorized in advance by SSA or DHS for legitimate purposes.

20. The Web Services Employer agrees to notify DHS immediately in the event of a breach of personal information. Breaches are defined as loss of control or unauthorized access to E-Verify personal data. All suspected or confirmed breaches should be reported by calling 1-888-464-4218 or via email at E-Verify@dhs.gov. Please use "Privacy Incident – Password" in the subject line of your email when sending a breach report to E-Verify.

21. The Web Services Employer acknowledges that the information it receives from SSA is governed by the Privacy Act (5 U.S.C. § 552a(i)(1) and (3)) and the Social Security Act (42 U.S.C. 1306(a)). Any person who obtains this information under false pretenses or uses it for any purpose other than as provided for in this MOU may be subject to criminal penalties.

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22. The Web Services Employer agrees to cooperate with DHS and SSA in their compliance monitoring and evaluation of E-Verify, which includes permitting DHS, SSA, their contractors and other agents, upon reasonable notice, to review Forms I-9 and other employment records and to interview it and its employees regarding the Employer's use of E-Verify, and to respond in a prompt and accurate manner to DHS requests for information relating to their participation in E-Verify.

a. The Web Services Employer agrees to cooperate with DHS if DHS requests information about the Web Services Employer's interface, including requests by DHS to view the actual interface operated by the Web Services Employer as well as related business documents. The Web Services Employer agrees to demonstrate for DHS the functionality of its interface to E-Verify upon request.

23. The Web Services Employer shall not make any false or unauthorized claims or references about its participation in E-Verify on its website, in advertising materials, or other media. The Employer shall not describe its services as federally-approved, federally-certified, or federally-recognized, or use language with a similar intent on its website or other materials provided to the public. Entering into this MOU does not mean that E-Verify endorses or authorizes your E-Verify services and any claim to that effect is false.

24. The Web Services Employer shall not state in its website or other public documents that any language used therein has been provided or approved by DHS, USCIS or the Verification Division, without first obtaining the prior written consent of DHS.

25. The Web Services Employer agrees that E-Verify trademarks and logos may be used only under license by DHS/USCIS (see M-795 (Web)) and, other than pursuant to the specific terms of such license, may not be used in any manner that might imply that the Employer's services, products, websites, or publications are sponsored by, endorsed by, licensed by, or affiliated with DHS, USCIS, or E-Verify.

26. The Web Services Employer agrees to complete its Web Services interface no later than six months after the date the Web Services Employer signs this MOU. E-Verify considers the interface to be complete once it has been built pursuant to the Interface Control Agreement (ICA), submitted to E-Verify for testing, and approved for system access.

27. The Web Services Employer agrees to perform sufficient maintenance on the Web Services interface in accordance with the requirements listed in the ICA. These requirements include, but are not limited to, updating the Web Services interface to ensure that any updates or enhancements are incorporated no later than six months after the issuance of an ICA. Web Services Employers should be aware that this will require the investment of time and resources. Compliance with the requirements of the ICA must be carried out to the satisfaction of DHS and or its assignees.

28. The Web Services Employer agrees that any system or interface it develops will follow the steps for creating E-Verify cases and processing tentative nonconfirmations, as laid out in the ICA, this MOU and the User Manual, including but not limited to allowing an employer to close an invalid case where appropriate, allowing an employer to refer a tentative nonconfirmation only when an employee chooses to contest a tentative nonconfirmation (no automatic referrals), and referring a tentative nonconfirmation

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to the appropriate agency at the time the employer prints the referral letter and provides the letter to the employee. The Web Services Employer understands that any failure to make its system or interface consistent with proper E-Verify procedures can result in DHS terminating the Web Services Employer's agreement and access.

29. The Web Services Employer understands that if it uses E-Verify procedures for any purpose other than as authorized by this MOU, the Web Services Employer may be subject to appropriate legal action and termination of its participation in E-Verify according to this MOU.

B. EMPLOYERS THAT ARE FEDERAL CONTRACTORS WITH THE FAR E-VERIFY CLAUSE

NOTE: If you do not have any Federal contracts at this time, this section does not apply to your company. In the future, if you are awarded a Federal contract that contains the FAR E-Verify clause, then you must comply with each provision in this Section. See 48 C.F.R. 52.222.54 for the text of the FAR E-Verify clause and the E-Verify Supplemental Guide for Federal Contractors for complete information.

1. If the Web Services Employer is a Federal contractor with the FAR E-Verify clause subject to the employment verification terms in Subpart 22.18 of the FAR, it will become familiar with and comply with the most current version of the E-Verify User Manual for Federal Contractors as well as the E-Verify Supplemental Guide for Federal Contractors.
2. In addition to the responsibilities of every employer outlined in this MOU, the Web Services Employer understands that if it is a Federal contractor subject to the employment verification terms in Subpart 22.18 of the FAR it must verify the employment eligibility of any "employee assigned to the contract" (as defined in FAR 22.1801). Once an employee has been verified through E-Verify by the Web Services Employer, the Employer may not create a second case for the employee through E-Verify.
 - a. A Web Services Employer that is not enrolled in E-Verify as a Federal contractor at the time of a contract award must enroll as a Federal contractor in the E-Verify program within 30 calendar days of contract award and, within 90 days of enrollment, begin to verify employment eligibility of new hires using E-Verify. The Web Services Employer must verify those employees who are working in the United States, whether or not they are assigned to the contract. Once the Web Services Employer begins verifying new hires, such verification of new hires must be initiated within three business days after the hire date. Once enrolled in E-Verify as a Federal contractor, the Web Services Employer must begin verification of employees assigned to the contract within 90 calendar days after the date of enrollment or within 30 days of an employee's assignment to the contract, whichever date is later.
 - b. Web Services Employers enrolled in E-Verify as a Federal contractor for 90 days or more at the time of a contract award must use E-Verify to begin verification of employment eligibility for new hires of the Employer who are working in the United States, whether or not assigned to the contract, within three business days after the date of hire. If the Web Services Employer is enrolled in E-Verify as a Federal contractor for 90 calendar days or less at the time of contract award, the Web Services Employer must, within 90 days of enrollment, begin to use E-Verify to initiate

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verification of new hires of the contractor who are working in the United States, whether or not assigned to the contract. Such verification of new hires must be initiated within three business days after the date of hire. A Web Services Employer enrolled as a Federal contractor in E-Verify must begin verification of each employee assigned to the contract within 90 calendar days after date of contract award or within 30 days after assignment to the contract, whichever is later.

c. Federal contractors that are institutions of higher education (as defined at 20 U.S.C. 1001(a)), state or local governments, governments of Federally recognized Indian tribes, or sureties performing under a takeover agreement entered into with a Federal agency under a performance bond may choose to only verify new and existing employees assigned to the Federal contract. Such Federal contractors may, however, elect to verify all new hires, and/or all existing employees hired after November 6, 1986. Web Services Employers in this category must begin verification of employees assigned to the contract within 90 calendar days after the date of enrollment or within 30 days of an employee's assignment to the contract, whichever date is later.

d. Upon enrollment, Web Services Employers who are Federal contractors may elect to verify employment eligibility of all existing employees working in the United States who were hired after November 6, 1986, instead of verifying only those employees assigned to a covered Federal contract. After enrollment, Web Services Employers must elect to verify existing staff following DHS procedures and begin E-Verify verification of all existing employees within 180 days after the election.

e. The Web Services Employer may use a previously completed Form I-9 as the basis for creating an E-Verify case for an employee assigned to a contract as long as:

- i. That Form I-9 is complete (including the SSN) and complies with Article II.A.6,
- ii. The employee's work authorization has not expired, and
- iii. The Web Services Employer has reviewed the Form I-9 information either in person or in communications with the employee to ensure that the employee's Section 1, Form I-9 attestation has not changed (including, but not limited to, a lawful permanent resident alien having become a naturalized U.S. citizen).

f. The Web Services Employer shall complete a new Form I-9 consistent with Article II.A.10 or update the previous Form I-9 to provide the necessary information if:

- i. The Web Services Employer cannot determine that Form I-9 complies with Article II.A.10,
- ii. The employee's basis for work authorization as attested in Section 1 has expired or changed, or
- iii. The Form I-9 contains no SSN or is otherwise incomplete.

Note: If Section 1 of Form I-9 is otherwise valid and up-to-date and the form otherwise complies with Article II.A.10, but reflects documentation (such as a U.S. passport or Form I-551) that expired after completing Form I-9, the Web Services Employer shall not require the production of additional documentation, or use the photo screening tool described in Article II.A.5, subject to any additional or superseding instructions that may be provided on this subject in the E-Verify User Manual.

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g. The Web Services Employer agrees not to require a second verification using E-Verify of any assigned employee who has previously been verified as a newly hired employee under this MOU or to authorize verification of any existing employee by any Web Services Employer that is not a Federal contractor based on this Article.

3. The Web Services Employer understands that if it is a Federal contractor, its compliance with this MOU is a performance requirement under the terms of the Federal contract or subcontract, and the Web Services Employer consents to the release of information relating to compliance with its verification responsibilities under this MOU to contracting officers or other officials authorized to review the Employer's compliance with Federal contracting requirements.

C. RESPONSIBILITIES OF SSA

1. SSA agrees to allow DHS to compare data provided by the Web Services Employer against SSA's database. SSA sends DHS confirmation that the data sent either matches or does not match the information in SSA's database.

2. SSA agrees to safeguard the information the Web Services Employer provides through E-Verify procedures. SSA also agrees to limit access to such information, as is appropriate by law, to individuals responsible for the verification of Social Security numbers or responsible for evaluation of E-Verify or such other persons or entities who may be authorized by SSA as governed by the Privacy Act (5 U.S.C. § 552a), the Social Security Act (42 U.S.C. 1306(a)), and SSA regulations (20 CFR Part 401).

3. SSA agrees to provide case results from its database within three Federal Government work days of the initial inquiry. E-Verify provides the information to the Web Services Employer.

4. SSA agrees to update SSA records as necessary if the employee who contests the SSA tentative nonconfirmation visits an SSA field office and provides the required evidence. If the employee visits an SSA field office within the eight Federal Government work days from the date of referral to SSA, SSA agrees to update SSA records, if appropriate, within the eight-day period unless SSA determines that more than eight days may be necessary. In such cases, SSA will provide additional instructions to the employee. If the employee does not visit SSA in the time allowed, E-Verify may provide a final nonconfirmation to the employer.

Note: If a Web Services Employer experiences technical problems, or has a policy question, the Web Services Employer should contact E-Verify at 1-888-464-4218.

D. RESPONSIBILITIES OF DHS

1. After SSA verifies the accuracy of SSA records for employees through E-Verify, DHS agrees to provide the Web Services Employer access to selected data from DHS databases to enable the Web Services Employer to conduct, to the extent authorized by this MOU:

- a. Automated verification checks on employees by electronic means, and
- b. Photo verification checks (when available) on employees.

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2. DHS agrees to provide to the Web Services Employer appropriate assistance with operational problems that may arise during the Web Services Employer's participation in the E-Verify program. DHS agrees to provide the Web Services Employer names, titles, addresses, and telephone numbers of DHS representatives to be contacted during the E-Verify process.
3. DHS agrees to make available to the Web Services Employer at the E-Verify Web site (www.dhs.gov/E-Verify) and on the E-Verify Web browser (<https://e-verify.uscis.gov/emp/>), instructional materials on E-Verify policies, procedures and requirements for both SSA and DHS, including restrictions on the use of E-Verify. DHS agrees to provide training materials on E-Verify.
4. DHS agrees to provide to the Web Services Employer a notice that indicates the Web Services Employer's participation in the E-Verify program. DHS also agrees to provide to the Web Services Employer anti-discrimination notices issued by the Office of Special Counsel for Immigration-Related Unfair Employment Practices (OSC), Civil Rights Division, U.S. Department of Justice.
5. DHS agrees to issue the Web Services Employer a user identification number and password that permits the Employer to verify information provided by its employees with DHS.
6. DHS agrees to safeguard the information provided to DHS by the Web Services Employer, and to limit access to such information to individuals responsible for the verification of employees' employment eligibility and for evaluation of the E-Verify program, or to such other persons or entities as may be authorized by applicable law. Information will be used only to verify the accuracy of Social Security Numbers and employment eligibility, to enforce the Immigration and Nationality Act (INA) and Federal criminal or anti-discrimination laws, and to administer Federal contracting requirements.
7. DHS agrees to provide a means of automated verification that is designed (in conjunction with SSA verification procedures) to provide confirmation or tentative nonconfirmation of employees' employment eligibility within three Federal Government work days of the initial inquiry.
8. DHS agrees to provide a means of secondary verification (including updating DHS records as necessary) for employees who contest DHS tentative nonconfirmations and photo non-match tentative nonconfirmations that is designed to provide final confirmation or nonconfirmation of the employees' employment eligibility within 10 Federal Government work days of the date of referral to DHS, unless DHS determines that more than 10 days may be necessary. In such cases, DHS will provide additional verification instructions.
9. DHS agrees to provide the Web Services Employer with an Interface Control Agreement (ICA). This document will provide technical requirements that the Web Services Employer must meet to create and maintain a Web Services interface to the Verification Information System (VIS). VIS is a composite information system that provides immigration status verification for government agencies and verification of employment authorization for employers participating in E-Verify.
10. DHS agrees to provide periodic system enhancements to improve the ease and accuracy of E-Verify, as needed. DHS will also provide E-Verify enhancements to comply with applicable laws and regulations. As enhancements occur, Web Services Employers must update their Web Services

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interface to reflect system changes within the timelines specified in Article V.A.1. DHS will provide the Web Services Employer with an ICA to support the E-Verify release whenever system enhancements are required.

11. DHS agrees to provide to the Web Services Employer guidance on breach notification and a means by which the Web Services Employer can report any and all suspected or confirmed breaches of owned or used systems or data spills related to E-Verify cases. At this time, if the Employer encounters a suspected or confirmed breach or data spill, it should contact E-Verify at 1-888-464-4218.

12. In the event the Web Services Employer is subject to penalties, DHS will issue a Notice of Adverse Action that describes the specific violations if it intends to suspend or terminate the employer's Web Services interface access. The Web Services Employer agrees that DHS shall not be liable for any financial losses to the Web Services Employer, its employees, or any other party as a result of your account suspension or termination and agrees to hold DHS harmless from any such claims.

ARTICLE III

REFERRAL OF INDIVIDUALS TO SSA AND DHS

A. REFERRAL TO SSA

1. If the Web Services Employer receives a tentative nonconfirmation issued by SSA, the Web Services Employer must print the notice and promptly provide it to the employee so that the employee may determine whether he or she will contest the tentative nonconfirmation. The Web Services Employer must review the tentative nonconfirmation with the employee in private. After the notice has been signed, the Web Services Employer must give a copy of the signed notice to the employee and attach a copy to the employee's Form I-9.

2. The Web Services Employer will refer employees to SSA field offices only as directed by the automated system based on a tentative nonconfirmation, and only after the Web Services Employer records the case verification number, reviews the input to detect any transaction errors, and determines that the employee contests the tentative nonconfirmation. The Web Services Employer will transmit the Social Security Number to SSA for verification again if this review indicates a need to do so. The Web Services Employer will determine whether the employee contests the tentative nonconfirmation as soon as possible after the Employer receives it.

3. If the employee contests an SSA tentative nonconfirmation, the Web Services Employer will provide the employee with a system-generated referral letter and instruct the employee to visit an SSA office within eight Federal Government work days. SSA will electronically transmit the result of the referral to the Web Services Employer within 10 Federal Government work days of the referral unless it determines that more than 10 days is necessary. The Employer agrees to check the E-Verify system regularly for case updates.

4. The Web Services Employer agrees not to ask the employee to obtain a printout from the Social Security Number database (the Numident) or other written verification of the Social Security Number from the SSA.

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B. REFERRAL TO DHS

1. If the Web Services Employer receives a tentative nonconfirmation issued by DHS, the Web Services Employer must promptly notify employees in private of the finding and provide them with the notice and letter containing information specific to the employee's E-Verify case. The Web Services Employer also agrees to provide both the English and the translated notice and letter for employees with limited English proficiency to employees. The Web Services Employer must allow employees to contest the finding, and not take adverse action against employees if they choose to contest the finding, while their case is still pending.
2. The Web Services Employer agrees to obtain the employee's response about whether he or she will contest the tentative nonconfirmation as soon as possible after the Web Services Employer receives the tentative nonconfirmation. Only the employee may determine whether he or she will contest the tentative nonconfirmation.
3. The Web Services Employer agrees to refer individuals to DHS only when the employee chooses to contest a tentative nonconfirmation.
4. If the employee contests a tentative nonconfirmation issued by DHS, the Web Services Employer will instruct the employee to contact DHS through its toll-free hotline (as found on the referral letter) within eight Federal Government work days.
5. If the Web Services Employer finds a photo mismatch, the Web Services Employer must provide the photo mismatch tentative nonconfirmation notice and follow the instructions outlined in paragraph 1 of this section for tentative nonconfirmations, generally.
6. The Web Services Employer agrees that if an employee contests a tentative nonconfirmation based upon a photo mismatch, the Web Services Employer will send a copy of the employee's Form I-551, Form I-766, U.S. Passport, or passport card to DHS for review by:
 - a. Scanning and uploading the document, or
 - b. Sending a photocopy of the document by express mail (furnished and paid for by the employer).
7. The Web Services Employer understands that if it cannot determine whether there is a photo match/mismatch, the Employer must forward the employee's documentation to DHS as described in the preceding paragraph. The Employer agrees to resolve the case as specified by the DHS representative who will determine the photo match or mismatch.
8. DHS will electronically transmit the result of the referral to the Web Services Employer within 10 Federal Government work days of the referral unless it determines that more than 10 days is necessary.
9. While waiting for case results, the Web Services Employer agrees to check the E-Verify system regularly for case updates.
10. DHS agrees to provide the Web Services Employer with an Interface Control Agreement (ICA).

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This document will provide technical requirements that the Web Services Employer must meet to create and maintain a Web Services interface to the Verification Information System (VIS). VIS is a composite information system that provides immigration status verification for government agencies and verification of employment authorization for employers participating in E-Verify.

11. DHS agrees to provide periodic system enhancements to improve the ease and accuracy of E-Verify, as needed. DHS will also provide E-Verify enhancements to comply with applicable laws and regulations. As enhancements occur, Web Services Employers must update their Web Services interface to reflect system changes within the timelines specified in Article V.A.1. DHS will provide the Web Services Employer with an ICA to support the E-Verify release whenever system enhancements are required.

ARTICLE IV SERVICE PROVISIONS

A. NO SERVICE FEES

1. SSA and DHS will not charge the Employer or the Web Services E-Verify Employer Agent for verification services performed under this MOU. The Employer is responsible for providing equipment needed to make inquiries. To access E-Verify, an Employer will need a personal computer with Internet access.

ARTICLE V SYSTEM SECURITY AND MAINTENANCE

A. DEVELOPMENT REQUIREMENTS

1. Software developed by Web Services Employers must comply with federally-mandated information security policies and industry security standards to include but not limited to:

- a. Public Law 107-347, "E-Government Act of 2002, Title III, Federal Information Security Management Act (FISMA)," December 2002.
- b. Office of Management and Budget (OMB) Memorandum (M-10-15), "FY 2010 Reporting Instructions for the Federal Information Security Management Act and Agency Privacy Management," April 2010.
- c. National Institute of Standards and Technology (NIST) Special Publication (SP) and Federal Information Processing Standards Publication (FIPS).
- d. International Organization for Standardization/International Electrotechnical Commission (ISO/IEC) 27002, Information Technology — Security Techniques — Code of Practice for Information Security Management.

2. The Web Services Employer agrees to update its Web Services interface to the satisfaction of DHS or its assignees to reflect system enhancements within six months from the date DHS notifies the Web Services User of the system update. The Web Services User will receive notice from DHS in the form

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of an Interface Control Agreement (ICA). The Web Services Employer agrees to institute changes to its interface as identified in the ICA, including all functionality identified and all data elements detailed therein.

3. The Web Services Employer agrees to demonstrate progress of its efforts to update its Web Services interface if and when DHS requests such progress reports.
4. The Web Services Employer acknowledges that if its system enhancements are not completed to the satisfaction of DHS or its assignees within six months from the date DHS notifies the Web Services Employer of the system update, then the Web Services Employer's E-Verify account may be suspended, and support for previous releases of E-Verify may no longer be available to the Web Services Employer. The Web Services Employer also acknowledges that DHS may suspend its account after the six-month period has elapsed.
5. The Web Services Employer agrees to incorporate error handling logic into its development or software to accommodate and act in a timely fashion should an error code be returned.
6. The Web Services Employer agrees to complete the technical requirements testing which is confirmed upon receiving approval of test data and connectivity between the Web Services Employer and DHS.
7. DHS will not reimburse any Web Services Employer or software developer who has expended resources in the development or maintenance of a Web Services interface if that party is unable, or becomes unable, to meet any of the requirements set forth in this MOU.
8. Housing, development, infrastructure, maintenance, and testing of the Web Services applications may take place outside the United States and its territories, but testing must be conducted to ensure that the code is correct and secure.
9. If the Web Services Employer includes an electronic Form I-9 as part of its interface, then it must comply with the standards for electronic retention of Form I-9 found in 8 CFR 274a.2(e).

B. INFORMATION SECURITY REQUIREMENTS

Web Services Employers performing verification services under this MOU must ensure that information that is shared between the Web Services Employer and DHS is appropriately protected comparable to the protection provided when the information is within the DHS environment [OMB Circular A-130 Appendix III].

To achieve this level of information security, the Web Services Employer agrees to institute the following procedures:

1. Conduct periodic assessments of risk, including the magnitude of harm that could result from the unauthorized access, use, disclosure, disruption, modification, or destruction of information and information systems that support the operations and assets of the DHS, SSA, and the Web Services Employer;

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2. Develop policies and procedures that are based on risk assessments, cost-effectively reduce information security risks to an acceptable level, and ensure that information security is addressed throughout the life cycle of each organizational information system;
3. Implement subordinate plans for providing adequate information security for networks, facilities, information systems, or groups of information systems, as appropriate;
4. Conduct security awareness training to inform the Web Services Employer's personnel (including contractors and other users of information systems that support the operations and assets of the organization) of the information security risks associated with their activities and their responsibilities in complying with organizational policies and procedures designed to reduce these risks;
5. Develop periodic testing and evaluation of the effectiveness of information security policies, procedures, practices, and security controls to be performed with a frequency depending on risk, but no less than once per year;
6. Develop a process for planning, implementing, evaluating, and documenting remedial actions to address any deficiencies in the information security policies, procedures, and practices of the organization;
7. Implement procedures for detecting, reporting, and responding to security incidents;
8. Create plans and procedures to ensure continuity of operations for information systems that support the operations and assets of the organization;
9. In information-sharing environments, the information owner is responsible for establishing the rules for appropriate use and protection of the subject information and retains that responsibility even when the information is shared with or provided to other organizations [NIST SP 800-37].
10. DHS reserves the right to restrict Web Services calls from certain IP addresses.
11. DHS reserves the right to audit the Web Services Employer's application.
12. Web Services Employers agree to cooperate willingly with the DHS assessment of information security and privacy practices used by the company to develop and maintain the software.

C. DATA PROTECTION AND PRIVACY REQUIREMENTS

1. Web Services Employers must practice proper Internet security; this means using HTTP over SSL/TLS (also known as HTTPS) when accessing DHS information resources such as E-Verify [NIST SP 800-95]. Internet security practices like this are necessary because Simple Object Access Protocol (SOAP), which provides a basic messaging framework on which Web Services can be built, allows messages to be viewed or modified by attackers as messages traverse the Internet and is not independently designed with all the necessary security protocols for E-Verify use.
2. In accordance with DHS standards, the Web Services Employer agrees to maintain physical, electronic, and procedural safeguards to appropriately protect the information shared under this MOU

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against loss, theft, misuse, unauthorized access, and improper disclosure, copying use, modification or deletion.

3. Any data transmission requiring encryption shall comply with the following standards:

- Products using FIPS 197 Advanced Encryption Standard (AES) algorithms with at least 256-bit encryption that has been validated under FIPS 140-2.
- NSA Type 2 or Type 1 encryption.

4. User ID Management (Set Standard): All information exchanged between the parties under this MOU will be done only through authorized Web Services Employer representatives identified above.

5. The Web Services Employer agrees to use the E-Verify browser instead of its own interface if it has not yet upgraded its interface to comply with the Federal Acquisition Regulation (FAR) system changes. In addition, Web Services Employers whose interfaces do not support the Form I-9 from 2/2/2009 or 8/7/2009 agree to use the E-Verify browser until the system upgrade is completed.

6. The Web Services Employer agrees to use the E-Verify browser instead of its own interface if it has not completed updates to its system to the satisfaction of DHS or its assignees within six months from the date DHS notifies the Web Services Employer of the system update. The Web Services Employer can resume use of its interface once it is up-to-date, unless the Web Services Employer has been suspended or terminated from continued use of the system.

D. COMMUNICATIONS

1. The Web Services Employer agrees to develop an electronic system that is not subject to any agreement or other requirement that would restrict access and use by an agency of the United States.

2. The Web Services Employer agrees to develop effective controls to ensure the integrity, accuracy and reliability of its electronic system.

3. The Web Services Employer agrees to develop an inspection and quality assurance program that regularly (at least once per year) evaluates the electronic system, and includes periodic checks of electronically stored information. The Web Services Employer agrees to share the results of its regular inspection and quality assurance program with DHS upon request.

4. The Web Services Employer agrees to develop an electronic system with the ability to produce legible copies of applicable notices, letters, and other written, photographic and graphic materials.

5. All information exchanged between the parties under this MOU will be in accordance with applicable laws, regulations, and policies, including but not limited to, information security guidelines of the sending party with respect to any information that is deemed Personally Identifiable Information (PII), including but not limited to the employee or applicant's Social Security number, alien number, date of birth, or other information that may be used to identify the individual.

6. Suspected and confirmed information security breaches must be reported to DHS according to Article V.C.1. Reporting such breaches does not relieve the Web Services Employer from further

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requirements as directed by state and local law. The Web Services Employer is subject to applicable state laws regarding data protection and incident reporting in addition to the requirements herein.

E. SOFTWARE DEVELOPMENT RESTRICTIONS

1. DHS reserves the right to terminate the access of any software developer with or without notice who creates or uses an interface that does not comply with E-Verify procedures.
2. Employers are prohibited from Web Services Software development unless they also create cases in E-Verify to verify their new hires' work authorization. Those pursuing software development without intending to use E-Verify are not eligible to receive an ICA. At this time, E-Verify does not permit Web Services software development without also being a Web Services Employer or Web Services E-Verify Employer Agent.

F. PENALTIES

1. The Web Services Employer agrees that any failure on its part to comply with the terms of the MOU may result in account suspension, termination, or other adverse action.
2. DHS is not liable for any financial losses to Web Services Employer, its clients, or any other party as a result of account suspension or termination.

ARTICLE VI MODIFICATION AND TERMINATION

A. MODIFICATION

1. This MOU is effective upon the signature of all parties and shall continue in effect for as long as the SSA and DHS operates the E-Verify program unless modified in writing by the mutual consent of all parties.
2. Any and all E-Verify system enhancements by DHS or SSA, including but not limited to E-Verify checking against additional data sources and instituting new verification policies or procedures, will be covered under this MOU and will not cause the need for a supplemental MOU that outlines these changes.

B. TERMINATION

1. The Web Services Employer may terminate this MOU and its participation in E-Verify at any time upon 30 days prior written notice to the other parties.
2. Notwithstanding Article V, part A of this MOU, DHS may terminate this MOU, and thereby the Web Services Employer's participation in E-Verify, with or without notice at any time if deemed necessary because of the requirements of law or policy, or upon a determination by SSA or DHS that there has been a breach of system integrity or security by the Web Services Employer, or a failure on the part of either party to comply with established E-Verify procedures and/or legal requirements. The Web Services Employer understands that if it is a Federal contractor, termination of this MOU by any party

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for any reason may negatively affect the performance of its contractual responsibilities. Similarly, the Web Services Employer understands that if it is in a state where E-Verify is mandatory, termination of this by any party MOU may negatively affect the Web Services Employer's business.

3. A Web Services Employer that is a Federal contractor may terminate this MOU when the Federal contract that requires its participation in E-Verify is terminated or completed. In such cases, the Web Services Employer must provide written notice to DHS. If the Web Services Employer fails to provide such notice, then that Web Services Employer will remain an E-Verify participant, will remain bound by the terms of this MOU that apply to non-Federal contractor participants, and will be required to use the E-Verify procedures to verify the employment eligibility of all newly hired employees.

4. The Web Services Employer agrees that E-Verify is not liable for any losses, financial or otherwise, if the Web Services Employer or the Employer is terminated from E-Verify.

ARTICLE VII

PARTIES

A. Some or all SSA and DHS responsibilities under this MOU may be performed by contractor(s), and SSA and DHS may adjust verification responsibilities between each other as necessary. By separate agreement with DHS, SSA has agreed to perform its responsibilities as described in this MOU.

B. Nothing in this MOU is intended, or should be construed, to create any right or benefit, substantive or procedural, enforceable at law by any third party against the United States, its agencies, officers, or employees, or against the Web Services Employer, its agents, officers, or employees.

C. The Web Services Employer may not assign, directly or indirectly, whether by operation of law, change of control or merger, all or any part of its rights or obligations under this MOU without the prior written consent of DHS, which consent shall not be unreasonably withheld or delayed. Any attempt to sublicense, assign, or transfer any of the rights, duties, or obligations herein is void.

D. Each party shall be solely responsible for defending any claim or action against it arising out of or related to E-Verify or this MOU, whether civil or criminal, and for any liability wherefrom, including (but not limited to) any dispute between the Web Services Employer and any other person or entity regarding the applicability of Section 403(d) of IIRIRA to any action taken or allegedly taken by the Web Services Employer.

E. The Web Services Employer understands that its participation in E-Verify is not confidential information and may be disclosed as authorized or required by law and DHS or SSA policy, including but not limited to, Congressional oversight, E-Verify publicity and media inquiries, determinations of compliance with Federal contractual requirements, and responses to inquiries under the Freedom of Information Act (FOIA).

F. The individuals whose signatures appear below represent that they are authorized to enter into this MOU on behalf of the Web Services Employer and DHS respectively. The Web Services Employer understands that any inaccurate statement, representation, data or other information provided to DHS

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may subject the Web Services Employer, its subcontractors, its employees, or its representatives to: (1) prosecution for false statements pursuant to 18 U.S.C. 1001 and/or; (2) immediate termination of its MOU and/or; (3) possible debarment or suspension.

G. The foregoing constitutes the full agreement on this subject between DHS and the Web Services Employer.

Approved by:

Web Services Employer Charter Communications	
Name (Please Type or Print) Jeffrey R Vanhook	Title
Signature Electronically Signed	Date 10/07/2009
Department of Homeland Security – Verification Division	
Name (Please Type or Print) USCIS Verification Division	Title
Signature Electronically Signed	Date 10/07/2009

Company ID Number: 261876

Information Required for the E-Verify Program	
Information relating to your Company:	
Company Name	Charter Communications
Company Facility Address	12405 Powerscourt Drive Saint Louis, MO 63131
Company Alternate Address	
County or Parish	SAINT LOUIS
Employer Identification Number	841496755
North American Industry Classification Systems Code	517
Parent Company	
Number of Employees	10,000 and over
Number of Sites Verified for	623

Company ID Number: 261876

Are you verifying for more than 1 site? If yes, please provide the number of sites verified for in each State:

ALABAMA	2 site(s)
ARIZONA	2 site(s)
CALIFORNIA	106 site(s)
COLORADO	7 site(s)
DIST OF COL	2 site(s)
GEORGIA	1 site(s)
HAWAII	6 site(s)
IDAHO	1 site(s)
ILLINOIS	3 site(s)
INDIANA	8 site(s)
KANSAS	4 site(s)
KENTUCKY	50 site(s)
MASSACHUSETTS	7 site(s)
MARYLAND	1 site(s)
MAINE	16 site(s)
MISSOURI	6 site(s)
NORTH CAROLINA	54 site(s)
NEBRASKA	9 site(s)
NEW HAMPSHIRE	5 site(s)
NEW JERSEY	1 site(s)
NEW YORK	101 site(s)
OHIO	98 site(s)
PENNSYLVANIA	8 site(s)
SOUTH CAROLINA	18 site(s)
TENNESSEE	5 site(s)
TEXAS	74 site(s)
VIRGINIA	4 site(s)
WASHINGTON	1 site(s)
WISCONSIN	21 site(s)
WEST VIRGINIA	2 site(s)

Company ID Number: 261876

Information relating to the Program Administrator(s) for your Company on policy questions or operational problems:

Name Towers - Watson
Phone Number (215) 246 - 6347
Fax Number (215) 246 - 4484
Email Address chris.heslin@towerswatson.com

Name Ivan - Epps
Phone Number (347) 427 - 9130
Fax Number
Email Address ivan.epps@towerswatson.com

Name Magdalena - Huffman
Phone Number (704) 206 - 6662
Fax Number
Email Address magdalena.huffman@charter.com

Name David - Lee
Phone Number (704) 206 - 2670
Fax Number
Email Address david.lee3@charter.com

Name Chad - Bumgardner
Phone Number (704) 206 - 5136
Fax Number
Email Address chad.bumgardner@charter.com

Company ID Number: 261876

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CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
1/5/2021

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Marsh USA, INC. 701 Market Street, Suite 1100 St. Louis, MO 63101		CONTACT NAME: Scott Sanders PHONE (A/C No. Ext.): 314.394.9843 FAX (A/C No.): ADDRESS: scott.sanders@charter.com											
INSURED Charter Communications, Inc. 400 Atlantic Street Stamford, CT 06901		INSURER(S) AFFORDING COVERAGE <table border="1"> <tr> <td>COMPANY A. National Union Fire Ins Co Pittsburgh PA</td> <td>NAIC # 19445</td> </tr> <tr> <td>COMPANY B. Commerce and Industry Insurance Company</td> <td>19410</td> </tr> <tr> <td>COMPANY C. Ace Property & Casualty Insurance Company</td> <td>20699</td> </tr> <tr> <td>COMPANY D. New Hampshire Insurance Company</td> <td>23841</td> </tr> <tr> <td>COMPANY E. AIG Insurance Company</td> <td>19399</td> </tr> </table>		COMPANY A. National Union Fire Ins Co Pittsburgh PA	NAIC # 19445	COMPANY B. Commerce and Industry Insurance Company	19410	COMPANY C. Ace Property & Casualty Insurance Company	20699	COMPANY D. New Hampshire Insurance Company	23841	COMPANY E. AIG Insurance Company	19399
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COMPANY D. New Hampshire Insurance Company	23841												
COMPANY E. AIG Insurance Company	19399												

COVERAGES CERTIFICATE NUMBER: 369390 REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	NAIC	SUM WGT	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
B	COMMERCIAL GENERAL LIABILITY ☒ CLAIMS-MADE ☒ OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: ☒ POLICY ☐ PROJECT ☐ LOC OTHER:			GL 3629906	1/1/2021	1/1/2022	EACH OCCURRENCE \$ \$1,000,000 DAMAGE TO RENTED PREMISES (Per occurrence) \$ \$500,000 MED EXP (Any one person) \$ \$10,000 PERSONAL & ADV INJURY \$ \$1,000,000 GENERAL AGGREGATE \$ \$3,000,000 PRODUCTS - COMPROP AGG \$ \$1,000,000
A A A	AUTOMOBILE LIABILITY ☒ ANY AUTO ☐ OWNED AUTOS ONLY ☐ SCHEDULED AUTOS ☐ HIRED AUTOS ONLY ☐ NON-OWNED AUTOS ONLY ☐ OTHER:			CA 1921838 (AL, AZ, CA, CO, CT, DC, FL, GA, HI, ID, IL, IN, KS, KY, LA, ME, MI, MN, MO, MT, NC, NE, NH, NJ, NV, NY, OH, OR, PA, SC, TN, TX, VT, WA, WI, WV, WY) CA 1921839 (MA) CA 1921840 (VA)	1/1/2021 1/1/2021 1/1/2021	1/1/2022 1/1/2022 1/1/2022	COMBINED SINGLE LIMIT (Per accident) \$ \$1,000,000 BODILY INJURY (Per person) \$ \$ BODILY INJURY (Per accident) \$ \$ PROPERTY DAMAGE (Per accident) \$ \$ \$ \$ \$ \$
C	UMBRELLA LIAB ☒ EXCESS LIAB ☐ DED ☐ RETENTION \$			G28119616 006	1/1/2021	1/1/2022	EACH OCCURRENCE \$ \$1,000,000 AGGREGATE \$ \$1,000,000 \$ \$
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) (If yes, describe under DESCRIPTION OF OPERATIONS below)	Y/N		See second page for specific policy information.	1/1/2021 1/1/2021 1/1/2021 1/1/2021	1/1/2022 1/1/2022 1/1/2022 1/1/2022	☒ PER STATUTE ☐ OTHER E.L. EACH ACCIDENT \$ \$5,000,000 E.L. DISEASE - EA EMPLOYEE \$ \$5,000,000 E.L. DISEASE - POLICY LIMIT \$ \$5,000,000
A	Excess WC OH (\$5M Retention)			XWC 4595566 (OH)	1/1/2021	1/1/2022	Employers Liability \$5,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

Please see page 2 for additional insureds and any additional language.

CERTIFICATE HOLDER Charter Communications Operating, LLC 12405 Powerscourt Drive St. Louis, MO 63131	CANCELLATION SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. AUTHORIZED REPRESENTATIVE Joseph M. Lee
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ACORD 25 (2016/03)

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Spectrum Enterprise

Fiber Internet Access Service Level Agreement

This document outlines the Service Level Agreement (“SLA”) for Fiber Internet Access (“FIA”) fiber-based service (the “Service”).

This SLA is a part of, and hereby incorporated by reference into the Spectrum Enterprise Service Agreement (including the terms and conditions, attachments, and Service Orders described therein, the “Agreement”). To the extent any provision of this SLA conflicts with the Agreement, this SLA shall control. All SLA Targets in the table below are measured from Customer’s Service Location to the location where Spectrum Enterprise has local access to the Internet (the Spectrum Enterprise “Point of Presence” or “POP”) at the individual circuit or service level, and any applicable credits are issued only for the affected FIA circuit or service (the “Affected Service”). Capitalized words used, but not defined herein, shall have the meanings given to them in the Agreement.

I. SLA Targets for FIA Services:

Service Availability	Mean Time To Restore (“MTTR”)	Latency / Frame Delay (Roundtrip)	Jitter / Frame Delay Variation	Packet Loss / Frame Loss
End to End: 99.99%	Priority 1 Outages within 4 hours	45ms	<2ms	<0.1%

II. Priority Classification:

A “Service Disruption” is defined as an outage, disruption, or severe degradation, other than an Excluded Disruption, that interferes with the ability of a Spectrum Enterprise network hub to: (i) transmit and receive network traffic on Customer’s dedicated access port at the Spectrum Enterprise network hub; or (ii) exchange network traffic with another Spectrum Enterprise network hub. The Service Disruption period begins when Customer reports a Service Disruption using Spectrum Enterprise’s trouble ticketing system by contacting Customer Care, Spectrum Enterprise acknowledges receipt of such trouble ticket, Spectrum Enterprise validates that the Service is affected, and Customer releases the Service for testing. The Service Disruption ends when the affected Service has been restored.

“Service Degradation” means a degradation of the Service that is not a Service Disruption or a result of an Excluded Disruption, such as failure of the Service to achieve the SLA Targets for Latency / Frame Delay, Jitter / Frame Delay Variation, or Packet / Frame Loss.

“Excluded Disruptions” means (i) planned outages, (ii) routine or urgent maintenance, (iii) time when Spectrum Enterprise is unable to gain access to Customer’s Service Location, if necessary, (iv) service issues arising from acts of omissions of Customer or Customer’s representatives or agents, (v) Customer equipment failures, (vi) Customer is not prepared to release the Service for testing, and (vii) Force Majeure Events.

Spectrum Enterprise will classify Service problems as follows:

Priority	Criteria
Priority 1	Each a "Priority 1 Outage": • Service Disruption resulting in a total loss of Service; or • Service Degradation to the point where Customer is unable to use the Service and is prepared to release it for immediate testing
Priority 2	• Service Degradation where Customer is able to use the Service and is not prepared to release it for immediate testing.
Priority 3	• A service problem that does not impact the Service; or • A single non-circuit specific quality of Service inquiry.

III. Service Availability

"Service Availability" is calculated as the total number of minutes in a calendar month less the number of minutes that the FIA Service is unavailable due to a Priority 1 Outage ("Downtime"), divided by the total number of minutes in a calendar month.

The following table contains examples of the percentage of Service Availability translated into minutes of Downtime for the 99.99% Service Availability Target:

Percentage by Days Per Month	Total Minutes / Month	Downtime Minutes
99.99% for 31 Days	44,640	4.5
99.99% for 30 Days	43,200	4.3
99.99% for 29 Days	41,760	4.2
99.99% for 28 Days	40,320	4

IV. Mean Time to Restore ("MTTR")

The MTTR measurement for Priority 1 Outages is the average time to restore Priority 1 Outages during a calendar month calculated as the cumulative length of time it takes Spectrum Enterprise to restore an FIA Service following a Priority 1 Outage in a calendar month divided by the corresponding number of trouble tickets for Priority 1 Outages opened during the calendar month for the FIA Service.

MTTR per calendar month is calculated as follows:

Cumulative length of time to restore Priority 1 Outage(s) per FIA Service
Total number of Priority 1 Outage trouble tickets per FIA Service

V. Latency / Frame Delay

Latency or Frame Delay is the average roundtrip network delay, measured every 5 minutes during a calendar month, unless measurement is not possible as a result of an Excluded Disruption, to adequately determine a consistent average monthly performance level for frame delay for each FIA Service. The roundtrip delay is expressed in milliseconds (ms).

Latency is calculated as follows:

$$\text{Latency/Frame Delay} = \frac{\text{Sum of the roundtrip delay measurements for an FIA Service}}{\text{Total \# of measurements for an FIA Service}}$$

VI. Packet Loss / Frame Loss Ratio

Packet Loss or Frame Loss Ratio is defined as the percentage of frames that are not successfully received compared to the total frames that are sent in a calendar month, except where any packet or frame loss is the result of an Excluded Disruption. The percentage calculation is based on frames that are transmitted from a network origination point and received at a network destination point.

Packet Loss / Frame Loss Ratio is calculated as follows:

$$\text{Packet Loss / Frame Loss (\%)} = 100 (\%) - \text{Frames Received (\%)}$$

VII. Jitter / Frame Delay Variation

Jitter or Frame Delay Variation is defined as the variation in delay for two consecutive frames that are transmitted (one-way) from a network origination point and received at a network destination point. Spectrum Enterprise measures a sample set of frames every 5 minutes during a calendar month, unless measurement is not possible as a result of an Excluded Disruption, and determines the average delay between consecutive frames within each sample set. The monthly Jitter / Frame Delay Variation is calculated as the average of all of the frame delay variation measurements during such calendar month and is expressed in milliseconds (ms).

Jitter / Frame Delay Variation is calculated as follows:

$$\text{Jitter / Frame Delay Variation} = \frac{\text{Sum of the Frame Delay Variation measurements for an FIA Service}}{\text{Total \# of measurements for an FIA Service}}$$

VIII. Network Maintenance

Maintenance Notice:

Customer understands that from time to time, Spectrum Enterprise will perform network maintenance for network improvements and preventive maintenance. In some cases, Spectrum Enterprise will need to perform urgent network maintenance, which will usually be conducted within the routine maintenance windows. Spectrum Enterprise will use reasonable efforts to provide advance notice of the approximate time, duration, and reason for any urgent maintenance outside of the routine maintenance windows.

Maintenance Windows:

Routine maintenance may be performed Monday – Friday 12 a.m. – 6 a.m. Local Time.

IX. Remedies

Service Credits:

If the actual performance of an FIA Service during any calendar month is less than the SLA Targets and Customer is in compliance with the terms of the Agreement and this SLA, then Customer may request credit equal to the corresponding percentage of monthly recurring charges for the Affected Service as set forth in the table below. Any credit to be applied will be off-set against amounts due from Customer to Spectrum Enterprise in the billing cycle following the date Spectrum Enterprise makes its credit determination. Credit requests must be submitted to Spectrum Enterprise within thirty (30) days of the calendar month in which the SLA Target was missed. Spectrum Enterprise will exercise commercially reasonable efforts to respond to such credit requests within thirty (30) days of receipt thereof.

Service Availability	Mean Time To Restore ("MTTR")	Latency / Frame Delay (Roundtrip)	Jitter / Frame Delay Variation	Packet Loss / Frame Loss
30%	> 4 hours ≤ 7:59:59 hours	4%	5%	5%
	> 8 hours	10%		

All SLA Targets are monthly measurements, and Customer may request only one credit per SLA Target per month for the Affected Service. Should one event impact more than one SLA hereunder, Customer shall receive the single highest of the qualifying credits only. Except as set forth below, the credits described in this SLA shall constitute Customer's sole and exclusive remedy, and Spectrum Enterprise's sole and exclusive liability, with respect to any missed SLA Targets. Service Credits hereunder shall not be cumulative per Service.

Chronic Priority 1 Outages:

If Customer experiences and reports three (3) separate Priority 1 Outages where the Downtime exceeds four (4) hours during each Priority 1 Outage within three (3) consecutive calendar months, then Customer may terminate the Affected Service without charge or liability by providing at least thirty (30) days written notice to Spectrum Enterprise; provided, however, that (i) Customer may only terminate the Affected Service; (ii) Customer must exercise its right to terminate the Affected Service by providing written notice to Spectrum Enterprise within thirty (30) days after the event giving rise to Customer's termination right; (iii) Customer shall have paid Spectrum Enterprise all amounts due at the time of such termination for all Services provided by Spectrum Enterprise pursuant to the Agreement, and (iv) the foregoing termination right provides the sole and exclusive remedy of Customer and the sole and exclusive liability of Spectrum Enterprise for chronic Priority 1 Outages and Customer shall not be eligible for any additional credits. Termination will be effective forty-five (45) days after Spectrum Enterprise's receipt of such written notice of termination.



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CORPORATIONS
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No Events No Name History

Detail by Entity Name

Foreign Limited Liability Company

CHARTER COMMUNICATIONS OPERATING, LLC

Filing Information

Document Number	M18000001623
FEVEIN Number	43-1843260
Date Filed	02/15/2018
State	DE
Status	ACTIVE

Principal Address

12405 POWERSCOURT DRIVE
ST LOUIS, MO 63131

Mailing Address

12405 POWERSCOURT DRIVE
Legal Department
ST LOUIS, MO 63131

Changed: 02/08/2021

Registered Agent Name & Address

CORPORATION SERVICE COMPANY
1201 HAYS STREET
TALLAHASSEE, FL 32301-2525

Authorized Person(s) Detail

Name & Address

Title MGR

CHARTER COMMUNICATIONS, INC.
400 ATLANTIC STREET
STAMFORD, CT 06901



CITY OF PORT ORANGE

PURCHASING DIVISION
1000 CITY CENTER CIRCLE
PORT ORANGE, FLORIDA 32129
TELEPHONE 386-506-5717
purchdiv@port-orange.org

ADDENDUM NO. # 1

June 30, 2021

RFP 21-07 INTERNET &VoIP SERVICES

To All Bidders:

The following changes, clarifications and additions are hereby made part of the proposal and specifications for the above referenced project dated June 7, 2021 and prepared by the City of Port Orange Purchasing Division as fully and completely as if the same were fully set forth therein. It is the sole responsibility of proposer to confirm that all addenda have been received prior to submitting proposal and acknowledge such in the proposal documents.

A. CLARIFICATIONS:

None

B. CHANGES TO SPECIFICATIONS:

None

C. QUESTIONS AND ANSWERS:

Question No.1: Is the city entertaining the idea of replacing the existing Cisco Call Manager for a hosted or cloud solution?

ANSWER: Not at this time.

Question No.2: Please confirm that this is RFP is only looking to procure potential data services and SIP trunks to feed the Call Manager and associated long-distance and DID charges, but nothing more?

ANSWER: Confirmed

Question No.3: Is there a requirement for the Internet (up to 10G Access) and the VOIP services to be provisioned as Voice/Data on the same Internet circuit?

ANSWER: Voice and Data can be on separate circuits.

Question No.4: Would City of Port Orange consider the Internet and VOIP services to be solutioned using separate Internet circuits?

ANSWER: Data must be a dedicated circuit. We do not want a bundled solution for data

Question No.5: What is the reason for the release of the RFP, were there problems or is the equipment old?

ANSWER: The City released the last RFP in 2016 and the current contract has no available renewals from the current provider.

Question No.6: Who is the current provider?

ANSWER: Spectrum Enterprise

Question No.7: Any reason why the term has been reduced to two years?

ANSWER: Based on pricing, the City does not want to get locked for a long term if the prices start to go down.

Question No.8: Is proof of insurance due at bid due date or after award?

ANSWER: All required insurance documents are due after the Notice of Intent to Award is published.

Question No.9: For 1Gbps what type of handoff would be expected from the chosen respondent? (i.e. RJ45, 1G Optical, 10G Optical, etc...)

ANSWER: 1G Optical

Question No.10: For speeds over 1Gbps, what type of handoff would be expected from the chosen respondent? (i.e. Multiple 1G in LAG, 10G Single-Mode with LC connector, etc...)

ANSWER: 10G Single mode. Any connector is fine, but LC would be preferred.

Question No.11: Page 10 of the RFP states that a Battery Backup is required. Please clarify how long of a duration the backup power is required to last in the event of a power failure.

ANSWER: At least 3 minutes would be acceptable.

Question No.12: Is the hand off from the City's APC unit to its generator unit?

ANSWER: The hand off is from the APC unit which powers the entire data center.

Question No.13: Is the service in the same room located on the second floor of City Hall?

ANSWER: Yes

Question No.14: Page 10 of the RFP indicates a need for the Battery Backup under the "Internet Access" section, but this requirement is not listed under the "Telephony Service" section. Does the equipment used for the delivery of the Telephony Service have the same need for Battery Backup? If yes, can the same Battery Backup device be used to provide backup power for both the Internet equipment and the Telephony equipment?

ANSWER: Yes, the equipment also needs backup power and yes, the same battery backup can be used for both items assuming it can provide battery power for at least 3 minutes.

Question No 15: Who is your voice content provider?

ANSWER: The City's VOIP provider is Spectrum and the City's phone service is Cisco Call Manager.

Question No.16: In the Pre-Proposal conference, it was mentioned that there was a need for a battery backup system (UPS) in the equipment room, with a reserve long enough for the emergency generator to turn on. How long does the emergency generator take to turn on?

ANSWER: Usually within a few seconds.

Question No.17: Will this UPS need to be sized to accommodate only the equipment we are proposing?

ANSWER: Yes.

Question No.18: Is there other equipment in the room that the City would also like to be protected? If so, please provide the power draw of other hardware you wish to cover?

ANSWER: No.

Question No.19: Due to the upcoming holiday, we kindly ask that there is a 14-day extension to the due date for this bid due to the compressed timeline and holiday.

ANSWER: No.

Question No.20: Will City of Port Orange be providing the CE router or Firewall to terminate the Internet circuit into?

ANSWER: Yes.

Question No.21: Will City of Port Orange be providing the SBC for the SIP service? If so, what make/model?

ANSWER: Cisco ISR 4451-X

Question No.22: Do you plan to use the proposed Internet circuit for the SIP service, or are you requesting a private IPVPN circuit for the SIP service?

ANSWER: Separate circuit for SIP.

Question No.23: Will you be using Cisco Emergency Responder for 911?

ANSWER: Yes

Question No.24: Who owns the existing Class C block IP address range of 75.112.90.130 through 75.112.90.254?

ANSWER: Spectrum Enterprise

In all other respects, except as specifically stated herein, the subject RFP 21-07 Internet and VoIP Services remains the same.

END OF ADDENDUM NO. #1

Joseph Castro

Buyer

jcastro@port-orange.org



CITY OF PORT ORANGE

PURCHASING DIVISION
1000 CITY CENTER CIRCLE
PORT ORANGE, FLORIDA 32129
TELEPHONE 386-506-5717
purchdiv@port-orange.org

ADDENDUM NO. # 2

July 1, 2021

RFP 21-07 INTERNET &VoIP SERVICES

To All Bidders:

The following changes, clarifications and additions are hereby made part of the proposal and specifications for the above referenced project dated June 7, 2021 and prepared by the City of Port Orange Purchasing Division as fully and completely as if the same were fully set forth therein. It is the sole responsibility of proposer to confirm that all addenda have been received prior to submitting proposal and acknowledge such in the proposal documents.

A. **CLARIFICATIONS:**

None

B. **CHANGES TO SPECIFICATIONS:**

None

C. **QUESTIONS AND ANSWERS:**

A prospective proposer has submitted the following question regarding Addendum No.1:

"Is it a requirement to propose separate circuits; internet (1Gb) and an additional circuit dedicated and sized appropriately for the SIP service? #3 says they CAN be on separate circuits, while #22 seems to REQUIRE separate circuits".

ANSWER: The City would prefer separate circuits but if proposer cannot provide that, The City can do with a single circuit. It would just take reconfiguration to the City's Edge network by City staff.

In all other respects, except as specifically stated herein, the subject RFP 21-07 Internet and VoIP Services remains the same.

END OF ADDENDUM NO. #2

Joseph Castro
Buyer
jcastro@port-orange.org

CITY OF PORT ORANGE, FLORIDA

REQUEST FOR PROPOSAL

RFP #21-07

INTERNET AND VoIP SERVICES



City of Port Orange Purchasing Division

Prepared by Michael Hall, Purchasing Agent

Release Date: June 7, 2021

**Proposal Due Date and Time:
July 12, 2021 at 2:30 P.M.**

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

purchdiv@port-orange.org
www.port-orange.org



Legal Notice to Proposers

RFP 21-07 INTERNET AND VoIP SERVICES

Notice is hereby given that the City of Port Orange is soliciting proposals for RFP 21-07 Internet and VoIP Services. Proposals will be accepted in the City Clerk's Office, Port Orange City Hall, 1000 City Center Circle, Port Orange, Florida 32129 until **2:30 P.M. on July 12, 2021**, which may be amended by addendum issued by the City. All untimely proposals will not be considered and will be returned to the proposer unopened. All proposals will be evaluated to ensure they contain all required forms in order to deem the proposer responsive or non-responsive. **Proposals will be opened, and proposers names will be read aloud at 2:30 P.M. in the Council Chambers located on the first floor of City Hall, 1000 City Center Circle, Port Orange, Florida, 32129.**

There will be a Non-Mandatory Pre-Proposal Conference for the project at 10:00 A.M. (local time) on June 21, 2021 at City Hall, Council Chambers (1st floor), 1000 City Center Circle, Port Orange, Florida 32129. All attendees to the Pre-Proposal Conference **MUST** sign in. The representative of each proposer shall be an authorized employee of the proposer and shall sign in accordingly. **Proposers are encouraged to attend the Non-Mandatory Pre-Proposal Conference and are urged to obtain RFP documents and familiarize themselves with the documents prior to the Pre-Proposal Conference.**

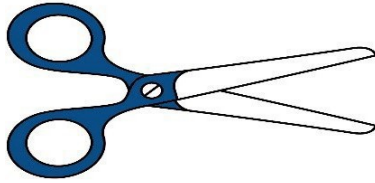
DESCRIPTION: *The City of Port Orange is soliciting sealed proposals to obtain dedicated Internet Access and VoIP Service.*

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

All Requests for Proposals are solicited and will be evaluated on the criteria outlined in the RFP. An evaluation committee primarily comprised of City staff has been appointed to evaluate and rank the proposals received in accordance with the Code of Ordinances, City of Port Orange, Chapter 2, Article VI, Division 2, and the Policies and Procedures as set forth in the City's Purchasing Manual. Code of Ordinances, City of Port Orange is on file in the Office of the City Clerk, City Hall, 1000 City Center Circle, Port Orange, Florida, 32129, and at www.municode.com.

Copies of the proposal documents, requirements, scope of service and all other pertinent information necessary to submit a complete package may be obtained electronically from the City of Port Orange website at www.port-orange.org/bids.aspx and DemandStar via their website at www.demandstar.com. All questions shall be directed **in writing** to the Purchasing Agent, Michael Hall, mhall@port-orange.org or purchdiv@port-orange.org and reference **"Questions on RFP 21-07 Internet and VoIP Services"** in the subject line. Last day for questions will be **June 28, 2021 at 5:00 P.M.**

[Remainder of this page left intentionally blank]



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

SEALED PROPOSAL • DO NOT OPEN	
SEALED PROPOSAL NO.	<u>RFP 21-07</u>
PROPOSAL TITLE:	<u>Internet and VoIP Services</u>
DUE DATE/TIME:	<u>July 12, 2021 at 2:30 P.M.</u>
SUBMITTED BY:	<u>(Name of Company)</u>
DELIVER TO:	City of Port Orange City Clerk's Office Attn: Michael Hall Purchasing Agent Finance Department 1000 City Center Circle Port Orange, Florida, 32129
DATE/TIME RECEIVED:	<u>(To be stamped by Clerk's Office)</u>

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SECTION 1 – PURPOSE AND OVERVIEW

The purpose for this Request for Proposals (RFP) is to solicit competitive sealed proposals from certified firms or companies (proposers) to obtain dedicated Internet Access and VoIP Service.

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

[Remainder of this page left intentionally blank]

SECTION 2 – INSTRUCTIONS TO PROPOSERS

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

TIMELINE (Local Time)

The City reserves the right to alter dates as needed.

Date of Distribution:.....June 7, 2021
Non-Mandatory Pre-Proposal Conference:.....June 21, 2021 at 10:00A.M.
Deadline for Questions:.....June 28, 2021 by 5:00 P.M.
Final Addendum Posting:.....July 5, 2021 by 5:00 P.M.
Proposals Due:.....July 12, 2021 by 2:30 P.M.
Evaluation Period:.....July 13 – July 20, 2021
Evaluation Committee Meeting:.....To Be Determined
City Council Meeting for Approval of Recommendation of AwardTo Be Determined

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

City of Port Orange City Clerk's Office
Attn: Michael Hall, Purchasing Agent
1000 City Center Circle
Port Orange, FL, 32129

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

Proposals shall be sealed, and proposers **must** indicate on the outside of their proposal the following:

- a) Request for Proposal (RFP) Number and Title
- b) Date of Opening
- c) Name of Proposer
- d) Address of Proposer

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

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

All proposals will be opened publicly, and the names of all proposers shall be read aloud. All conferences and meetings regarding this RFP are recorded electronically (audio only). The City of Port Orange reserves the right to reject any or all proposals or parts of proposals, if it is in the best interest of the City.

PRE-PROPOSAL CONFERENCE

There will be a Non-Mandatory Pre-Proposal Conference for the project at 10:00 A.M. (local time) on June 21, 2021 at City Hall, Council Chambers (1st floor), 1000 City Center Circle, Port Orange, Florida 32129. All attendees to the Pre-Proposal Conference **MUST** sign in. The representative of each proposer shall be an authorized employee of the proposer and shall sign in accordingly.

Proposers are encouraged to attend the Non-Mandatory Pre-Proposal Conference and are urged to obtain RFP documents and familiarize themselves with the documents prior to the Pre-Proposal Conference. All prospective Proposers are strongly encouraged to attend because the Pre-Proposal Conference will offer potential proposers the opportunity to ask questions and discuss the project directly with staff.

QUESTIONS REGARDING THIS RFP

All questions shall reference **“Questions on RFP 21-07 Internet and VoIP Services”** in the subject line. All questions concerning this RFP shall be submitted in writing no later than the date and time referenced in the Timeline above to:

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

ADDENDA REGARDING THE REQUEST FOR PROPOSALS

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

It is the proposer's responsibility to be sure all correct number of addenda was received. The proposer should verify with the designated contact persons prior to submitting a proposal that all addenda have been received. Proposers should acknowledge the correct number of addenda received as part of their proposals. It is the responsibility of the proposer to ensure all addenda have been received prior to submitting a proposal.

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

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

CLARIFICATIONS

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

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

MINIMUM QUALIFICATIONS

Proposers must be commercial entity licensed to do business in the State of Florida or appropriate qualified commercial entity licensed in the area specified in the scope of work and to perform the services identified herein.

Proposers must be properly registered and licensed to engage in the scope of work pertaining to this RFP, by all applicable state and local agencies.

Proposers must provide a minimum of three (3) verifiable references from similar scopes of work as identified in this RFP following the requirements in Section 7. Failure to provide references that verify required experience will cause the proposer to be deemed non-responsive. The City of Port Orange is not to be used as a reference.

NO LOBBYING

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

EXCEPTIONS TO SPECIFICATIONS

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

PROPOSAL SUBMISSION AND WITHDRAWAL

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

CORRECTION OF PROPOSALS

Correction of inadvertently erroneous proposals shall be permitted up to the time of RFP opening. Proposers shall not be allowed to modify their proposals after the opening time and date.

WITHDRAWAL OF PROPOSALS

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

OPENING OF PROPOSALS

Proposals will be received until the date and time stated in this RFP and will be publicly opened and read at the place, time and date stated. No responsibility will attach the Purchasing Division for the premature opening of a proposal not properly addressed and identified.

REJECTION OF PROPOSALS

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

PROPOSALS MAY BE REJECTED AND/OR PROPOSER(S) DISQUALIFIED FOR THE FOLLOWING REASONS

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

OWNERSHIP OF DOCUMENTS

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

AMERICANS WITH DISABILITIES ACT (ADA)

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

[Remainder of this page left intentionally blank]

SECTION 3 – SCOPE OF WORK

Introduction & Background

The City of Port Orange is requesting proposals from qualified service providers for enterprise grade internet access and telephony service. The intent of this RFP is to enter into a contract or contracts for Internet Access and Telephony Service for a two (2) year term with an option to renew for an additional two (2) years beginning October of 2021.

The City of Port Orange is currently connected to the internet via Spectrum Enterprise at the synchronous rated bandwidth of 1Gbps with a Class C IP address range of 75.112.90.130 through 75.112.90.254.

Telephony service is currently provided by the means of 48 concurrent SIP sessions with a block of 500 direct inward dials in the 386-506-5500 through 386-506-5999 range.

Specifications

Qualified service providers will be required to provide all necessary connections and equipment in order to deliver enterprise grade internet connectivity and telephony access at the point of presence (POP) at Port Orange City Hall, located at 1000 City Center Circle, Port Orange, FL.

INTERNET ACCESS

- Minimum synchronous bandwidth of 1Gbps, scalable up to 10Gbps using existing leased circuits/networks or using circuits/networks bundled as part of the solution.
- Minimum of 128 contiguous static IP addresses reserved exclusively for the use of the City of Port Orange.
- Internet Access delivered to point of presence (POP) at Port Orange City Hall.
- All equipment to include connections, routers, media converters, battery backups, etc.
- Industry standard 99.9% uptime service level agreement (SLA).
- Access to network operations center (NOC) technical support and troubleshooting service 24 hours per day, 365 days per year.

TELEPHONY SERVICE

- Session Initiation Protocol (SIP) Trunk with minimum 48 concurrent calls, scalable up to a minimum of 100 concurrent calls.
- Local number portability for continued use of current direct inward dial (DID) block of 386-506-5500 through 386-506-5999.
- Trunk shall provide local, long distance, and international calling with the option for bundled usage packages and/or pricing per minute.
- Trunk shall provide E911 calling with PS/ALI service.
- Trunk should be engineered for voice quality of service.
- Compatibility and interface with Cisco Unified Communications Manager call control platform.
- Industry standard 99.9% uptime service level agreement (SLA).
- Access to network operations center (NOC) technical support and troubleshooting service 24 per day, 365 days per year.

Term

The term of this contract shall be for two (2) years with an option to renew for an additional two (2) years at the discretion of the City of Port Orange.

Proposal Submission Requirements

The successful proposer shall submit a proposal to include the following requirements:

- Provide internet access synchronous bandwidth monthly pricing based on a dedicated internet access speed of 1Gbps.
- Provide internet access static IP addressing monthly pricing based on a bundle of 128 dedicated IP addresses.

- Provide internet access sample service level agreements (SLA).
- Provide telephony service monthly pricing for session-initiated protocol (SIP) trunking based on 48 concurrent SIP sessions.
- Provide telephony service monthly pricing for portability and ownership for block of 500 direct inward dials (DID).
- Provide telephony service monthly pricing for bundled/bulk usage packages and pricing per minute for long distance and international calling rates.
- Provide telephony service sample service level agreements (SLA).
- Provide minimum of three (3) verifiable references from similar scopes of work.

EVALUATION CRITERIA

1.	Fee Proposal	50
2.	Quality of Response	25
3.	References	25

[Remainder of this page left intentionally blank]

SECTION 4 – STANDARD PURCHASE DEFINITIONS

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

1. **Addendum** is a formal written document, released prior to the public opening that modifies any aspect of a Solicitation. Plural: Addenda
2. **Amendment** is a formal written agreement, signed by both parties, that modifies an existing contractual agreement.
3. **Appropriate, Appropriated, or Appropriation** means the adoption by the City Council of the City of a budget for a fiscal year that includes payments to be made under the Contract during the respective fiscal year.
4. **Best Value** means the highest overall value to the City based on factors that include, but are not limited to, price, quality, design, and workmanship.
5. **Bid Guaranty (Bid Bond)** guarantees that the Bidder (a) will not withdraw the Bid within the period specified for acceptance, and (b) will execute a Contract and furnish required bonds and any necessary insurance within the time specified in the Solicitation, unless a longer time is allowed by the City. The guarantee will be returned to the Bidder upon execution of a Contract.
6. **Bidder or Proposer** is a person, firm, or entity that that submits a Response to a Solicitation. Any bidder/proposer may be represented by an agent after submitting evidence demonstrating the agent's authority. The agent cannot certify as to his own agency status.
7. **City** means the City of Port Orange.
8. **Competitive Negotiation** means a method for acquiring goods, services, and construction for public use in which discussions or negotiations may be conducted with responsible offerors who submit responses through a Request for Proposals, Request for Statements of Qualifications, or Invitation to Negotiate.
9. **Competitive (Formal) Solicitation** is the process of requesting and receiving two or more sealed bids, proposals, statements of qualifications or replies submitted by responsive proposers in accordance with the terms of a competitive process, regardless of the method of procurement.
10. **Competitive Range** means the responsive submissions that meet the evaluation criteria and are considered to be reasonably susceptible of award.
11. **Construction** means the process of building, repairing, improving, and alterations, conversion or extension of building, parks, utilities, streets or other improvements or alterations to real property.
12. **Contract** is a written agreement or purchase order issued for the purchase of goods or services.
13. **Contractor** means the person, firm or entity selling goods or services to the City under a Contract.
14. **Deliverables** means the goods, products, materials, and/or services to be provided to the City by a Bidder.
15. **DemandStar** is the official online repository for all City competitive solicitations.
16. **Due Date** means the date and time specified for receipt of responses to a Solicitation.
17. **End User** is a person, program, agency, or other eligible user who uses a contract to purchase a commodity or contractual service.
18. **Evaluation Committee/Team** is a temporary group of City personnel who are responsible for the evaluation of proposals as part of a Request for Proposals (RFP) or competitive grant process.
19. **Evaluator** is a member of the evaluation committee/team.
20. **Intent to Award** is a document that informs the public and respondents of the City's decision to award a contract pursuant to a previously issued competitive solicitation.
21. **Issues** means points, matters, or concerns to be addressed during negotiations.
22. **Non-Professional Services** are services performed that are not of a professional nature such as lawn care, security, janitorial, etc.
23. **Offer** means a complete signed Response submitted to the City in response to a Solicitation including, but not limited to, a Bid submitted in response to an Invitation to Bid, a proposal submitted in response to a Request for Proposal, a Quote submitted in response to a Request for Quotation, a Statement of Qualifications and interest submitted in response to a Request for Statements of Qualifications, or a Reply submitted in response to an Invitation to Negotiate.
24. **Outlier** is a proposal which is determined by the Purchasing Director or Manager to be significantly dissimilar to or inconsistent with, competing bids or offers.

25. **Pre-Proposal Conference** means a meeting conducted by the Purchasing Office, held in order to allow proposers to ask questions about the proposed Contract and particularly the Contract specifications with the City department requesting the goods/services.
26. **Price Analysis** is an evaluation of the total cost of a contract in order to determine if the price is reasonable.
27. **Procurement (Process)** is a term used in the governmental sector for the combined functions of acquiring (purchasing) needed goods and/or services, receiving and inspection, inventory management, contract administration, and disposal/surplus.
28. **Professional Services** means those services within the scope of the practice of architecture, professional engineering, landscape architecture, or registered surveying and mapping, as defined by the laws of the state, or those performed by any architect, professional engineer, landscape architect, or registered surveyor and mapper in connection with his or her professional employment or practice.
29. **Protest** is a formalized process by which respondents have an opportunity to challenge a procurement practice or contract award.
30. **Proposal** is a complete, properly signed Response to a Request for Proposal, based on performance that is offered rather than on that of price alone, which if accepted, would bind the proposer to perform the resultant Contract.
31. **Purchase Order** is an order placed by the Purchasing Division for the purchase of Goods or Services written on the City's standard Purchase Order form and which, when accepted by the proposer, becomes a contract. The Purchase Order is the Bidder's authority to deliver and invoice the City for Goods or Services specified, and the City's commitment to accept the Goods or Services for an agreed upon price.
32. **Request for Proposal (RFP)** means a formal request to prospective proposers requesting qualifications of the proposer and pricing for a specified Good or Service which has been advertised for proposal in a newspaper.
33. **Respondent** means an entity that has (or will, i.e. "prospective respondents") submitted a response to a competitive solicitation conducted to create a contractual relationship for the provision of commodities or services.
34. **Response/Submission** means all materials submitted to the City by a respondent as part of a solicitation. A response may be called a bid, proposal, statement of qualifications, or a reply, depending on the type of competitive solicitation being issued.
35. **Responsible (Proposer)** is a proposer who has the capability in all respects to fully perform the contract requirements and the integrity and reliability that will assure good faith performance.
36. **Responsive (Proposer)** is a proposer that has submitted a bid, proposal, statement of qualifications, or reply that conforms in all material respects to the solicitation.
37. **Scope** means the extent of the area or subject matter that something deals with or to which it is relevant.
38. **Scope of Work** means a description of the work activities, deliverables, and/or timeline that a proposer must execute in terms of delivering specific commodities or in performance of contractual services.
39. **Services** include all work or labor performed for the City on an independent contractor basis other than construction.
40. **Solicitation** means a formal request, as applicable, for prospective proposers to submit responses to a Request for Proposal.
41. **Solicitation Document** means a document, or collection of documents, either paper or electronic, that contains all information required to conduct a competitive procurement project according to §287.057, Florida Statutes.
42. **Stakeholder** means an individual, who is not likely to become a proposer, who has an interest in the commodities/contractual services needed.
43. **Subcontractor** means a person, firm or entity providing goods or services to a proposer to be used in the performance of the proposer's obligations under the Contract.
44. **Subject Matter Expert** means a person who has working or expert knowledge about a particular topic or field.

SECTION 5 – GENERAL TERMS AND CONDITIONS

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

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

1. ADDENDUM

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

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

2. ANTI-COLLUSION STATEMENT

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

3. APPLICABLE LAWS

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

4. ASSIGNMENT

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

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

A Florida corporation or partnership is required to provide evidence with its response that the proposer is authorized to transact business in Florida and is in good standing with the Florida Department of State. If not with the response from the successful proposer, such evidence must be submitted to the City no later than five (5) business days from request of the Purchasing Manager. A foreign (out-of-state) corporation or partnership is required to provide evidence with its response that the proposer is authorized to transact business in Florida and is in good standing with the Florida Department of State. If not with the response from the successful proposer, such evidence must be submitted to the City no later than five (5) business days from request of the Purchasing Manager. A joint venture is required to provide evidence with its response that the joint venture, or at least one of the joint venture partners, is authorized to transact business in Florida and is in good standing with the Florida Department of State. If not with its response, such evidence must be submitted to the City no later than five (5) business days from request of the Purchasing Manager. However, the joint venture is required to provide evidence prior to contract execution that the joint venture is authorized to transact business in Florida and provide the City with a copy of the joint venture Agreement. A joint venture is also required to provide with its response a Statement of Authority indicating that the individual submitting the joint venture's proposal has the legal authority to bind the joint venture. If not with its response, such evidence must be submitted to the City no later than five business days from the request of the Purchasing Manager.

6. **AWARDS**

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

7. **AWARD AND EXECUTION OF CONTRACT**

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

8. **PROPOSAL RETURNS**

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

9. **PROTEST**

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

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

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

10. STATEMENT EVALUATION

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

11. BONDS

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

12. CERTIFICATE OF INSURANCE

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

13. CHANGE ORDERS

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

14. CHANGE ORDER REQUEST NOTIFICATION

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

15. CLEAN UP

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

16. CONDUCT OF PROPOSERS

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

17. CONE OF SILENCE

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

Exceptions to the Cone of Silence:

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

18. CONFLICT OF INTEREST

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

19. CONFLICT OF INSTRUCTIONS

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

20. CONTRACT

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

21. CONTRACT OBLIGATION

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

22. CONTRACT RENEWALS

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

23. COOPERATIVE PURCHASING

The City Manager may elect to purchase through or join with other governmental units in cooperative purchasing ventures when the best interest of the City would be served thereby, provided the same is in accordance with all applicable laws. In the event the City Manager should elect to purchase through or join with other governmental agencies in cooperative purchasing ventures, all purchases in excess of twenty-five thousand dollars (\$25,000.00) shall require council approval before the purchasing contracts are entered into. (Code 1981, § 8-33, Ord. 1997-22, § 5.6-1997; Ord. No. 2004-15, § 4, 7-20-2004)

24. COPYRIGHT AND PATENT RIGHTS

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

25. COST INCURRED BY PROPOSER

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

26. DEBARMENT HISTORY

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

27. DEFAULT PROVISIONS

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

28. DISCLOSURE OF CONFLICTS

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

29. EXCEPTIONS TO REQUIREMENTS

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

30. E-VERIFY

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

31. FACILITIES

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

32. FAILURE TO RESPOND

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

33. FINANCIAL STABILITY

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

34. 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.

35. GOVERNING FORMS

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

36. GOVERNING LAW

Proposers shall comply with all applicable federal, state, and local laws and regulations. All responses are solicited and shall be made pursuant to the Code of Ordinances, City of Port Orange, Chapter 2, Article VI, Division 2, Section 2-263, and all responses will be evaluated in accordance with the provisions thereof. Code of Ordinances, City of Port Orange is on file in the Office of the City Clerk, City Hall, 1000 City Center Circle, Port Orange, Florida and at www.municode.com. The City of Port Orange is also governed by the Consultants' Competitive Negotiation Act, Section 287.055, Florida Statutes, as the method of selecting architects, engineers, and land surveyors. The City has utilized the procedures in the Act for Professional counselors, environmentalists, planners, general contractors, computer systems, designers, telecommunications consultants, maintenance technicians, financial services, and other professional services. Every acquisition equal to or greater than \$10,000.00 must have a signed, notarized "Public Entity Crimes Form" to comply with Section 287.133(3)(a), Florida Statutes. Also required is the "Drug-Free Preference Form" to comply with Section 287.087, Florida Statutes. Each form is included in the Solicitation.

37. GRANT FUNDING

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

38. HIPAA COMPLIANCE

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

39. **INDEMNIFICATION/HOLD HARMLESS**

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

40. **INDEPENDENT CONTRACTOR**

It is expressly understood and agreed by both parties hereto that the City is contracting with the successful proposer as an independent contractor. The parties hereto understand and agree that the City shall not be liable for any claims which may be asserted by any third party occurring in connection with the services to be performed by the successful proposer under this contract and that the successful proposer has no authority to bind the City. The proposer represents itself to be an independent contract or offering such services to the public and shall not represent himself or his employees to be an employee of the City. Therefore, the proposer shall assume all legal and financial responsibility for taxes, FICA, employee fringe benefits, worker's compensation, employee insurance, minimum wage requirements, overtime, etc., and agrees to indemnify, save, and hold the City, its officers, agents, and employees, harmless from and against, any and all loss; cost (including attorney's fees); and damage of any kind related to such matters. The proposer shall further understand that the City cannot save and hold harmless and or indemnify the proposer and/ or the proposer's employees against any liability incurred or arising as a result of any activity of the proposer or any activity of the proposer's employees performed in connection with the Contract.

41. **INSPECTIONS AND TESTING**

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

42. **INSURANCE**

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

43. **INSURANCE CANCELLATION**

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

44. **INSURANCE REQUIREMENTS**

If required, the proposer shall provide to the City a certificate of insurance identifying the City of Port Orange as an additional insured. For workers' compensation coverage, the proposer's insurance certificate shall include the insurer's waiver of subrogation in lieu of naming the city as an additional insured for workers' compensation. Proposer may use leased employees if the

proposer ensures that all workers who access the jobsite are employees covered by the employee leasing company, and no non-employees are permitted to access the jobsite. Any proposer using a leased employee shall complete the City's Leased Employee Affidavit Form Exhibit. Policies other than Workers' Compensation shall be issued by insurers licensed and/or duly authorized under Florida Law to do business in the State of Florida and all Insuring companies are required to have a minimum rating of "A" in the "Best Key Rating Guide" published by A.M. Best & Company, Inc. Policies for Workers' Compensation may be issued by companies authorized as a group self-insurer by F.S. 440.572. The proposer shall not commence work under the contract until the City has received a certificate or certificates of insurance and endorsement. Evidencing in the required insurance. The proposer shall provide the City written notice of cancellation, non-renewal, 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.**

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

45. **INVOICES AND PAYMENTS**

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

46. **IRREVOCABILITY OF RESPONSES**

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

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

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

48. **LEGAL REQUIREMENTS**

Applicable provision of all federal, state, county and local laws, and all ordinances, rules, and regulations shall govern development, submittal and evaluation of all responses received in response hereto and shall govern any and all claims and disputes which may arise between person(s) submitting a response to a Solicitation hereto and the City by and through its officers, employees and authorized representatives, or any other person, natural or otherwise; and lack of knowledge by any proposer shall not constitute a cognizable defense against the legal effect thereof. Upon execution of a contract, the successful proposer shall hold harmless, indemnify and defend the City of Port Orange, its members, officials, officers and employees against any claim, action, loss, damage, injury, liability, cost and expense of whatsoever kind or nature (including, but not by way of limitation, attorneys' fees and court costs) arising out of or incidental to the performance of the Contract, whether or not due to or caused by negligence of the City of Port Orange, its members, officials, officers or employees. This Contract requirement shall be reflected in the insurance coverage certificate.

49. **LICENSES, PERMITS AND TAXES**

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

50. **LITERATURE (if applicable)**

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

51. **LOCAL PREFERENCE**

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

- A. Request for proposals, qualifications, or other qualitative submittal(s). In any ranking conducted pursuant to a request for proposals, qualifications, or other qualitative submittal(s) where the proposers are rated by a point system, local businesses shall be granted the following preference:
 - 1. Port Orange business shall be granted up to eight (8) percent of the available points.
 - 2. Volusia County business shall be granted up to five (5) percent of the available points.
 - 3. Florida business shall be granted up to three (3) percent of the available points.
 - 4. Tied bid preference. In case of a tie between a local business and a non-local business, the local business shall prevail. In case of a tie between two or more local businesses, the following order of preference shall control: first priority to Port Orange business, second priority to Volusia County business, and third priority to Florida business.
- a) Misrepresentation prohibited, penalty. Any business that misrepresents the local preference status of its firm in a proposal or bid submitted to the city shall lose the privilege to claim preference status and shall lose eligibility to claim local preference status for a period of one year.
- b) Local preference not required. This section shall not be deemed to require the granting of a local preference, and nothing herein prohibits the award of a contract to a non- local business where such award is in the public interest.
- B. Definitions. The following words, terms, and phrases, when used in this section, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

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

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

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

52. **NON-DISCRIMINATION**

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

53. **NON-EXCLUSIVITY OF CONTRACT**

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

54. **NON-PERFORMANCE**

Failure to meet the expected quality of workmanship, schedule, or other criteria agreed upon, shall be considered a default. In case of default, the City may procure the required services from other sources and hold the Consultant responsible for any excess costs occasioned thereby and may immediately cancel the contract.

55. **NOTICE TO CONTRACTOR**

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

56. **OPTIONAL CONTRACT USAGE**

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

57. **PRE-PROPOSAL CONFERENCE**

The Purchasing Manager shall determine if a pre-proposal conference is required and provide the date, time and location in the Solicitation legal advertisement and Solicitation requirements. The conference shall normally be held in the Council Chambers, located on the first floor of City Hall, 1000 City Center Circle, Port Orange, Florida. A site visit may be included and shall immediately follow. Attendance to the pre-proposal conference is non-mandatory. The representative of each proposer shall be an authorized employee of the proposer and shall sign in accordingly.

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

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

59. **PROPRIETY INFORMATION**

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

60. **PROTECTION**

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

61. **PUBLIC ENTITY CRIMES**

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

62. **PUBLIC RECORDS COMPLIANCE**

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

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

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

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

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

proposal opening, whichever is earlier. Portions of the meetings that do not involve presentations, questions and answers, or negotiation strategy or negotiation sessions are still open to the public and competing proposers, but the new law limits public attendance to portions of such meetings.

64. **QUESTIONS, INTERPRETATIONS**

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

65. **RECORDS/AUDIT**

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

66. **REQUEST FOR ADDITIONAL INFORMATION**

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

67. **REVIEW OF RESPONSES/SUBMISSIONS**

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

68. **RIGHT OF NEGOTIATION RFP**

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

69. **RIGHT OF WITHDRAWAL**

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

70. **RIGHTS TO SOLICITATION SUBMITTED MATERIAL**

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

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

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

72. SEPARATION AND DISTRIBUTION

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

73. SEVERABILITY

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

74. SIGNATURE REQUIRED

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

75. SIGNED RESPONSE CONSIDERED AN OFFER

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

76. SOLICITATION FORM COMPLETION, SUBMISSION AND RECEIPT OF RESPONSES

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

77. STATE LICENSING REQUIREMENTS

All entities defined under Chapters 607, 608, 617 or 620, Florida Statutes, seeking to do business with the City shall be on file and in good standing with the State of Florida's Department of State.

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

78. SUBCONTRACTING

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

79. TAXES

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

80. TERMINATION

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

81. TERMINATION NOTICE

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

82. USE OF SOLICITATION FORMS

The proposer shall complete the appropriate Solicitation Form(s) included in the Solicitation. All blanks on the Solicitation Forms shall be completed. If a question or confirmation is not applicable, it should be answered with an "N/A." Supplemental information may be attached to the Solicitation Forms. Failure to fully complete the appropriate Solicitation Forms may result in disqualification of the Response. If additional space for a response is required, attach an additional page to the page on which the question is stated. Clearly identify the number of the question to which the response is attached. Further, if additional Solicitation Form pages are needed, photocopy or replicate as appropriate, and attach such additional pages to the page on which the question or chart is stated. The signature of the Authorized Person or Entity must be that of an officer, partner or a sole proprietor of the entity making the response. The original Response, and each copy submitted shall contain an original signature on the proposer's Acknowledgement Form contained in each Solicitation.

83. VARIANCES

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

84. WAIVER OF IRREGULARITIES

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

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SECTION 6 – SPECIAL CONDITIONS

PERIOD OF OFFER VALIDITY

Proposals offered in this RFP must remain firm for a period of ninety (90) Days from the RFP opening date.

CONTRACT TERM

The term of this contract shall be for two (2) years with an option to renew for an additional two (2) years at the discretion of the City of Port Orange.

ELIGIBILITY OF PROPOSER

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

INSURANCE

See Section 5, Page 23 for Insurance Requirements.

PAYMENT AND PERFORMANCE BOND

Should the City of Port Orange not select the incumbent for these services, a Payment and Performance Bond may be required from the awarded proposer.

NOTICE

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

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SECTION 7 – PROPOSAL SUBMITTAL & REQUIREMENTS

Proposals shall include all of the information solicited in this RFP, and any additional data that the respondent deems pertinent to the understanding and evaluation of the proposal. The respondent should not withhold any information from the written response in anticipation of presenting the information orally or in a demonstration, since oral presentations or demonstrations may not be solicited.

Submittal of a proposal shall constitute the Vendor's agreement and intent to follow and adhere to all statements, offerings and monetary incentives contained within this proposal.

The sections of the submitted proposals that will be scored during the evaluation process are identified with the maximum attainable points. Additional areas used for awarding evaluation points are addressed in "Section 8 – Evaluation of Proposals."

In conjunction with other material and information requested in the RFP, all Vendors responding to this solicitation shall provide one (1) original, and one (1) identical digital version in pdf format on CD or USB flash/thumb drive. The digital version **must** be an identical copy of the fully signed original submission. All required attachments are to be in 8 ½" by 11" format, clearly legible, tabbed and bound in the following order:

TABLE OF CONTENTS

The Table of Contents should outline in sequential order the areas of submittal. All pages, including enclosures, must be clearly and consecutively labeled and/or numbered and correspond to the Table of Contents.

STATEMENT OF INTEREST

The responding firm will provide a letter, on letterhead, not exceeding two (2) pages, which serves as a statement of interest and introduction to the submittal. The Statement of Interest shall show the RFP number and title. This letter must be signed by the person authorized to bind the firm, company, or corporate entity. The Statement of Interest should also include the name and contact information of a customer contract manager who will serve as the main point of contact for all issues related to the services performed under the scope of this RFP.

COMPANY HISTORY, QUALIFICATIONS, ABILITY, and CAPACITY

- Legal name and principal office address.
- Telephone number and e-mail address.
- State of incorporation of the entity.
- List of names and addresses of the primary owners/board members.
- Name of agent who is authorized to negotiate with the City of Port Orange.
- List of currently or previously performed projects of similar work.
- Provide a summary of qualification and experience of providing internet and VoIP Services.

BUSINESS LICENSES/SUNBIZ

- Include copy of license to do business in the State of Florida or Sunbiz report showing your company registered as "Active."
- Include a copy of any and all professional licenses and certifications as required to perform the services described herein and of the professional licenses for each team member.

FINANCIAL STABILITY/LITIGATION and DEBARMENT HISTORY

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

- It is essential that the Vendor clearly demonstrates the financial ability to reliably deliver services. This Tab shall contain information on the nature and magnitude of any litigation or proceeding whereby, during the past five (5) years, a court or any administrative agency has ruled against the firm in any matter related to the professional activities of the firm.

This shall include any class actions within your company where named, industry investigations by the Attorney General, in addition to individual cases.

- This Tab shall contain information on the nature and magnitude of any debarment or proceeding during the past five (5) years against the firm in any matter related to the professional activities of the firm.
- This shall include any debarment actions against your company by the City or other public entity.
- Respondent must indicate whether any contract awarded by another government agency has been terminated in default or convenience.
- Respondent has a continuing duty to inform the City of any new claims filed against the Respondent.
- A copy of the most recent external peer review report and any letter of comment.

REFERENCES

Include all required City of Port Orange forms. **FAILURE TO PROVIDE ALL INFORMATION** listed on each form may result in the rejection of your proposal or a reduction in evaluation points. Required forms include:

- Provide a minimum of three (3) verifiable references (**DO NOT INCLUDE THE CITY OF PORT ORANGE AS REFERENCES**) within the last five (5) years for the services described in this RFP. Include the name and type of entity, the contact name, email address and telephone number of the public officer in charge of the contract, and the years in which the services have been provided.

***The information provided under this tab, must be current and the City must be able to contact references for verification as part of the evaluation process.**

- All reference contact information MUST be verified as current by the proposer prior to submittal. References which cannot be verified using the provided contact information will receive no points under the evaluation criteria.
- Below is a sample of the verification questions that may be used:
 1. Did they meet the terms of the contract?
 2. Was the project completed on time and within budget?
 3. Did they respond in a timely manner to calls, requests, etc.?
 4. Did they provide adequate staff to take care of the needs of your company/agency?
 5. In your previous projects, were there any change orders? If so, how many?

REQUIRED FORMS

Include all required City of Port Orange forms. **FAILURE TO PROVIDE ALL INFORMATION** listed on each form may result in the rejection of your proposal or a reduction in evaluation points. Required forms include:

- Form 9.1 Proposal Submittal Checklist
- Form 9.2 Proposer's Acknowledgement Form
- Form 9.3 Addendum and Change Order Procedure Acknowledgement Form
- Form 9.4 Drug-Free Preference Statement
- Form 9.5 Sworn Statement on Public Entity Crimes
- Form 9.6 Affidavit of Anti-Collusion Form
- Form 9.7 Statement of Qualifications
- Form 9.8 Professional References for Previous Experience
- Form 9.9 Local Business Affidavit of Eligibility
- Form 9.10 E-Verify Affidavit
- Form 9.11 Certification Regarding Debarment
- Proposal Form

SECTION 8 – EVALUATION OF PROPOSALS

EVALUATION CRITERIA

Firms submitting the required criteria will have their proposals evaluated and scored for quality of response, references, and cost. The following represents the principal selection criteria, which will be considered during the evaluation process. Criteria will be weighted based on 100% of total value. Category Scores listed below are the maximum number of points to be awarded per each evaluator.

<u>EVALUATION CRITERIA FOR PROPOSALS</u>	<u>CATEGORY SCORE</u>
<i>FEE PROPOSAL</i>	<i>(50 points)</i>
<i>QUALITY OF RESPONSE.....</i>	<i>(25 points)</i>
<i>REFERENCES.....</i>	<i>(25 points)</i>
<i>Total Maximum Points</i>	<i>(100 points)</i>

BONUS POINTS: Local Preference per Ordinance Sec. 2-275

- *Port Orange Business - eight percent of available points (8 points)*
- *Volusia County Business - five percent of available points (5 points)*
- *Florida Business - three percent of available points (3 points)*

RFP EVALUATION SCHEDULE

Refer to the Timeline in Section 2 of the RFP document regarding proposed evaluation date(s) and time(s).
The City reserves the right to alter dates as needed.

EVALUATION PROCEDURE

The Evaluation Committee is comprised of City staff and may include City Council Member who will evaluate, and rank proposals based on a weighted score point formula. All interested professionals are hereby cautioned **not** to contact any staff or Council member of the City of Port Orange, or any member of the Evaluation Committee. Any and all questions should be made through the Purchasing Manager and any attempts to lobby or persuade through any other channels may result in disqualification.

All proposals will be subject to a review and evaluation process. It is the intent of the City that all Vendors responding to this RFP, who meet the requirements, will be ranked in accordance with the criteria established in these documents. The City will consider all responsive and responsible proposals received in its evaluation and award process.

The City's evaluation criteria, as identified above, for proposals will include consideration of, but will not be limited to the following:

1. Responsiveness of the proposal related to the Scope of Services;
2. The ability, capability and skill of the Vendor to perform the contract, including the range of services offered.
3. Whether the provider can perform the contract within the time specified without delay or interference.
4. The quality, availability and adaptability of the supplies or contractual services to the particular use required;
5. The character, integrity, reputation, judgment, experience and efficiency of the Vendor;
6. Professional licensure required when service of a skilled nature is required by law to perform such service and/or skill;
7. The quality of performance of previous contracts;
8. The number and scope of conditions attached to the bid or proposal;
9. Responsiveness of client references;
10. Net costs.
11. Local preference policy (if applicable)

FORMAL ORAL INTERVIEWS/PRESENTATIONS In Person (If Required)

Upon completion of the technical criteria evaluation of written proposals, rating and ranking, the City of Port Orange, through the Proposal Evaluation Committee and Purchasing, reserves the right to interview any, all, or none of the Respondents that responded to the RFP and to require formal presentations with the key personnel who will administer and be assigned to work on behalf of the contract before recommendation of award.

If the City chooses to allow oral interviews and/or presentations, such interviews or oral presentations **will not be open** to the public pursuant to the conditions set forth in Florida Statute § 286.0113. If oral presentations or interviews are held the following guidelines will be used:

The City's Purchasing Division will establish the schedule and proposers will be notified via email at least five (5) calendar days in advance of the date, time and place of the presentations. The specific format of each presentation will be provided to proposers with the notifications.

The City will allot equal time for each proposer divided into two sequential parts: formal presentations and questions and answers. The times allotted are maximums and no proposer will be penalized for using less than the allotted time.

FINAL RANKING AND RECOMMENDATION FOR AWARD

After evaluations are completed, the Evaluation Committee will score the proposals for qualifications, experience, engagement approach, and schedule to determine a final ranking of the proposers considered to be most capable of performing the required project in the best interest of the City. The aforementioned evaluation criteria represents the principal selection criteria, which will be considered during the evaluation process. Criteria will be weighted based on 100% of total value. Category Scores listed below are the maximum number of points to be awarded per each evaluator.

The Evaluation Committee's final ranking will be provided to the Purchasing Agent to read aloud. The City's Purchasing Agent will provide a notice of intent to award via posting on www.demandstar.com and the City's website, www.port-orange.org. The City project manager will create an agenda item recommending award to the City Council. City Council's decision will be final.

[Remainder of this page left intentionally blank]

SECTION 9 – REQUIRED FORMS

FORM 9.1 – PROPOSAL SUBMITTAL CHECKLIST

- _____Form 9.2 – Proposer’s Acknowledgement
- _____Form 9.3 – Addendum and Change Order Procedure Acknowledgement
- _____Form 9.4 – Drug Free Preference Statement
- _____Form 9.5 – Public Entity Crimes Statement
- _____Form 9.6 – Affidavit of Anti-Collusion
- _____Form 9.7 – Statement of Qualifications
- _____Form 9.8 – Professional References for Previous Experience
- _____Form 9.9 – Local Business Affidavit of Eligibility
- _____Form 9.10 – E-Verify Affidavit
- _____Form 9.11 – Certification Regarding Debarment
- _____Proposal Form
- _____Copy of License (Contractor, Sunbiz, etc.)
- _____Submission of one (1) original marked “ORIGINAL” and one (1) digital (CD or flash drive) version in PDF format.

BY:

Name of Business

Authorized Signature

Date

This document must be completed and returned with your Submittal

FORM 9.2 – PROPOSER’S ACKNOWLEDGEMENT FORM

I have carefully examined the Request for Proposals (RFP), Instructions to Proposers, General and/ or Special Conditions, Specifications, and any other documents accompanying or made a part of this invitation.

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

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

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

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

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

NO EXCEPTIONS ALLOWED AFTER THE PROPOSAL IS SUBMITTED:

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

NAME OF BUSINESS

MAILING ADDRESS

AUTHORIZED SIGNATURE

CITY, STATE & ZIP CODE

NAME, TITLE, TYPED

TELEPHONE NUMBER/FAXNUMBER

FEDERAL IDENTIFICATION #

E-MAIL ADDRESS

STATE OF _____ COUNTY OF _____

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

My Commission Expires:

Notary Public

This document must be completed and returned with your Submittal

FORM 9.3 – ADDENDUM and CHANGE ORDER PROCEDURE ACKNOWLEDGEMENT

ADDENDUM ACKNOWLEDGEMENT

I have carefully examined the Request for Proposals (RFP), Instructions to Proposers, General and/or Special Conditions, Specifications, and any other documents accompanying or made a part of this Request for Statement of Qualifications.

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

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

CHANGE ORDER PROCEDURE ACKNOWLEDGEMENT

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

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

Name of Business

By: _____
Printed Name: _____
Title: _____

STATE OF _____
COUNTY OF _____

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

[Notary: Please select one]

is personally known to me; or

has produced _____ as identification.

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

This document must be completed and returned with your Submittal

FORM 9.4 – DRUG-FREE PREFERENCE STATEMENT

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

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

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

Name of Business

By: _____
Printed Name: _____
Title: _____

STATE OF _____
COUNTY OF _____

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

_____ and who:
(NAME OF ORGANIZATION)

[Notary: Please select one]

is personally known to me; or

has produced _____ as identification.

Notary Public, State of _____

Printed, typed, or stamped name, commission, and expiration:

This document must be completed and returned with your Submittal

FORM 9.5 – SWORN STATEMENT UNDER SECTION 287.133(3)(A), FLORIDA STATUTES, ON PUBLIC ENTITY CRIMES

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

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

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

Name of Business

By: _____

Printed Name: _____

Title: _____

STATE OF _____

COUNTY OF _____

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

[Notary: Please select one]

is personally known to me; or

has produced _____ as identification.

Notary Public, State of _____

Printed, typed, or stamped name, commission, and expiration:

This document must be completed and returned with your Submittal

FORM 9.6 – ANTI-COLLUSION FORM

ANTI-COLLUSION STATEMENT PROPOSAL FORM:

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

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

IT IS AGREED BY THE UNDERSIGNED PROPOSER THAT THE SIGNING AND DELIVERY OF THE PROPOSAL REPRESENTS THE PROPOSER'S ACCEPTANCE OF THE TERMS AND CONDITIONS OF THE FOREGOING SPECIFICATIONS, CONTRACT AND PROVISIONS, AND IF AWARDED, THIS CONTRACT WILL REPRESENT THE AGREEMENT BETWEEN THE PROPOSERS AND THE CITY OF PORT ORANGE.

NAME OF FIRM: _____

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

PRINTED SIGNATURE: _____

TITLE: _____

ADDRESS: _____

CITY: _____ STATE: _____ ZIP CODE: _____

TELEPHONE: _____ FAX: _____

COMPLETION TIME: _____

F.E.I.N. NUMBER: _____

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

NO PROPOSAL (REASON): _____

This document must be completed and returned with your Submittal

FORM 9.7 – STATEMENT OF BIDDER’S QUALIFICATIONS

The undersigned warrants that he or she is duly authorized to complete this document, and hereby affirms that the information contained in Form 9.7 is complete, true, and correct to the best of their knowledge and belief. **If necessary, questions may be answered on separate paper and attached, with any additional information that may be pertinent.**

- A. Name of Bidder: _____
- B. Permanent main office address: _____
- C. Date organized: _____
- D. If a corporation, where incorporated: _____
- E. How many years have you been engaged in the contracting business under your present firm or trade name? _____
- F. Contracts on hand: (Schedule these, showing amount of each contract and the appropriate anticipated dates of completion.) _____
- G. General character of work performed by your company: _____
- H. Have you ever failed to complete any work awarded to you? If so, where and why? _____
- I. Have you ever defaulted on a contract? If so, where and why? _____
- J. List the more important projects recently completed by your company, stating the approximate cost for each and the month and year completed. _____
- K. List your major equipment currently owned or leased: _____
- L. Experience in work similar to this type of project: _____
- M. Background and experience of the principal members of your organization, including the officers. _____
- N. Credit currently available: \$ _____
- O. Give bank reference: _____
- P. Will you, upon request, fill out a detailed financial statement and furnish any other information that may be required by the Owner? ☐Yes ☐No
- Q. The undersigned hereby authorizes and requests any person, firm, or corporation to furnish any information requested by the Owner in verification of the recitals comprising this Statement of Bidder's Qualifications. _____

Name of Business

By: _____

Printed Name: _____

Title: _____

STATE OF _____
COUNTY OF _____

The foregoing instrument was acknowledged before me by means of _____ physical presence or _____ online notarization, this _____ day of _____, 20____, by _____ who is personally known to me or who produced _____ as identification.

My Commission Expires: _____

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

This document must be completed and returned with your Submittal.

FORM 9.8 – PROFESSIONAL REFERENCES FOR PREVIOUS EXPERIENCE

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

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

(Do not include the City of Port Orange)

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

This document must be completed and returned with your Submittal.

LISTING OF PREVIOUS EXPERIENCE

Commercial Client List

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

List clients to whom you currently provide or have in the past provided equal or similar to those required under the City's contract and as outlined in this bid package. A minimum of three (3) projects shall be listed below in order to propose on this contract.

	Contact Name	Phone	Current Client? Y or N	Number of years' service provided	Description of service
1					
2					
3					

This document must be completed and returned with your Submittal.

FORM 9.9 - LOCAL BUSINESS AFFIDAVIT OF ELIGIBILITY

City of Port Orange

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

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

BUSINESS NAME: _____ CONTACT PERSON/TITLE: _____ MAILING ADDRESS: _____

CITY-STATE-ZIP: _____ Length of Time at Address Provided: _____

Physical Presence of Business: ☐ Headquarters and/or ☐ Principal Place of BusinessAnd within Legal Boundaries: ☐ City of Port Orange ☐ Volusia County ☐ State of Florida

FEIN (Federal Employer Identification Number): _____

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

PHONE NUMBER: _____ FAX: _____

EMAIL: _____

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

ATTESTATION – I understand that:

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

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

Name of Business

By: _____

Printed Name: _____

Title: _____

STATE OF _____

COUNTY OF _____

The foregoing instrument was acknowledged before me by means of _____ physical presence or _____ online notarization, this _____ day of _____, 20____, by _____, as _____ of _____, a _____. He or she is _____ personally known or _____ produced _____ as identification.

Notary Public, State of _____

Printed, typed or stamped name, commission and expiration:

This document must be completed and returned with your Submittal.



CITY OF PORT ORANGE
CONTRACTOR E-VERIFY AFFIDAVIT
IN ACCORDANCE WITH SECTION 448.095, FLORIDA STATUTES

Project Name: _____

Solicitation Number: _____

I, the undersigned, hereby certify that _____ [insert contractor company name] does not employ, contract with, or subcontract with an unauthorized alien, and is otherwise in full compliance with Section 448.095, Florida Statutes.

Further, I certify all employees hired on or after January 1, 2021 have had their work authorization status verified through the E-Verify system. I acknowledge that it is my responsibility to insure full compliance with Section 448.095, Florida Statutes. I am aware enrollment in the E-Verify system for employers can be done at www.e-verify.gov.

A true and correct copy of _____ [insert contractor company name] proof of registration in the E-Verify system is attached to this Affidavit.

By affixing my signature below, I hereby affirm that I am duly authorized to bind the company reference herein and I will comply with all applicable E-Verify requirements.

(Print or Type Name, Title)

(Signature of Affiant)

(Federal Employer ID Number – FEIN)

(E-Verify Number)

STATE OF FLORIDA
COUNTY OF _____

The foregoing instrument was acknowledged before me by means of ☐ physical presence or ☐ online notarization, this _____ day of _____, 20____, by _____ as _____ of _____ on behalf of the company. He/she is personally known to me or has produced _____ (TYPE OF ID) as identification.

Notary Public, State of Florida at Large
Printed, typed or stamped name, commission and expiration of commission term

This document must be completed and returned with your Submittal.

FORM 9.11 – CERTIFICATION REGARDING DEBARMENT

**CERTIFICATION REGARDING DEBARMENT, SUSPENSION AND OTHER RESPONSIBILITY
MATTERS**

**PRIMARY COVERED TRANSACTIONS
(TO BE COMPLETED BY PRIME CONTRACTOR)**

1. The prospective primary participant certifies to the best of its knowledge and belief, that it and its principals:
 - (a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;
 - (b) Have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
 - (c) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph (1) (b) of this certification;
 - (d) Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State or local) terminated for cause or default.
2. Where the prospective primary participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

Organization Name

Bid Number or Project Name

Name(s) and Title(s) of Authorized Representatives

Signature

Date

This document must be completed and returned with your Submittal

PROPOSAL FORM



**PROPOSAL FORM
CITY OF PORT ORANGE
RFP #21-07**

Internet and VoIP Communication Services

Completed Attachment 1 Proposal form MUST be included with Proposal Submission

Instruction to save Attachment from DemandStar website:

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

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

NAME OF BUSINESS:

CONTACT PERSON:

EMAIL ADDRESS:

AUTHORIZED SIGNATURE:

PROPOSAL PRICING

ITEM #	DESCRIPTION	UNIT	TOTAL COST
1	Internet access synchronous bandwidth based on a dedicated internet access speed of 1Gbps	Monthly	\$ -
2	Internet access static IP addressing based on a bundle of 128 dedicated IP addresses	Monthly	\$ -
4	Telephony service for session-initiated protocol (SIP) trunking based on 48 concurrent SIP sessions	Monthly	\$ -
5	Telephony service for portability and ownership for block of 500 direct inward dials (DID)	Monthly	\$ -
6	Telephony service for bundled/bulk usage packages	Monthly	\$ -
7	Telephony service for long distance and international calling rates	Minute	\$ -
		Total Cost of Proposal	\$ -

This document must be completed and returned with your Submittal

AFFIDAVIT REGARDING WORKERS' COMPENSATION

IMPORTANT

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

State of _____

County of _____

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

WITNESS:

By: _____

Name: _____

CONTRACTOR:

Company: _____

By: _____

Name/Title: _____

STATE OF _____

COUNTY OF _____

The foregoing instrument was acknowledged before me by means of _____ physical presence or _____ online notarization, this _____ day of _____, 20__, by _____, as _____ of _____, a _____.
He or she is _____ personally known or _____ produced _____ as identification.

Notary Public, State of _____

Printed, typed, or stamped name, commission, and expiration:

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

LEASED EMPLOYEE AFFIDAVIT
EXHIBIT CONTRACT # _____

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

OR

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

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

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

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

Name of Employee Leasing Company: _____

Workers' Compensation Carrier: _____

A.M. Best Rating of Carrier: _____

Inception Date of Leasing Arrangement: _____

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

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

Name of Contractor: _____

Signature of Owner/Officer: _____

Title: _____ Date: _____



CITY OF PORT ORANGE STANDARD CONTRACT FOR SERVICES

This Standard Contract for Services ("Contract") is entered into this ____ day of _____, 2021, by and between the **CITY OF PORT ORANGE**, a Florida municipal corporation, whose principal address is 1000 City Center Circle, Port Orange, Florida 32129 (the "City"), and _____, a _____ corporation whose principal address is _____ ("Contractor"). The City and Contractor are collectively referred to herein as the "Parties."

1. Provision of Services

(a) The Contractor hereby agrees to furnish an Internet and VoIP, pursuant to Request for Proposal 21-07 ("RFP 21-07"). This Contract together with RFP 21-07, Addenda, and Contractor's proposal, all of which may be referred to as the "Contract" and all of which are made a part hereof by reference, shall constitute the formal written contract between the City and Contractor. For convenience, Section 3, Scope of Services, from RFP 21-07, and the Bid Tabulation as submitted by Contractor in Contractor's Proposal, are attached hereto as **Exhibit "1"**. Vendor Access Security Policy 1-6, revised February 17, 2021, is attached hereto as **Exhibit "2"**. A complete copy of RFP 21-07, Addenda, and Contractor's Proposal are available in the Office of the City Clerk. Contractor represents that they are familiar with the documents that make up the Contract, as referenced hereinabove.

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

Term: The term of this Contract shall become effective on the last date the Contract is signed by the Parties and shall continue for a period of two (2) years ("Term").

Renewal: Upon mutual written agreement of the Parties, this Contract may be renewed for one (1) two-year period, subject to review and approval of the City Manager and budget appropriation.

Manner and Place: The work shall be performed in accordance with and in a manner as required by all current federal, state, county, fire, building and land development codes, laws, ordinances and regulations, and with applicable permits and licenses per the City Code of Ordinances.

Time and Essence: Contractor acknowledges that time is of the essence for this Contract.

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

2. City Obligations. In return for the services identified above, the City agrees to compensate the Contractor at the pricing set forth in Exhibit "1," attached hereto, in an amount not to exceed _____ and

___/100 Dollars (\$_____). All payments shall be governed by the Local Government Prompt Payment Act as set forth in Sections 218.70 through 218.79, Florida Statutes, as amended.

3. Contract Administration. The Information Technology Manager, James Hicks, shall perform contract administration of this Contract. The City may change the contract administrator, from time to time and at any time, upon written notice to Contractor. For notice provisions, see the paragraph below entitled "Notice."

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

5. Termination for Convenience of the City

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

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

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

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

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

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

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

- (i) With respect to all Contract performance prior to the effective date of Notice of Termination, the total of:

- (1) the cost of work performed or supplies delivered;
 - (2) the cost of settling and paying any reasonable claims as provided in paragraph (c) (iv), above;
 - (3) a sum as profit on (a) determined by the Finance Director to be fair and reasonable.
- (ii) The total sum to be paid under (i) above shall not exceed the contract price, as further reduced by the contract price of work or supplies not terminated.

(g) In the event that the Contractor is not satisfied with any payments which the Finance Director shall determine to be due under this clause, the Contractor may appeal any claim to the City Council in accordance with Paragraph 23 of this contract concerning disputes.

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

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

8. Examination of Records

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

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

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

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

(a) Keep and maintain public records required by the City to perform the service.

(b) Upon request from the City's custodian of public records, provide the City with a copy of the requested record or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in Section 119, Florida Statutes, or as otherwise provided by law.

(c) Ensure that public records that are exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the Contract term and following completion of the Contract if the Contractor does not transfer the records to the City.

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

If Contractor does not comply with a public records request, the City shall deem the non-compliance a breach of this Contract, and the Contractor may be subject to penalties under Section 119.0701, Florida Statutes.

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

10. Termination for Non-Appropriation of Funds

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

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

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

Policies other than Workers' Compensation shall be issued by insurers licensed and/or duly authorized under Florida Law to do business in the State of Florida and all insuring companies are required to have a minimum rating of "A-" in the "Best Key Rating Guide" published by A.M. Best & Company, Inc. Contractor shall not commence work under this Contract until the City has received a certificate or certificates of insurance with endorsement evidencing the required insurance. Insurer shall provide the City written notice of cancellation, nonrenewal or any other changes in coverage no later than thirty (30) days prior to the effective date of the change and shall provide notice to the City no later than 10 days after non-payment. The Certificates of Insurance and required insurance policies shall contain provisions that thirty (30) days prior written notice shall be given to the City of any cancellation, intent not to renew, or reduction in the policies or coverages.

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

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

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

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

Standard Insurance Requirements											
	Insurance	Standards	Additional Requirements								
☒	<u>Workers' Compensation</u> The Contractor shall maintain coverage for its employees with statutory workers' compensation limits, and no less than the limits indicated in the Schedule of Limits for Employers' Liability. Said coverage shall include a waiver of subrogation in favor of the City. The City will not accept elective exemptions. Any contractor using an employee leasing company shall complete the Leased Employee Affidavit Form Exhibit.	<table><tr><td><u>Contract Amount</u></td><td><u>Limits</u></td></tr><tr><td>Up to \$10 million</td><td>Statutory/\$500,000</td></tr><tr><td>\$10 - \$20 million</td><td>Statutory/\$1,000,000</td></tr><tr><td colspan="2">Contracts over \$20 million To Be Determined by the City.</td></tr></table>	<u>Contract Amount</u>	<u>Limits</u>	Up to \$10 million	Statutory/\$500,000	\$10 - \$20 million	Statutory/\$1,000,000	Contracts over \$20 million To Be Determined by the City.		☐ If Contract requires work on or about navigable waters, Longshoreman's and Harbor Workers' Coverage required. ☐ If vessels involved, Jones Act coverage with limits of \$500,000 required.
<u>Contract Amount</u>	<u>Limits</u>										
Up to \$10 million	Statutory/\$500,000										
\$10 - \$20 million	Statutory/\$1,000,000										
Contracts over \$20 million To Be Determined by the City.											
☒	Comprehensive General Liability (including Completed Operations and Contractual Liability)	<u>Limits:</u> Combined Single Limit Bodily Injury and Property damage \$1,000,000 occurrence \$1,000,000 aggregate	☐ When work is on or under Railroad rights of way or properties, the Contractor shall take out and maintain during the life of the Contract, Railroad protective liability and property damage insurance in amounts as requested by the Railroad.								

☒	Comprehensive Business, Automobile Liability to include all owned, hired and non-owned automobiles.	<u>Limits:</u> Auto Liability Body Injury and Property Damage: \$1,000,000 each occurrence \$1,000,000 aggregate	
Additional Insurance Requirements			
☐	Property Insurance Builders Risk. <u>Additional Coverage:</u>	<u>Limits:</u> Buildings - Completed value of Contract. "All Risk" coverage on latest ISO for or its equivalent. Permission granted to occupy. Owner named as insured AIMA	If Agreement requires handling or installation of Owner's equipment, coverage should be furnished on "All Risk" form, including transit and Owner shall be named.
☐	Professional Liability	<u>Limits:</u> Coverage - \$1,000,000	
☐	Installation Floater (IT)	<u>Limits:</u> Coverage - \$ <u>To be determined.</u>	
☐	Contractor Pollution Liability	<u>Limits:</u> Coverage - \$1,000,000	
☐	Errors and Omissions	<u>Limits:</u> Coverage - \$1,000,000	
☐	Umbrella Policy	<u>Limits:</u> Coverage – \$ <u>To be determined.</u>	
☐	Payment and Performance Bond Required	<u>Limits:</u> Coverage - Equal to amount of Contract.	
☐	City Manager waives Payment and Performance Bond for work under \$100,000.00.		
☐	Unless otherwise required by law, City Manager waives Insurance for FOB goods under \$25,000.00.		

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

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

14. Modifications or Changes to this Contract

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

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

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

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

15. Sovereign Immunity. The City expressly retains all rights, benefits and immunities of sovereign immunity in accordance with Section 768.28, Florida Statutes. Notwithstanding anything set forth in any section of this Contract

to the contrary, nothing in this Contract shall be deemed as a waiver of immunity or limits of liability of the City beyond any statutory limited waiver of immunity or limits of liability which may have been adopted by the Florida Legislature or may be adopted by the Florida Legislature and the cap on the amount and liability of the City for damages regardless of the number or nature of claims in tort or equity shall not exceed the dollar amount set by the legislature for tort. Nothing in this Contract shall inure to the benefit of any third party for the purpose of allowing any claim against the City which would otherwise be barred under the Doctrine of Sovereign Immunity or operation of law.

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

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

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

18. Inspection

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

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

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

19. Liability for Loss or Damage.

(a) Contractor shall be liable for any loss of, or damage to, City property caused by the negligence,

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

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

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

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

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

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

21. **Disputes.** The City Manager, who shall reduce his decision to writing and mail or otherwise furnish a copy thereof to Contractor, shall decide disputes with respect to this Agreement. The decision by the City Manager shall be final and binding unless, within five (5) business days from the date of delivery of the decision of the City Manager, appeal is made to the City Council in writing and delivered to the City Clerk, Robin L. Fenwick, MMC. The decision of the City Council shall be final and binding unless set aside by a court of competent jurisdiction as fraudulent, capricious, arbitrary, or so grossly erroneous as necessary to imply bad faith, or not to be supported by any evidence.

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

23. **Controlling Law.** **THIS AGREEMENT CONTAINS IMPORTANT MATTERS AFFECTING LEGAL RIGHTS AND IS ACCEPTED AND ENTERED INTO IN FLORIDA AND ANY QUESTION REGARDING ITS VALIDITY, CONSTRUCTION, ENFORCEMENT, OR PERFORMANCE SHALL BE GOVERNED BY FLORIDA LAW. ANY**

LEGAL PROCEEDING ARISING FROM OR IN ANY WAY REGARDING THE AGREEMENT SHALL HAVE ITS VENUE LOCATED EXCLUSIVELY IN THE CIRCUIT COURT OF VOLUSIA COUNTY, FLORIDA, AND THE PARTIES HEREBY EXPRESSLY CONSENT AND SUBMIT THEMSELVES TO THE PERSONAL JURISDICTION AND VENUE OF THE COURT.

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

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

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

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

Copy to: City of Port Orange
Attention: James Hicks, Information Technology Manager
1000 City Center Circle
Port Orange, Florida 32129
(386) 506-5545

Contractor: _____
Attention: _____

() - - Telephone
@ .com

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

27. Contract Construction

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

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

[Remainder of this page intentionally left blank]

Witnesses:

By: _____

Printed Name: _____

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

Printed Name: _____

Date: _____

STATE OF _____
COUNTY OF _____

The foregoing instrument was acknowledged before me by means of ____ physical presence or ____ online notarization, this ____ day of _____, 2021, by _____, as _____ of _____, a _____ corporation. He/She is ____ personally known or ____ produced _____ as identification.

Notary Public, State of _____

Printed, typed or stamped name, commission and expiration:

Witnesses:

CITY OF PORT ORANGE

Printed Name: _____

By: _____
Jamie L. Miller, Interim City Manager

Printed Name: _____

Date: _____

STATE OF FLORIDA
COUNTY OF VOLUSIA

The foregoing instrument was acknowledged before me by means of ____ physical presence or ____ online notarization, this ____ day of _____, 2021, by Jamie L. Miller, as Interim City Manager of the City of Port Orange, a Florida municipal corporation, on behalf of the city. She is ____ personally known or ____ produced _____ as identification.

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

Witnesses:

ATTEST:

Printed Name: _____

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

Printed Name: _____

Date: _____

STATE OF FLORIDA
COUNTY OF VOLUSIA

The foregoing instrument was acknowledged before me, by means of ____ physical presence or ____ online notarization, this ____ day of _____, 2021, by Robin L. Fenwick, as City Clerk of the City of Port Orange, a Florida municipal corporation, on behalf of the city. She is ____ personally known or ____ produced _____ as identification.

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



End of Solicitation Documents



Request For Proposals Evaluation Ranking Summary

Date: 9/16/2021

RFP #21-07 Internet and VoIP Services

Internet and VoIP Services	
Firm Name	Total Score
AT&T Corp.	246
CenturyLink Communications, LLC, dba Lumen Technologies Group ("Lumen")	204
Charter Communications Operating, LLC	265
ENA Services, LLC	219
Interactive Services Network, Inc., dba IPFONE	225

Comments

On September 16, 2021 a Proposal Evaluation Committee scored proposals from the five firms listed above. The committee agreed by consensus to recommend for award Charter Communications Operating, LLC as they achieved the highest overall score for the services for which they each submitted proposals.

"Failure to file a protest within the time prescribed in section 120.57(3), Florida Statutes, or failure to post the bond or other security required by law within the time allowed for filing a bond shall constitute a waiver of proceedings under chapter 120, Florida Statutes. " The 72 hour posting requirement will elapse on September 24, 2021 at 5:00 p.m. E.S.T.



NOTICE OF INTENT TO AWARD

RFP #21-07

INTERNET AND VoIP SERVICES

September 21, 2021

On July 12, 2021, Purchasing received five (5) proposals for RFP 21-07 Internet and VoIP Services.

After review of the responses, City Staff has made a recommendation to award to the following firm:

CHARTER COMMUNICATIONS OPERATING, LLC

This recommendation of award will be presented to City Council for approval on or about October 19, 2021. Interested parties may review the City Council agenda at <https://www.port-orange.org/>

Joseph Castro

Buyer

COMMERCIAL TERMS OF SERVICE

These Terms of Service include all Attachments hereto ("Attachment(s)"), and all other documents identified hereunder, each of which are incorporated herein by reference. The Attachments further describe Spectrum's services (each a "Service" or collectively the "Services") and set forth additional terms and conditions for the applicable Service. Spectrum and Customer may each be referred to as a "Party" or collectively as the "Parties." Unless specifically set forth in any Attachment, capitalized terms shall have the meanings set forth in this Service Agreement.

GENERAL

1. SERVICE AGREEMENT TERM. The Service Agreement shall be effective upon the earlier to occur of (a) the latest date of the signatures of the Parties; or (b) Spectrum's commencement of performance (the "Effective Date"). The Service Agreement shall remain in effect until the expiration or proper termination of the final existing Service Order entered into under this Service Agreement (the "Term").

2. SERVICES. Customer shall request Services hereunder by submitting orders in a manner required by Spectrum. All submitted Service Orders are subject to approval and acceptance by Spectrum. Upon Spectrum's acceptance of a Service Order, as indicated either by: (a) Spectrum's written acceptance, (b) by Spectrum's delivery of the Services, or (c) commencement of installation, such Service Order shall be deemed incorporated into the Service Agreement. Spectrum shall provide the Services to Customer at the Service address(es) specified in the applicable Service Order ("Service Location(s)").

3. ORDER TERM. The "Initial Order Term" is the time period starting on the date the Services are functional in all material respects and available for use (the "Billing Start Date"), and continuing for the period of time specified in the Service Order(s). If no Initial Order Term is specified in a Service Order, the Initial Order Term is twelve (12) months from the Billing Start Date. Upon expiration of the Initial Order Term, the applicable Service Order shall automatically renew for successive one-month terms (each a "Renewal Order Term", collectively with the Initial Order Term, the "Order Term"), unless either Spectrum or Customer elects to not renew the Service Order by notice provided to the other at least thirty (30) days in advance of the expiration of the then-current Order Term.

4. AVAILABILITY OF FACILITIES. Customer understands that certain Services, or certain features, may not be available in all Spectrum service areas, may change from time to time and Spectrum may decline to provide any requested Services. Spectrum's ability to provide Services depends upon its ability to secure and retain, without additional expense, suitable facilities, third party connections, and rights to construct and maintain necessary facilities such as pole attachments and conduits to serve the Service Location. If Spectrum is unable to secure and retain such items in accordance with the foregoing, Spectrum may decline to accept or cancel a Service Order upon notice to Customer in accordance with Section 5(f). Spectrum may act as Customer's agent for ordering access connection facilities provided by other providers or entities when authorized by Customer to allow connection of a Service Location to the Network.

5. SERVICE LOCATION ACCESS AND INSTALLATION.

(a) Access. Spectrum requires reasonable access to each Service Location at any time throughout the Term as necessary for Spectrum to provide the Services and to review, install, inspect, maintain, repair, or remove any Spectrum-provided cabling, modems, related splitters, routers or other equipment ("Spectrum Equipment") used to provide the Services. If Customer owns or controls the Service Location(s), Customer hereby grants Spectrum permission to enter the Service Location(s) in order for Spectrum to fulfill its obligations and exercise its rights under the Service Agreement. If a Service Location is not owned or controlled by Customer, Customer will obtain, with Spectrum's reasonable assistance, appropriate right of access. If such right of access for Spectrum is not obtained by either Party, then Spectrum may decline Customer's request for Services, or terminate or amend the affected Service Order with respect to the Service Location that Spectrum cannot access, without any liability to Customer.

(b) Installation Review. Spectrum may perform, either before or after acceptance of a Service Order, an installation review (including a review of Customer's inside wiring) of each proposed Service Location prior to installation of the Services to determine the serviceability of such network location and/or the need to extend Spectrum's facilities, fiber optic cable, electronics, or other equipment (collectively, the "Network") to provide the Services at the Service Location. If during the installation review, review of available facilities and access, site preparation, or installation activities described herein, Spectrum determines that additional work is required to enable Spectrum to deliver the Services to the Service Location, Spectrum will notify Customer of any additional Service Charges (as defined below) in excess of the amounts previously specified in a quote or Service Order. Upon request, Customer shall provide Spectrum with accurate site and/or physical network diagrams or maps of a Service Location, including electrical and other utility service maps.

(c) Site Preparation. Customer shall be responsible for necessary preparations at the Service Location(s) for delivery and installation of Spectrum Equipment and the installation and ongoing provision of Services, including the relocation of Customer's equipment, furniture, and furnishings as necessary to access the Spectrum Equipment or Services. In addition, Customer shall provide Spectrum with floor space, rack space, other space, inside wiring, and clean power all as is reasonably necessary for the installation, operation, and delivery of Spectrum Equipment and Services at the Service Location(s). Customer shall not charge Spectrum, and shall ensure that Spectrum does not incur, any fees or expenses whatsoever in connection with Customer's provision of space, power, inside wiring, or access as described herein, or otherwise in connection with Customer's performance of its obligations pursuant to this section; and any such fees or expenses charged by any other end user accessing or using the Services ("End User") shall be borne solely by Customer. Any failure or refusal by Customer to be ready to receive Services does not release Customer from its obligation to pay Service Charges for any Services that would otherwise be available for Customer's use.

(d) Installation. Spectrum will schedule one or more installation visits with Customer. At the Customer's request, Spectrum may perform installation or maintenance on weekends or times other than during normal business hours; provided, however, Customer may be assessed reasonable, additional Service Charges based on Spectrum's actual incurred labor, material or other costs for such non-routine installation or maintenance. Customer's authorized representative must be present during installation.

If Spectrum is unable to install the Service as a result of (i) Customer's (or any End User's) failure to deliver any required materials, support or information to Spectrum; (ii) Customer's (or any End User's) failure to provide access to a Service Location; or (iii) Spectrum's inability to obtain access to equipment at the Service Location as necessary for installation of the Service, or (iv) Customer's Equipment (as defined herein) being inadequate to interconnect with the Services, then Customer shall pay Spectrum a Service Charge at Spectrum's then prevailing rates for any installation trip made by Spectrum and an additional Service Charge for each subsequent trip necessary to perform the Service installation. In addition, if Spectrum's installation of the Service is delayed as a result of Customer's actions or inactions as set forth above or if Customer is otherwise refusing or not ready to receive Services, then Spectrum will notify Customer that Spectrum is ready to finalize installation of the Services (the "Ready Notice") and may begin invoicing Service Charges as set forth in Section 7 upon the earlier of the Billing Start Date or sixty (60) days after the date of the Ready Notice.

Customer shall perform interconnection of the Services and Spectrum Equipment with any Customer- provided or End User equipment (collectively, "Customer Equipment"), unless otherwise set forth in an Attachment or agreed in writing between the Parties, and shall conform its Customer Equipment and software, and ensure that each End User conforms its equipment and software, to the technical specifications for the Service provided by Spectrum.

(e) Spectrum shall be responsible for reasonable restoration efforts necessary to address any displacement resulting from excavation and for those damages directly caused by Spectrum's faulty workmanship or installation of the Service, provided that the boring of holes or insertion of fasteners through the surface of walls for attachment of peripheral equipment will not be deemed damages but rather part of normal workmanship. If the installation and maintenance of Services at the Service Locations is or becomes, in Spectrum's sole opinion, hazardous or dangerous to Spectrum's employees or Network, the public, or property, including without limitation due to the presence of asbestos or other hazardous materials, Spectrum may refuse to install and maintain such Service or stop providing Services until such time as the condition is remedied or an alternative Service Location is designated that is not hazardous or dangerous. Customer shall bear any additional costs incurred by Spectrum arising from any such hazardous or dangerous conditions.

(f) Service Order Revisions and Cancellations. If, either before or after a Service Order is executed, or during the course of this Service Agreement, Spectrum determines that: (i) there is a lack of available service as detailed in Section 4, or the criteria outlined in Section 5 are not met; (ii) additional work is necessary to enable Spectrum to deliver the Services to the Service Location; (iii) access, transmission medium, equipment, adequate transmission capacity, services from or interconnection with the services or facilities of other providers, would require an additional cost or are unavailable; (iv) Customer's inside wiring is causing signal leakage which violates the Federal Communications Commission's guidelines; or (v) there is any other cause beyond Spectrum's control that causes an adverse effect on Spectrum's ability to provide the Service, then Spectrum may, at Spectrum's sole discretion, either decline to accept or cancel a Service Order. Alternatively, Spectrum will notify Customer of any additional Service Charges in excess of the amounts previously specified in a quote or Service Order. If Spectrum notifies Customer that additional Service Charges will apply and if Customer does not agree to pay such Service Charges by executing a revised Service Order within five (5) business days of receiving the same, Customer and Spectrum shall each have the right to cancel the applicable Service Order or, if no Service Order has been executed, Spectrum has the right to decline to accept a pending Service Order.

6. EQUIPMENT.

(a) Equipment Responsibilities and Safeguards. Spectrum shall use commercially reasonable efforts to maintain and secure the Spectrum Equipment used by Spectrum to provide Services to Customer. Except as otherwise provided in this Service Agreement or any Service Order(s), Customer shall be responsible for the maintenance or repair of any cable, electronics, structures, equipment, or materials owned or provided by Customer. Customer shall not, and shall not cause any third party to, move, modify, disturb, alter, remove, relocate to another Service Location, install software on the Spectrum Equipment not provided by Spectrum, or otherwise tamper with any portion of the Spectrum Equipment without the prior consent of Spectrum. Customer shall be responsible for loss or damage to the Spectrum Equipment while at Customer's or an End User's facilities. Customer shall also ensure that all Spectrum Equipment at Customer's and End Users' Service Location(s) remains free and clear of all liens and encumbrances.

(b) Customer Security Responsibilities. Customer shall be responsible for all access to and use of the Service, including whether or not Customer has knowledge of or authorizes such access or use. Customer shall be responsible for the implementation of reasonable security measures and procedures with respect to use of and access to the Service Location, Service, and Spectrum Equipment. Customer shall secure and maintain any and all Customer Equipment, including, but not limited to, Private Branch Exchanges (including other non-Spectrum switches, collectively, "PBXs"), where applicable, and any applications accessible through use of Customer Equipment, and shall be solely responsible for any conduct through and any charges incurred on Customer's Service account, regardless of whether such activity or charges are authorized by Customer management or involve fraudulent activity until such time as Customer informs Spectrum of any fraudulent or unauthorized access. Without limiting Customer's responsibilities, Spectrum has the right to implement reasonable measures to track, manage, and secure the connection between any Customer Equipment or applications used by Customer, End Users, or any third party who accesses the Customer Equipment and the Spectrum Network, including without limitation authentication or other security access procedures. Spectrum may suspend any affected Services if Spectrum discovers or becomes aware of any breach or compromise of the security of any Customer Equipment, Service, Service Location, Spectrum Equipment, or connection to the Spectrum Network.

(c) Equipment Return, Retrieval, Repair, and Replacement. Upon termination or expiration of this Service Agreement or Service Order(s) ("Termination"): Customer shall immediately cease all use of and promptly return, if applicable, to Spectrum any software or software services provided by Spectrum ("Software"). Additionally at the discretion and direction of Spectrum: (x) Customer shall return the Spectrum Equipment to Spectrum; (y) Customer shall allow Spectrum to retrieve the Spectrum Equipment, which Spectrum Equipment must be in the condition in which the Spectrum Equipment was originally received by Customer, subject to ordinary wear and tear; or (z) Spectrum may choose not to recover all or certain portions of the Spectrum Equipment at the Customer's Location

If, upon Spectrum's request, Customer fails to return the Spectrum Equipment, or does not allow Spectrum to retrieve the Spectrum Equipment within fifteen (15) days after Services are terminated, Spectrum may, at its discretion charge Customer an amount equal to: (i) Spectrum's then-applicable unreturned equipment charge, or the retail cost of replacement of the unreturned Spectrum Equipment; plus (ii) any and all costs and expenses associated with Spectrum's unsuccessful attempts to retrieve the Spectrum Equipment. If applicable, Customer shall pay for the repair or replacement of any damaged Spectrum Equipment, except such repairs or replacements as may be necessary due to normal and ordinary wear and tear or material or workmanship defects, together with any costs incurred by Spectrum in obtaining or attempting to regain possession of the Spectrum Equipment. The proper disposition of any Spectrum Equipment that is not returned to, or recovered by, Spectrum will be the sole responsibility of Customer, and must be in accordance with applicable laws. The foregoing Customer obligations will survive the termination of Service.

7. **STANDARD PAYMENT TERMS.** Customer shall pay recurring and non-recurring charges, taxes, and fees for the Services in the amount specified on the Service Order and other applicable charges as described in this Service Agreement (collectively, "Service Charges").

(a) Charges. Spectrum invoices for monthly recurring charges specific to the Service(s) ("MRCs"), plus applicable taxes, fees, and surcharges, in advance on a monthly basis. Spectrum invoices for non-recurring, one-time charges ("OTCs") for construction or installation charges after the Billing Start Date or as specified in the Service Order. All other charges, including usage-based charges (e.g., phone usage, pay-per view charges), will be invoiced monthly in arrears. Service Charges are payable within thirty (30) days after the date appearing on the invoice. If Spectrum fails to present a Service Charge in a timely manner, such failure shall not constitute a waiver of the charges for the Services to which it relates, and Customer shall be responsible for and pay such Service Charges when invoiced in accordance with these payment terms. Spectrum shall have the right to increase MRCs for each Service after the Initial Order Term for such Service upon thirty (30) days' notice to Customer.

(b) Taxes, Surcharges, and Fees. Customer shall pay all applicable taxes, fees, or surcharges imposed on or in connection with the Services that are the subject of this Service Agreement, including but not limited to applicable federal, state, and local sales, use, excise, telecommunications, or other taxes, franchise fees, federal and state universal service fund fees, and other state or local governmental charges or regulatory fees, excluding income taxes measured on Spectrum's net income. If a Customer wishes to claim tax-exempt status, then Customer must supply Spectrum with a copy of Customer's tax exemption certificate or other documentation supporting Customer's certification of its entitlement to such exempt status within fifteen (15) days of installation of applicable Services. If Customer supplies such documentation after that time, Spectrum will apply it to Customer's account on a prospective basis, allowing Spectrum at least thirty (30) days for processing. To the extent such documentation is held invalid for any reason, Customer agrees to pay or reimburse Spectrum for any tax or fee not collected or liability incurred, including without limitation related interest and penalties arising from Spectrum's reliance on such invalid certificate or documentation.

Customer hereby consents that Spectrum may disclose such written documentation, which may include a tax exemption form, to any governmental authority. Tax-exempt status shall not relieve Customer of its obligation to pay applicable franchise fees or other non-tax fees and surcharges since the application of such fees and surcharges may not be governed by the tax standing of Customer. Spectrum reserves the right, from time to time, to change the surcharges for Services under this Service Agreement to reflect incurred costs, charges, or obligations imposed on Spectrum to the extent permitted, required, or otherwise not prohibited under applicable law (e.g., universal service fund charges). Furthermore, Spectrum shall have the right to collect or recover from Customer the amount of any state or local fees or taxes arising as a result of this Service Agreement, which are imposed on Spectrum or its services, or otherwise assessed or calculated based on Spectrum's receipts from Customer that Spectrum is entitled under applicable law to pass through to or otherwise charge Customer for Customer's use or receipt of the Services. Such fees or taxes shall be invoiced to Customer in the form of a surcharge included on Customer's invoice.

To the extent that a dispute arises under this Service Agreement as to which Party is liable for fees or taxes, Customer shall bear the burden of proof in showing that the fee or tax is imposed upon Spectrum's net income. This burden may be satisfied by Customer producing written documentation from the jurisdiction imposing the fee or tax indicating that the fee or tax is based on Spectrum's net income. Customer acknowledges that currently, and from time to time, there is uncertainty about the taxability or regulatory classification of some of the Services Spectrum provides and, consequently, uncertainty about what fees, taxes and surcharges are due to or from Spectrum or from its customers. Customer agrees that Spectrum has the right to determine, in its sole discretion, what fees, taxes, and surcharges are due and to collect and remit them to the relevant governmental authorities, or to pay and pass them through to Customer. Customer hereby waives any claims it may have regarding Spectrum's collection or remittance of such fees, taxes, and surcharges.

(c) Change Requests. Any charges associated with Service and Spectrum Equipment or Customer Equipment installations, changes, or additions requested by Customer subsequent to executing a Service Order for the applicable Service Location are the sole financial responsibility of Customer. Spectrum shall notify Customer of any additional OTCs and/or adjustments to MRCs associated with or applicable to such Customer change requests prior to making any such change. Customer's failure to accept such additional charges within five (5) business days of receiving such notice shall be deemed a rejection by Customer, and Spectrum shall not be liable to perform any work giving rise to such charges. For accepted charges, Customer shall be assessed such additional OTCs and/or adjustments of the MRCs either (i) in advance of implementation of the change request or (ii) beginning on Customer's next and/or subsequent invoice(s).

(d) Site Visits and Repairs. If Spectrum visits a Service Location to either inspect the Services or respond to a service request, and Spectrum reasonably determines that the cause of the service issue is not due to a problem arising from Spectrum's Network or Spectrum Equipment, but rather is due to Customer misuse, abuse, or modification of the Services, Customer Equipment or facilities, or due to similar acts by a third party not under Spectrum's control or direction, then Spectrum may invoice Customer at Spectrum's then-prevailing commercial rates for an on-site visit, plus any charges for Spectrum Equipment repair or replacement as a result of Customer or third party damage that may be necessary.

(e) Invoicing Disputes; Late and Collection Fees. Customer must provide notice to Spectrum of any disputed charges within sixty (60) days of the invoice date on which the disputed charges appear for Customer to receive any credit that may be due. Customer must have and present a reasonable basis for disputing any amount charged. Undisputed amounts not paid within thirty (30) days of the invoice date shall be past due and subject to a late fee up to the lesser of 1.5% of the MRC per month or the maximum amount permitted by law. If Services are suspended due to late payment, Spectrum may require that Customer pay all past due charges, a reconnect fee, and one or more MRCs in advance before reconnecting Services. Spectrum may charge a reasonable service fee for all returned checks and bankcard, credit card or other charge card charge-backs. Customer shall be responsible for all expenses, including reasonable attorney fees and collection costs, incurred by Spectrum in collecting any unpaid amounts due under this Service Agreement.

(f) Credit Verification. Spectrum shall have the right to verify Customer's credit standing at any time.

(g) Bundled Pricing. If Customer has selected a bundled offer, meaning a discounted MRC for receiving more than one Spectrum Service ("Bundle"), then the following conditions shall apply:

- i. In consideration for Customer's purchase of all Services in the Bundle, and only with respect to that period of time during which Customer continues to purchase the specific Services in such Bundle and during which such Bundle is in effect, the correlating discount to the Services in such Bundle, ordered pursuant to the Spectrum program governing such Bundle, will be reflected in the MRC for the respective Services.
- ii. Upon Termination by Customer, for any reason other than a Spectrum Default, of any Service component of the applicable Bundle, the pricing for the remaining Service(s) shall revert to Spectrum's unbundled pricing for such Service(s) in effect at the time of Termination. Termination liability applicable to the Services under this Service Agreement shall otherwise remain unchanged.

8. ADMINISTRATIVE WEB SITE. Spectrum may, at its sole option, make one or more administrative web sites, including without limitation www.spectrum.net, available to Customer in connection with Customer's use of the Services (each an "Administrative Web Site"). Spectrum may furnish Customer with one or more user identifications and/or passwords for use on the Administrative Web Site and Customer must promptly change any Spectrum-provided user identifications and passwords to a secure, Customer-designated user identification and password. Customer shall be responsible for the confidentiality and use of such user identifications and passwords, whether provided by Spectrum or designated by Customer, and any equipment or devices used to access any Administrative Web Site, and shall immediately notify Spectrum if there has been an unauthorized release, use, or other compromise of any user identification or password. In addition, Customer agrees that its authorized users shall keep confidential and not distribute any information or other materials made available by the Administrative Web Site. Customer shall be solely responsible for all use of the Administrative Web Site. Spectrum shall not be liable for any loss, cost, expense, or other liability arising out of any Customer use of the Administrative Web Site.

Spectrum may change or discontinue the Administrative Web Site, or Customer's right to use the Administrative Web Site, at any time. Any additional terms and policies applicable to Customer's use of the Administrative Web Site will be posted on the site.

9. SUPPORT. Spectrum shall provide contact information for inquiries and remote problem support for the Services. All such Customer support shall be provided only to Customer's designated personnel or as mutually agreed upon by Spectrum and Customer. Customer is responsible for all communications and support for its End Users. Customer shall provide routine operational support for Spectrum Equipment located at a Service Location, including without limitation, by performing reboots as requested by Spectrum. Customer is responsible for the installation, repair, and use of Customer Equipment, including without limitation, Customer-supplied third-party hardware, or software for the use of Spectrum Service or third party services.

Spectrum does not support third-party hardware or software used in conjunction with third-party services or supplied by Customer. Any questions concerning third-party hardware or software should be directed to the provider of that product. Spectrum assumes no liability or responsibility for the installation, maintenance, compatibility or performance of third-party software, or any Customer Equipment or Customer-supplied software with the Services. If such third-party equipment or software impairs the Services, Customer shall continue to pay all applicable Service Charges. If, at Customer's request, Spectrum should attempt to resolve difficulties caused by such third-party equipment or software, such efforts shall be performed at Spectrum's discretion and subject to Service Charges as set forth in Section 7(d).

10. CUSTOMER REPRESENTATIONS AND OBLIGATIONS

(a) Representations. Customer represents and warrants to Spectrum that: (i) Customer has the authority to execute, deliver and carry out the terms of this Service Agreement, and (ii) its End Users and any person who accesses any Services at the Service Location, will use the Service and Network for Customer's internal business purposes and will comply with the terms of this Service Agreement.

(b) No Reselling. Customer shall not re-sell or re-distribute (whether for a fee or otherwise) access to the Service(s) or system capacity, or any part thereof, in any manner other than for Customer's internal business without the express prior consent of Spectrum, including without limitation, any use to provide services for the benefit of, or on behalf of, any third party other than Customer or its End Users.

(c) No Illegal Purpose or Unauthorized Access. Customer shall not use or permit End Users or third parties to use the Service(s), including the Spectrum Equipment and Software, for any illegal purpose, or to achieve unauthorized access to any computer systems, software, data, or other copyright or patent protected material.

(d) No Interference. Customer shall not interfere with or cause technical difficulties for other customers' use of equipment or Services or interfere with or disrupt the Spectrum Network, backbone, nodes, other Services, or third-party providers. Customer shall not install any equipment, including without limitation, any antenna or signal amplification system, at the Service Location that interferes with the Services.

(e) Applicable Laws. With respect to Customer's and End Users' use of the Service (including the transmission or use of any content via the Service), Customer shall comply, and shall ensure that its End Users comply, with all applicable laws and regulations in addition to the terms of this Service Agreement. Spectrum shall have the right to audit Customer's use of the Service remotely or otherwise, to ensure compliance with this Service Agreement.

(f) Acceptable Use. As between the Parties, Customer is solely responsible for (i) all use (whether or not authorized) of the Service by Customer, any End User or any unauthorized person or entity, which use shall be deemed Customer's use for purposes of this Service Agreement, (ii) all content that is viewed, stored or transmitted via the Service, as applicable, and (iii) all third-party charges incurred for merchandise and services accessed via the Service, if any. Customer shall not use, or allow the Services to be used, in any manner that would violate the applicable Spectrum Acceptable Use Policies or that would cause, or be likely to cause, Spectrum to qualify as a "Covered 911 Service Provider" as defined in 47 C.F.R. §9.19 or any successor provision of the rules of the Federal Communication Commission.

For avoidance of doubt, Customer and Spectrum agree that any failure to satisfy the covenants set forth in the preceding sentence shall constitute a material breach of the Service Agreement.

11. PERFORMANCE. Unless otherwise set forth in an Attachment or service level agreement, Spectrum will use commercially reasonable efforts to provide the Services to Customer twenty-four (24) hours per day, seven (7) days per week. It is possible, however, that there will be interruptions of Service. The Service may be unavailable from time-to-time either for scheduled or unscheduled maintenance, technical difficulties, or for other reasons beyond Spectrum's reasonable control. Temporary service interruptions or outages for such reasons, as well as service interruptions or outages caused by Customer, its agents and employees, or by a Force Majeure Event, shall not constitute a failure by Spectrum to perform its obligations under this Service Agreement.

12. MONITORING, EQUIPMENT UPGRADES AND NETWORK MODIFICATIONS. Spectrum has the right, but not the obligation, to upgrade, modify, and enhance the Spectrum Network and the Service and take any action that Spectrum deems appropriate to protect or improve the Service and its facilities. Spectrum shall have the right, but not the obligation, to monitor, record, and maintain oral communications with Customer regarding Customer's account or Services for the purpose of service quality assurance, or as permitted under applicable law.

13. DEFAULT, SUSPENSION OF SERVICE, AND TERMINATION.

(a) Default. A Party shall be in default under this Service Agreement if it has failed to comply with the terms of this Service Agreement or any Service Orders, including without limitation the obligation to pay any amounts due, and such Party fails to correct each such noncompliance within thirty (30) days of receipt of notice from the non-defaulting Party describing in reasonable detail the default or noncompliance ("Default").

(b) Mutual Termination Rights. Either Party may terminate this Service Agreement or a Service Order if: (i) the other Party is in Default; or (ii) the other Party liquidates, is adjudicated as bankrupt, makes an assignment for the benefit of creditors, invokes any provision of law for general relief from its debts, initiates any proceeding seeking general protection from its creditors, or is removed or delisted from a trading exchange.

(c) Termination for Convenience by Customer. Notwithstanding any other term or provision in this Service Agreement, Customer may terminate a Service Order, or this Service Agreement, at any time upon thirty (30) days prior notice to Spectrum, subject to payment of all outstanding amounts due, payment of any applicable Termination Charges (as defined below), and the return of any Spectrum Equipment.

(d) Spectrum's Right to Suspend. Spectrum shall have the right, at its option, without prior notice, and in addition to any other rights of Spectrum expressly set forth in this Service Agreement and any other remedies it may have under applicable law to suspend Services or any component thereof if Customer fails to comply with any applicable laws or regulations or this Service Agreement, or if Customer or its End Users' use of the Service is determined by Spectrum, in its sole discretion, to result in a material degradation of the Spectrum Network until Customer remedies any such noncompliance or degradation. Any suspension shall not affect Customer's on-going obligation to pay Spectrum any amounts due under this Service Agreement. If Spectrum suspends any Service, Spectrum may require the payment of reconnect or other charges before restarting the suspended Service.

(e) Termination Charges. Upon Termination, Customer must pay all Services Charges then due for Services provided through the effective date of Termination. In addition, if Termination is due to Customer Default or for Customer's convenience, Customer must pay Spectrum a termination charge (a "Termination Charge"), which the Parties recognize as liquidated damages and not as a penalty. This Termination Charge shall be equal to 100% of the unpaid balance of all Service Charges that would have been due throughout the applicable Order Term, including, without limitation, the outstanding balance of any and all unpaid OTCs. The foregoing terms will also apply to any partial Termination impacting one or more Service Orders, but not the entire Service Agreement.

(f) Survival. The provisions of sections 6(c), 7(b), 7(e), 13(e), 13(f), 14, 15, 18-22 and the Attachments shall survive the termination or expiration of the Service Agreement.

14. DISCLAIMER OF WARRANTY; LIMITATION OF LIABILITY.

(a) **DISCLAIMER OF WARRANTY.** CUSTOMER ASSUMES TOTAL RESPONSIBILITY FOR USE OF THE SERVICE AND SPECTRUM EQUIPMENT, AND USES THE SAME AT ITS OWN RISK, AND FOR ACCESS TO AND SECURITY OF CUSTOMER'S EQUIPMENT AND CUSTOMER'S NETWORK. SPECTRUM EXERCISES NO CONTROL OVER AND HAS NO RESPONSIBILITY WHATSOEVER FOR THE APPLICATIONS OR CONTENT TRANSMITTED OR ACCESSIBLE THROUGH THE SERVICE AND SPECTRUM EXPRESSLY DISCLAIMS ANY RESPONSIBILITY FOR SUCH APPLICATIONS OR CONTENT.

EXCEPT AS SPECIFICALLY SET FORTH IN THIS SERVICE AGREEMENT, THE SERVICE, SPECTRUM EQUIPMENT, AND ANY SPECTRUM MATERIALS ARE PROVIDED "AS IS, WITH ALL FAULTS," WITHOUT WARRANTIES OF ANY KIND, EITHER EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO WARRANTIES OF TITLE, NON-INFRINGEMENT, SYSTEM INTEGRATION, DATA ACCURACY, QUIET ENJOYMENT, MERCHANTABILITY, OR FITNESS FOR A PARTICULAR PURPOSE. NO ADVICE OR INFORMATION GIVEN BY SPECTRUM, ITS AFFILIATES OR ITS CONTRACTORS OR THEIR RESPECTIVE EMPLOYEES SHALL CREATE ANY WARRANTY. SPECTRUM DOES NOT REPRESENT OR WARRANT THAT THE SERVICE WILL MEET CUSTOMER'S REQUIREMENTS, PREVENT UNAUTHORIZED ACCESS BY THIRD PARTIES, WILL BE UNINTERRUPTED, SECURE, ERROR FREE, WITHOUT DEGRADATION OF VOICE QUALITY OR WITHOUT LOSS OF CONTENT, DATA OR INFORMATION, OR THAT ANY MINIMUM TRANSMISSION SPEED IS GUARANTEED AT ANY TIME. EXCEPT AS SET FORTH IN THE SERVICE AGREEMENT, SPECTRUM DOES NOT WARRANT THAT ANY SERVICE OR EQUIPMENT PROVIDED BY SPECTRUM WILL PERFORM AT A PARTICULAR SPEED, BANDWIDTH, OR THROUGHPUT RATE. IN ADDITION, CUSTOMER ACKNOWLEDGES AND AGREES THAT TRANSMISSIONS OVER THE SERVICE MAY NOT BE SECURE.

CUSTOMER FURTHER ACKNOWLEDGES AND AGREES THAT ANY DATA, MATERIAL OR TRAFFIC OF ANY KIND WHATSOEVER CARRIED, UPLOADED, DOWNLOADED OR OTHERWISE OBTAINED THROUGH THE USE OF THE SERVICE IS DONE AT CUSTOMER'S OWN DISCRETION AND RISK AND THAT CUSTOMER WILL BE SOLELY RESPONSIBLE FOR ANY DAMAGE TO CUSTOMER'S OR ANY END USER'S EQUIPMENT OR LOSS OF SUCH DATA, MATERIAL OR TRAFFIC DURING, OR RESULTING FROM, CUSTOMER'S OR ANY END USER'S USE OF THE SERVICE, INCLUDING, WITHOUT LIMITATION, VIA SENDING OR RECEIVING, UPLOADING OR DOWNLOADING, OR OTHER TRANSMISSION OF SUCH DATA, MATERIAL OR TRAFFIC. IN ADDITION, CUSTOMER ACKNOWLEDGES AND AGREES THAT SPECTRUM'S THIRD PARTY SERVICE PROVIDERS DO NOT MAKE ANY WARRANTIES TO CUSTOMER UNDER THIS SERVICE AGREEMENT, AND SPECTRUM DOES NOT MAKE ANY WARRANTIES ON BEHALF OF SUCH SERVICE PROVIDERS UNDER THIS SERVICE AGREEMENT, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO THE IMPLIED WARRANTIES OF MERCHANTABILITY, NON-INFRINGEMENT, TITLE, FITNESS FOR A PARTICULAR PURPOSE, SYSTEM INTEGRATION, DATA ACCURACY OR QUIET ENJOYMENT.

(b) **LIMITATION OF LIABILITY.** WITHOUT LIMITING ANY EXPRESS PROVISIONS OF THIS SERVICE AGREEMENT, NEITHER PARTY SHALL BE LIABLE TO THE OTHER, ANY END USER, OR ANY THIRD PARTY FOR ANY INDIRECT, CONSEQUENTIAL, EXEMPLARY, SPECIAL, INCIDENTAL, RELIANCE, OR PUNITIVE DAMAGES (INCLUDING LOST BUSINESS, REVENUE, PROFITS, OR GOODWILL) ARISING IN CONNECTION WITH THIS SERVICE AGREEMENT OR THE PROVISION OF SERVICES, INCLUDING ANY SERVICE IMPLEMENTATION DELAYS OR FAILURES, UNDER ANY THEORY OF TORT, CONTRACT, WARRANTY, STRICT LIABILITY, MISREPRESENTATION, OR NEGLIGENCE, EVEN IF THE PARTY HAS BEEN ADVISED, KNEW OR SHOULD HAVE KNOWN OF THE POSSIBILITY OF SUCH DAMAGES. THE FOREGOING LIMITATION OF LIABILITY SHALL NOT APPLY TO ANY OF CUSTOMER'S PAYMENT OBLIGATIONS UNDER THIS SERVICE AGREEMENT. SPECTRUM'S MAXIMUM LIABILITY TO CUSTOMER WITH REGARD TO ANY SERVICE ORDER SHALL NOT EXCEED THE AMOUNT, EXCLUDING OTCS, PAID OR PAYABLE BY CUSTOMER TO SPECTRUM FOR THE APPLICABLE SERVICE ORDER IN THE THREE (3) MONTHS IMMEDIATELY PRECEDING THE EVENTS GIVING RISE TO THE CLAIM. SPECTRUM SHALL NOT BE RESPONSIBLE FOR ANY LOSSES OR DAMAGES ARISING AS A RESULT OF THE UNAVAILABILITY OF THE SERVICE, INCLUDING THE INABILITY TO REACH 911 OR ANY OTHER EMERGENCY SERVICES, THE INABILITY TO CONTACT A SECURITY SYSTEM OR REMOTE MEDICAL OR OTHER MONITORING SERVICE PROVIDER OR ANY FAILURE OR FAULT RELATING TO CUSTOMER-PROVIDED EQUIPMENT, FACILITIES, OR SERVICES.

15. INDEMNIFICATION. Unless prohibited under applicable law, Customer at its own expense, shall indemnify, defend, and hold harmless Spectrum, its affiliates, service providers, and suppliers, and their directors, employees, representatives, officers and agents (the "Indemnified Parties") against any and all third party claims, liabilities, lawsuits, damages, losses, judgments, costs, fees and expenses incurred by Indemnified Parties, including reasonable attorney and other professional fees and court costs incurred by Indemnified Parties, to the full extent that such arise from or relate to any one or more of the following:

- (a) Customer's misuse of the Service,
- (b) Customer's failure to comply with any applicable law, order, rule, regulation or ordinance or this Service Agreement,
- (c) Personal injury or tangible property damage caused by Customer's or its employees' or agents' negligence or willful misconduct.

Indemnified Parties shall have the right but not the obligation to participate in the defense of the claim.

16. COMPLIANCE WITH LAWS. As between the Parties, Spectrum shall obtain and maintain at its own expense all licenses, approvals and regulatory authority required by law with respect to Spectrum's operation and provision of the Services as contemplated in the Service Agreement, and Customer shall obtain and maintain at its own expense all licenses, approvals and regulatory authority required by law with respect to Customer's use of the Services as contemplated in the Service Agreement.

Unless specified otherwise in the Service Agreement, each Party shall give all notices, pay all fees and comply with all applicable laws, ordinances, rules and regulations relating to its performance obligations specified in the Service Agreement. The Service Agreement is subject to all applicable federal, state, or local laws and regulations in effect in the relevant jurisdiction(s) in which Spectrum provides the Services. If any provision of the Service Agreement contravenes or is in conflict with any such law or regulation, then the terms of such law or regulation shall take priority over the relevant provision of the Service Agreement. If the relevant law or regulation applies to some but not all of the Services being provided under the Service Agreement, then such law or regulation shall take priority over the relevant provision of the Service Agreement only for purposes of those Services to which the law or regulation applies. Except as explicitly stated in the Service Agreement, nothing contained in the Service Agreement shall constitute a waiver by Spectrum of any rights under applicable laws or regulations pertaining to the installation, construction, operation, maintenance, or removal of the Services, facilities or equipment.

17. REGULATORY CHANGES. In the event of any change in applicable law, regulation, decision, rule or order, including without limitation any new application of or increase in any government- or quasi-government-imposed fees or charges that increases the costs or other terms of Spectrum's delivery of Service to Customer, or, in the event of any increase in pole attachment or conduit charges applicable to any facilities used by Spectrum in providing the Service, Customer acknowledges and agrees that Spectrum may pass through to Customer any such increased fees or costs, but only to the extent of the actual increase. Spectrum shall use commercially reasonable efforts to notify Customer at least thirty (30) days in advance of the increase. In such case, and if such increase materially increases the Service Charges payable by Customer under the Service Agreement for the applicable Service, Customer may, within thirty (30) days after notification of such increase, terminate the affected Service without an obligation to pay Termination Charges, provided Customer notifies Spectrum at least thirty (30) days in advance of Customer's requested termination date. Further, in the event that Spectrum is required to file tariffs or rate schedules with a regulatory agency or otherwise publish or make generally available its rates in accordance with regulatory agency rules or policies respecting the delivery of the Service or any portion thereof, then the terms set forth in the applicable tariff or rate schedule shall govern Spectrum's delivery of, and Customer's use or consumption of the Service. In addition, if Spectrum determines that offering or providing the Service, or any part thereof, has become impracticable for legal or regulatory reasons or circumstances, then Spectrum may terminate the Service Agreement and any affected Service Orders without liability, by giving Customer thirty (30) days prior notice or any such notice as is required by law or regulation applicable to such determination.

18. ARBITRATION. This Service Agreement requires the use of arbitration to resolve disputes and otherwise limits the remedies available to Customer in the event of a dispute. Subject to the "Exclusions" paragraph below, Spectrum and Customer agree to arbitrate disputes and claims arising out of or relating to this Service Agreement, the Services, the Spectrum Equipment, Network, or marketing of the Services. Notwithstanding the foregoing, either Party may bring an individual action on any matter or subject in small claims court. The arbitrator of any dispute or claim brought under or in connection with this Service Agreement shall not have the power to award injunctive relief, which may only be sought in an appropriate court of law. No claim subject to arbitration under this Service Agreement may be combined with a claim subject to resolution before a court of law. THIS SERVICE AGREEMENT MEMORIALIZES A TRANSACTION IN INTERSTATE COMMERCE. THE FEDERAL ARBITRATION ACT GOVERNS THE INTERPRETATION AND ENFORCEMENT OF THESE ARBITRATION PROVISIONS.

(a) A Party who intends to seek arbitration must first send to the other a written notice of intent to arbitrate, entitled "Notice of Intent to Arbitrate" ("Notice"). The Notice to Spectrum should be addressed to: VP and Associate General Counsel, Litigation, Charter Communications, 12405 Powerscourt Drive, St. Louis, MO 63131 ("Arbitration Notice Address"). The Notice must: (a) describe the nature and basis of the claim or dispute; and (b) set forth the specific relief sought. If the Parties do not reach an agreement to resolve the claim within thirty (30) days after the Notice is received, Customer or Spectrum may commence an arbitration proceeding, in which all issues are for the arbitrator to decide (including the scope of the arbitration clause), but the arbitrator shall be bound by the terms of this Service Agreement. The arbitration shall be governed by the Commercial Arbitration Rules and the Supplementary Procedures for Consumer Related Disputes (collectively, "AAA Rules") of the American Arbitration Association ("AAA"), as modified by this Service Agreement, and the arbitration shall be administered by the AAA. The AAA Rules and fee information are available at www.adr.org, by calling the AAA at 1-800-778-7879, or by writing to the Arbitration Notice Address.

(b) EACH PARTY SHALL BEAR THE COST OF ANY ARBITRATION FILING FEES AND ARBITRATOR'S FEES THAT SUCH PARTY INCURS INCLUDING, BUT NOT LIMITED TO, ATTORNEYS FEES OR EXPERT WITNESS COSTS UNLESS OTHERWISE REQUIRED UNDER APPLICABLE LAW. If the arbitrator's award exceeds \$75,000, either Party may appeal such award to a three-arbitrator panel administered by the AAA and selected according to the AAA Rules, by filing a written notice of appeal within thirty (30) days after the date of entry of the arbitration award. The appealing Party must provide the other Party with a copy of such appeal concurrently with its submission of the appeals notice to AAA. The three-arbitrator panel must issue its decision within one hundred twenty (120) days of the date of the appealing Party's notice of appeal.

The decision of the three-arbitrator panel shall be final and binding, except for any appellate right which may exist under the Federal Arbitration Act. The Parties may agree that arbitration will be conducted solely on the basis of the documents submitted to the arbitrator, via a telephonic hearing, or by an in-person hearing as established by AAA rules. Unless Spectrum and Customer agree otherwise in writing, all hearings conducted as part of the arbitration shall take place in the Borough of Manhattan, City of New York.

(c) CUSTOMER AGREES THAT, BY ENTERING INTO THIS SERVICE AGREEMENT, CUSTOMER AND SPECTRUM ARE WAIVING THE RIGHT TO A TRIAL BY JUDGE OR JURY. CUSTOMER AND SPECTRUM AGREE THAT CLAIMS MAY ONLY BE BROUGHT IN CUSTOMER'S INDIVIDUAL CAPACITY AND NOT ON BEHALF OF, OR AS PART OF, A CLASS ACTION OR REPRESENTATIVE PROCEEDING. Furthermore, unless both Customer and Spectrum agree otherwise in writing, the arbitrator may not consolidate proceedings or more than one person's claims and may not otherwise preside over any form of representative or class proceeding.

(d) Severability. If any clause within these arbitration provisions is found to be illegal or unenforceable, that specific clause will be severed from these arbitration provisions, and the remainder of the arbitration provisions will be given full force and effect. NOTWITHSTANDING ANYTHING TO THE CONTRARY, IN THE EVENT SOME OR ALL OF THESE ARBITRATION PROVISIONS IS DETERMINED TO BE UNENFORCEABLE FOR ANY REASON, OR IF A CLAIM IS BROUGHT THAT IS FOUND BY A COURT TO BE EXCLUDED FROM THE SCOPE OF THESE ARBITRATION PROVISIONS, BOTH PARTIES AGREE TO WAIVE, TO THE FULLEST EXTENT ALLOWED BY LAW, ANY TRIAL BY JURY. For purposes of the foregoing sentence only, in the event such waiver is found to be unenforceable, it shall be severed from this Service Agreement, rendered null and void and of no further effect without affecting the rest of the arbitration provisions set forth herein.

(e) EXCLUSIONS. CUSTOMER AND SPECTRUM AGREE THAT THE FOLLOWING CLAIMS OR DISPUTES SHALL NOT BE SUBJECT TO ARBITRATION:

- i. ANY INDIVIDUAL ACTION BROUGHT BY CUSTOMER OR BY SPECTRUM ON ANY MATTER OR SUBJECT THAT IS WITHIN THE JURISDICTION OF A COURT THAT IS LIMITED TO ADJUDICATING SMALL CLAIMS.
- ii. ANY DISPUTE OVER THE VALIDITY OF ANY PARTY'S INTELLECTUAL PROPERTY RIGHTS.
- iii. ANY DISPUTE RELATED TO OR ARISING FROM ALLEGATIONS ASSOCIATED WITH UNAUTHORIZED USE OR RECEIPT OF SERVICE.

19. PROPRIETARY RIGHTS AND CONFIDENTIALITY.

(a) Spectrum's Proprietary Rights. All materials including, but not limited to, any Spectrum Equipment (including related firmware), software, data and information provided by Spectrum, any identifiers or passwords used to access the Service or otherwise provided by Spectrum, and any know-how, methodologies or processes including, but not limited to, all copyrights, trademarks, patents, trade secrets, any other proprietary rights inherent therein and appurtenant thereto, used by Spectrum to provide the Service (collectively "Spectrum Materials") shall remain the sole and exclusive property of Spectrum or its suppliers and shall not become a fixture to the Service Location. Customer shall acquire no title to, interest or right (including intellectual property rights) in the Spectrum Materials by virtue of the payments provided for herein other than the limited, non-exclusive, and non-transferable license to use the Spectrum Materials solely for Customer's use of the Service. Customer may not disassemble, decompile, reverse engineer, reproduce, modify, or distribute the Spectrum Materials, in whole or in part, or use them for the benefit of any third party. Customer shall not cause or permit the disabling or circumvention of any security mechanism contained in or associated with the Services. All rights in the Spectrum Materials not expressly granted to Customer herein are reserved to Spectrum or its suppliers. Customer shall not open, alter, misuse, tamper with, or remove the Spectrum Equipment or Spectrum Materials as and where installed by Spectrum, and shall not remove any markings or labels from the Spectrum Equipment or Spectrum Materials indicating Spectrum (or its suppliers) ownership or serial numbers.

(b) Confidentiality. Customer agrees to maintain in confidence, and not to disclose to third parties or use, except for such use as is expressly permitted herein, the Spectrum Materials and any other information and materials provided by Spectrum in connection with this Service Agreement, including but not limited to the contents of this Service Agreement and any Service Orders. Customer may not issue a press release, public announcement or other public statements regarding the Service Agreement without Spectrum's prior consent.

(c) **Software.** If Software is provided to Customer hereunder, Spectrum grants Customer a limited, non-exclusive, and non-transferable license to use such Software, in object code form only, for the sole and limited purpose of using the Services for Customer's internal business purposes during the Term. Customer shall not copy, reverse engineer, decompile, disassemble, translate, or attempt to learn the source code of any Software. Upon termination of a Service Order, the license to use any Software provided by Spectrum to Customer in connection with the Services provided under the Service Order shall terminate and Customer shall destroy any copies of the Software provided to Customer.

20. PRIVACY. Spectrum also maintains a Privacy Policy with respect to the Services in order to protect the privacy of its customers. The Privacy Policy may be found on Spectrum's website at <https://enterprise.spectrum.com/>. The Privacy Policy may be updated or modified from time-to-time by Spectrum, with or without notice to Customer. Customer's privacy interests, including Customer's ability to limit disclosure of certain information to third parties, may be addressed by, among other laws, the Federal Telecommunications Act, the Federal Cable Communications Act, the Electronic Communications Privacy Act, and, to the extent applicable, state laws and regulations. Customer proprietary network information and personally identifiable information that may be collected, used or disclosed in accordance with applicable laws is described in an Attachment, the Privacy Policy, and, if applicable, in Spectrum's tariff, which are incorporated into, and made a part of, this Service Agreement by this reference. In addition to the foregoing, Customer hereby acknowledges and agrees that Spectrum may disclose Customer's and its employees' personally identifiable information as required by law or regulation, or the American Registry for Internet Numbers or any similar agency, or in accordance with the Privacy Policy or, if applicable, tariff(s). In addition, Spectrum shall have the right (except where prohibited by law), but not the obligation, to disclose any information to protect its rights, property or operations, or where circumstances suggest that individual or public safety is in peril.

21. NOTICES.

(a) Except for notice to terminate the Service Agreement or to disconnect any Services as set forth in Section 21(b) below, all other notices to be given under this Service Agreement shall be validly given or served only if in writing and sent by nationally recognized overnight delivery service or certified mail, return receipt requested, to the following addresses

If to Spectrum:

Charter Communications Operating, LLC
ATTN: Commercial Contracts Management
Corporate - Legal Operations
12405 Powerscourt Drive
St. Louis, MO 63131

Notices to Customer shall be sent to the Customer billing address or as set forth in the Service Agreement. Each Party may change its respective address(es) for legal notice by providing notice to the other Party. Upon Spectrum's request, Customer will also provide Spectrum with a current email address that Customer regularly checks so that Spectrum may provide copies of notices and other communications to Customer by email.

(b) **Disconnect Notice.** Customer may disconnect a Service or all Services under the Services Agreement by following the instructions available at this link: <https://enterprise.spectrum.com/support/faq/account/how-to-cancel-service.html> (such instructions in the link may be updated from time to time).

22. MISCELLANEOUS.

(a) **Entire Agreement.** This Service Agreement, including without limitation all Attachments, incorporated documents and any executed Service Orders constitute the entire agreement and understanding between the Parties with respect to the subject matter hereof. This Service Agreement supersedes all prior understandings, promises, and undertakings, if any, made orally or in writing by or on behalf of the Parties with respect to the subject matter of this Service Agreement, including without limitation any prior confidentiality or non-disclosure agreement between the Parties regarding the purchase and sale of Spectrum Services. Spectrum may change or modify the Terms of Service at any time by posting revised Terms of Service to the Spectrum website at <https://enterprise.spectrum.com/> or such other URL as Spectrum may specify from time to time (the "Spectrum Website"). The revisions to the Terms of Service are effective upon posting to the Spectrum Website. Customer may receive notice of any revisions to the Terms of Service by email or in the next applicable invoice. Customer shall have thirty (30) calendar days from the date of the notice to provide Spectrum with written notice that the revisions to the Terms of Service materially and adversely affect Customer's use of the Services. If after notice Spectrum is able to verify such material adverse effect, but is unable to reasonably mitigate the impact on such Services, then Customer may terminate the impacted Services and Service Order(s) without further obligation to Spectrum beyond the termination date, including Termination Charges, if any, as its sole and exclusive remedy.

Customer should also consult Spectrum's website <https://enterprise.spectrum.com/> to be sure Customer is aware of Spectrum's Acceptable Use Policies, Network Management Practices, applicable tariffs online product descriptions, and other policies or practices that are applicable to Customer's use of the Services (collectively "Policies"). Customer's use of the Services shall be deemed acknowledgment that Customer has read and agreed to Spectrum's Policies as a part of this Service Agreement.

(b) Signatures; Electronic Transactions. This Service Agreement may be executed in one or more counterparts, each of which is an original, but together constituting one and the same instrument. Execution of a facsimile or other electronic copy will have the same force and effect as execution of an original, and a facsimile or electronic signature will be deemed an original and valid signature. The Parties agree to conduct business using electronic means including using electronic records and electronic signatures, except as provided with respect to notices in Section 21.

(c) Order of Precedence. Each Service shall be provisioned pursuant to the terms and conditions of this Service Agreement. In the event that Spectrum permits Customer to use its own standard purchase order form to order the Service, the Parties hereby acknowledge and agree that the terms and conditions hereof shall prevail notwithstanding any variance with the terms and conditions of any purchase order submitted by Customer, and any different or additional terms contained in such purchase order shall have no force or effect. To the extent that the terms of the Service Agreement or any Service Order are inconsistent with the terms of any applicable tariff, the tariff shall control.

To the extent that the terms of any Service Order are inconsistent with the terms of these Terms of Service, the Terms of Service shall control, excluding pricing discounts, nonrecurring fees, or order fulfillment timing terms to the extent permissible under applicable law set forth in the Service Order that shall control.

(d) No Assignment or Transfer. Customer may not assign or transfer (directly or indirectly by any means, including by operation of law or otherwise) this Service Agreement and the associated Service Order(s), or their rights or obligations hereunder to any other entity without first obtaining consent from Spectrum, and any assignment or transfer in violation of this Section shall be null and void. Spectrum may assign its rights and obligations under this Service Agreement, in whole or in part, and any Service Order(s) to affiliates controlling, controlled by or under common control with Spectrum, or to its successor-in-interest if Spectrum sells some or all of the underlying communications system(s) without the prior approval of or notice to Customer. Customer understands and agrees that, regardless of any such assignment, the rights and obligations of Spectrum in the Service Agreement may accrue to, or be fulfilled by, any affiliate, as well as by Spectrum or its subcontractors.

(e) Severability. To the extent any term, covenant, condition or portion of this Service Agreement is held to be invalid or unenforceable, the remainder of this Service Agreement shall not be affected and each remaining term, covenant or condition shall be valid and enforceable to the fullest extent permitted by law as nearly as possible to reflect the original intentions of the Parties.

(f) Force Majeure. Notwithstanding anything to the contrary in the Service Agreement, neither Party shall be liable to the other for any delay, inconvenience, loss, liability or damage resulting from any failure or interruption of Services, directly or indirectly caused by circumstances beyond such Party's control, including but not limited to denial of use of poles or other facilities of a utility company, labor disputes, acts of war or terrorism, criminal, illegal or unlawful acts, weather, fire, flood, natural causes, mechanical or power failures, fiber cuts, governmental acts or any order, law or ordinance in any way restricting the operation of the Services (each a "Force Majeure Event"). Changes in economic, business, or competitive conditions shall not be considered a Force Majeure Event.

(g) Governing Law; Claims Limitation; Waiver of Jury Trial. The law of the state of New York shall govern the construction, interpretation, and performance of this Service Agreement, except that any conflicts-of-law principles of such state that would result in the application of the law of another jurisdiction shall be disregarded. Any legal action brought under or in connection with the subject matter of the Service Agreement shall be brought only in the United States District Court for the Southern District of New York or, if such court would not have jurisdiction over the matter, then only in a New York State court sitting in the Borough of Manhattan, City of New York. Each party submits to the exclusive jurisdiction of these courts and agrees not to commence any legal action under or in connection with the subject matter of the Service Agreement in any other court or forum. Each Party waives any objection to the laying of the venue of any legal action brought under or in connection with the subject matter of the Service Agreement in the Federal or state courts sitting in the Borough of Manhattan, City of New York, and agrees not to plead or claim in such courts that any such action has been brought in an inconvenient forum. Except as otherwise specified in Section 7(e), any claim that Customer wishes to assert under the Service Agreement must be initiated not later than one (1) year after the claim arose. IN ANY AND ALL CONTROVERSIES OR CLAIMS ARISING OUT OF OR RELATING TO THIS SERVICE AGREEMENT, ITS NEGOTIATION, ENFORCEABILITY OR VALIDITY, OR THE PERFORMANCE OR BREACH THEREOF OR THE RELATIONSHIPS ESTABLISHED HEREUNDER, CUSTOMER AND SPECTRUM EACH HEREBY WAIVES ITS RIGHT, IF ANY, TO TRIAL BY JURY.

(h) No Third Party Beneficiaries. The terms of this Service Agreement and the Parties' respective performance of obligations as described are not intended to benefit any person or entity not a Party to this Service Agreement, and the consideration provided by each Party hereunder only runs to the respective Parties, and that no person or entity not a Party to this Service Agreement shall have any rights hereunder nor the right to require performance of obligations by either of the Parties.

(i) Waiver. Except as otherwise provided herein, the failure of Spectrum to enforce any provision of this Service Agreement shall not constitute or be construed as a waiver of such provision or of the right to enforce such provision. To be legally binding on Spectrum, any waiver must be in writing.

(j) Remedies Cumulative and Nonexclusive. Unless stated otherwise herein, all rights and remedies of the Parties under this Service Agreement shall be cumulative, nonexclusive and in addition to, but not in lieu of, any other rights or remedies available to the Parties whether provided by law, in equity, by statute or otherwise. The exercise of any right or remedy does not preclude the exercise of any other rights or remedies.

Attachment A

Spectrum Business TV and Enterprise TV Service (collectively, “TV Service”)

Spectrum Business TV Service: Spectrum Business TV Service includes television programming services, including the package of channels and music programming as designated in a Service Order. Customer must notify Spectrum if Customer's use of the Service will be for private or public viewing. If specified in the Service Order, Spectrum will provide to private-view Customers premium programming such as HBO, Showtime, TMC, Cinemax, STARZ, Encore, or Epix, or Customer premise equipment such as DVRs (collectively, “Premium Services”).

Spectrum Enterprise TV Service: Spectrum Enterprise shall provide the customized multi-channel video programming service (“Enterprise TV Service”) to Customer's Service Location(s) identified in a Service Order. Enterprise TV Service includes Government TV, Healthcare TV, Hospitality TV, and Education/University TV. Enterprise TV Service includes the channel line-up and those premium and other pay-per-view, video-on-demand, or any visual content as mutually agreed upon in the Service Order. If specified in the Service Order, Spectrum will provide Premium Services to Customer.

1. **Music Programming.** Customer is responsible for and must secure any music rights and/or pay applicable fees required by the American Society of Composers, Authors & Publishers, Broadcast Music, Inc., and SESAC, Inc. or their respective successors, and any other entity, person or governmental authority from which a license is necessary or appropriate relating to Customer's transmission, retransmission, communication, distribution, performance or other use of the Services. Customer shall not, and shall not authorize or permit any other person to, do any of the following unless Customer has obtained a then-current music license permitting such activity: (i) charge a cover charge or admission fee to any Service Location(s) at the time the TV Service is being displayed or are to be displayed; or (ii) permit dancing, skating or other similar forms of entertainment or physical activity in conjunction with the performance of the TV Service.

2. **Spectrum Equipment.** Spectrum owns and shall at all times have the exclusive right to access, control, maintain, upgrade, use and operate its TV Service, Network, and Spectrum Equipment, except for (i) any video display terminals (“Connections”) or inside wiring owned and maintained by Customer or a third party, and (ii) any conduit, risers, raceways or other spaces where the Network or Spectrum Equipment is located that are owned by Customer or a third party, in which case (as between Customer and Spectrum) Customer shall own such items and Customer hereby grants to Spectrum the non-exclusive right to access and use such space during the Order Term as provided in the Service Agreement. The inside wiring and Connections shall be provided and installed by Customer, at its sole expense, in consultation with Spectrum and any specifications provided by Spectrum to Customer in writing. Spectrum shall not be responsible for an outage that may be due to a fault or failure with respect to any inside wiring, Connections or any systems, equipment or facilities of Customer or any third party, including but not limited to, instances where such outage is due to the Customer's failure to promptly provide Spectrum with access to the Service Location to inspect, monitor, repair, and/or replace the TV Service or Spectrum Equipment. If changes in technology require the use of specialized equipment to continue to receive Spectrum Business TV Service, Spectrum shall provide such Spectrum Equipment, and Customer shall pay for such Spectrum Equipment at the same rate charged by Spectrum to commercial customers in the same service area as the Service Location.

3. **Provision of Service.** Spectrum may, in its discretion, preempt, rearrange, delete, add, discontinue, modify or otherwise change any or all of the advertised programming comprising, packaging of, channel line-ups applicable to, and/or distribution of its TV Service. Spectrum may make certain TV Service available via mobile applications or third party hardware to Customer and its End Users, which may be subject to additional terms and conditions.

4. **Restrictions.** Customer shall take all necessary precautions to ensure that the TV Service is received only by authorized parties, and that no part of the TV Service is received at any other location, including but not limited to locations where an admission fee, cover charge, minimum or like sum is charged. Customer shall not and shall not authorize or permit any other person to (i) copy, record, dub, duplicate, alter, make or manufacture any recordings or other reproductions of the TV Service (or any part thereof); (ii) transmit the TV Service by any television or radio broadcast or by any other means or use the TV Service outside the Service Location; (iii) move the TV Service to another location after installation; or (iv) insert any commercial announcements into the TV Service or interrupt any performance of the TV Service for the making of any commercial announcements. Customer acknowledges that such duplication, reproduction or transmission may subject Customer to criminal penalties and/or civil liability and damages under applicable copyright and/or trademark laws. TV Service is available for use at commercial establishments and other non-residential buildings (such as a bar, restaurant, hospital, or commercial building). In commercial establishments with public viewing, only the TV Service lineup(s) that is approved for public viewing may be used. Customer may not order or request pay-per-view (PPV) programming for receipt, exhibition or taping in a commercial establishment; or exhibit nor assist in the exhibition of PPV programming in a commercial establishment unless explicitly authorized to do so by agreement with an authorized program provider and subject to Spectrum's prior written consent.

5. **Service Inspection.** Customer shall permit Spectrum reasonable access to the Service Locations to inspect the Service Location at periodic intervals as needed to ascertain, among other things, the number of television outlets receiving the TV Service, or verify the estimated viewing occupancy. If any Spectrum inspection reveals that Customer's usage of the TV Service exceeds Customer's rights under the Service Agreement or Service Order and without abrogating or otherwise affecting Spectrum's right to consider such activity a breach of the Service Agreement, Customer shall pay Spectrum an amount equal to one and a half times the MRCs that would have been due for such excessive usage as liquidated damages and not as a penalty. In addition, Customer shall either discontinue any excess usage or thereafter continue to pay the applicable MRCs for such additional usage or Spectrum may, in its discretion, suspend or disconnect a TV Service.
6. **Noninterference.** Customer shall not interfere with, alter or substitute any of the programs, information or content offered as part of the TV Service, which are transmitted over any of the channels provided hereunder without the prior written consent of Spectrum. Under no circumstances shall Customer have any right to encode, alter, reformat, delete or otherwise modify the TV Service, including without limitation delivery method and any programming contained within the TV Service, without the express written consent of Spectrum. The limitations of this paragraph shall not apply to formatting of programming for Enterprise TV Service as agreed by Spectrum and Customer.
7. **Charges.** Notwithstanding anything to the contrary in the Service Agreement, the MRCs set forth in a Service Order for TV Service: (i) do not include applicable taxes, regulatory fees, franchise fees or public access fees; and (ii) are subject to change in accordance with commercial rate increases applied to commercial customers.
8. **End User Support.** Customer shall provide all first level contact and support to its authorized users relating to the Network, Spectrum Equipment, Connections, Customer-provided equipment, and Enterprise TV Service. In the event of any disruption, failure, or degradation of the Enterprise TV Service lasting for twenty-four (24) consecutive hours or more, Customer shall use all reasonable efforts to diagnose the cause of the Enterprise TV Service impacting event. If the Enterprise TV Service impacting event is reasonably determined to be caused by the signal delivered by Spectrum, Customer shall contact the designated Spectrum technical support contact for resolution.
9. **Set Back Box.** Customer's use of the Set Back Box Product ("**SBB**") available as part of the Enterprise TV Service (the "**SBB Offering**") is subject to the following additional terms and conditions:
- (a) Notwithstanding Section 2 above, Spectrum shall install and program all Connections for the SBB Offering. Customer shall ensure the availability of Connections that are compatible with the SBB Offering including, without limitation, the provision and use of appropriate tuners and Connections having HDTV compatibility.
- (b) If Customer desires for the front desk portal and the TV user interface associated with the SBB Offering to be co-branded (with Spectrum's and Customer's brands), then Customer shall provide Spectrum Enterprise a copy of Customer's logo in accordance with Spectrum's technical specifications and hereby grants Spectrum a right and license to use such logo for purposes of such co-branding.
10. **SpectrumU and Spectrum Enterprise TV Streaming Access (TVSA).** SpectrumU and Spectrum Enterprise TV Streaming Access (available through an app named "Spectrum Enterprise TV" and the website spectrumenterpriseTV.com) are online video services (which are collectively referred to herein as the "Apps") that are accessible via a compatible browser or supported digital media streaming device that permits authorized users to stream video content while connected to Customer's network. Spectrum Apps may not be available through all application stores.
- (a) Many factors outside of Charter's control affect the quality of service experienced by Customer and its authorized users, including without limitation, the quality and utilization of Customer's network, service attacks, and the authorized user's device.
- (b) Customer acknowledges that Spectrum requires Customer's authorized users to accept separate end user license terms prior to using or downloading either of the Apps.
- (c) Spectrum may require that authorized users update the Apps from time-to-time in order to continue use of the Apps.

Attachment B
Spectrum Business Voice Service, PRI/SIP Trunking Service
(collectively “Voice Services”)

**Spectrum Hosted Voice, Hosted Voice for Hospitality, Hosted Call Center, and
Unified Communications (collectively, “Hosted Communications Services”)**

DESCRIPTION OF SERVICES:

1. Voice Services:

- (a) **Spectrum Business Voice Service:** If Customer selects to receive Spectrum Business Voice Service, Customer will receive voice service consisting of one or more lines or connections and a variety of features, as described more fully below and in the applicable Service Order.
- (b) **SIP Trunking Service:** If Customer selects to receive the SIP Trunking Service, Customer will receive voice and call processing services via eight or more concurrent call paths using a Session Initiation Protocol (“SIP”) connection to the Customer’s private branch exchange (including any non-Spectrum switch, collectively, “PBX”) or other Customer Equipment, and a variety of features, as described more fully below and in the applicable Service Order.
- (c) **PRI Trunking Service:** If Customer selects to receive PRI Trunking Service, Customer will receive voice and call processing services via a full (23B+1D channel) or fractional (12B+1D channel) Primary Rate Interface (“PRI”) connection to Customer’s PBX or other Customer Equipment, and a variety of features, as described more fully below and in the applicable Service Order.
- (d) **Trunking Service:** Trunking Service shall mean SIP Trunking Service and/or PRI Trunking Service, as applicable.
- (e) **Analog Lines Over Fiber Service:** If Customer selects to receive Analog Lines over Fiber Service, Customer will receive voice and call processing services via an analog connection to the Customer’s PBX that is equipped with an analog line card interface or other analog line based Customer Equipment like a fax machine. A variety of features, including line hunting, are offered, as described more fully below and in the applicable Service Order.
- (f) **Toll-Free Service for Spectrum Trunking:** If Customer selects Spectrum Toll-Free Service for use with Trunking Service, Customer will receive voice service consisting of one or more toll-free numbers and access to a variety of optional screening and routing features including:
- Origination Screening: Allows or disallows an originating call made to a single toll-free number based on the originating Number Plan Area (NPA) and/or prefix (NXX) of the caller.
 - Origination Routing: Routes an originating call made to a single toll-free number to a pre-determined Direct Inward Dialing (DID) number location based on the originating NPA and/or NXX of the caller.
 - Schedule-Based Routing: Routes an originating call made to a single toll-free number to a pre-determined DID number location based on the time of day, day of week or day of year.
 - Percentage Call Allocation: Routes an originating call made to a single toll-free number to any of two or more pre- determined DID number locations based on the Customer’s allocated traffic percentage between the DID number locations.
 - Toll-Free Dialed Number Identification Service (DNIS): Provides the original called toll-free number to the terminating location, if the toll-free number/call is terminated to the Spectrum Trunking Service.

Note: Spectrum Toll-Free Service must terminate to a Spectrum Trunking Service. Not all Toll-Free Service features may be available in all areas.

- (g) **E911 Location Plus:** If Customer selects Spectrum E911 Location Plus for use with Trunking Service, Customer may add or manage station level address information (for example, floor, suite, or office number) for telephone numbers at a Service Location for Customer’s E911 address records through use of the E911 Location Plus self-service web portal. E911 Location Plus may be used by a Customer operating its own multi-line telephone system in an office or apartment building, or other similar building environment that wishes to provide location information for its station level telephone numbers.

2. Spectrum Hosted Communications Services:

- (a) **Spectrum Hosted Voice Service:** If Customer selects Hosted Voice Service delivered over fiber or coax, Customer will receive a combination of (i) voice service consisting of one or more telephone lines, (ii) a variety of features, and (iii) voice service technical assistance described more fully below and in the applicable Service Order.
- (b) **Spectrum Hosted Voice for Hospitality Service:** If Customer selects Hosted Voice for Hospitality Service delivered over fiber or coax, Customer will receive a combination of (i) voice service consisting of one or more telephone lines, (ii) a variety of features, and (iii) voice service technical assistance. Customer may also receive Property Management System integration and other services, including a variety of features, as described more fully below and in the applicable Service Order.
- (c) **Spectrum Hosted Call Center:** If Customer selects to receive Spectrum Hosted Call Center Service; Customer will receive a combination of (i) voice service consisting of one or more telephone lines, (ii) a variety of features, and (iii) voice service technical assistance, as described more fully below and in the applicable Service Order.
- (d) **Unified Communications Service:** If Customer selects Unified Communications Service, Customer will receive a combination of (i) instant messaging and presence service, (ii) video calling service, (iii) desktop sharing service, (iv) conferencing, and (v) web collaboration service, or other features as described more fully below and in the applicable Service Order. Unified Communications Services may also be available in personal computer, mobile phone, and tablet application formats where features, functionalities, and capabilities will differ based on the device used to access the Unified Communications Service (i.e., "soft phone service"). If Customer selects a soft phone service, it will be offered as a separate inbound and outbound service and Customer must choose one or both services prior to installation. Customer may later modify its selection in writing. If Customer or an End User accesses the Hosted Communications Services through use of an application, certain features, functionalities, or capabilities, such as two-way calling, may not be available. 911 CALLING WILL NOT BE AVAILABLE WITH SOFT PHONE SERVICE. When using such an application, Customer and End Users are subject to the terms of such application and the terms of this Service Agreement (including this Attachment). Changes made to the features, functionalities, capabilities of the Unified Communications Service, or to an application accessing Spectrum Hosted Communications Service, shall be in Spectrum's sole discretion.

BEGINNING ON JANUARY 6, 2022: Notwithstanding the preceding paragraph, if Customer ordered soft phone service on or after February 16, 2020, Customer will have 911 calling capability with its soft phone service beginning on January 6, 2022 if Customer's software and service is properly installed, configured and updated. Customer understands that such soft phone service, including 911 calling capability, will not function properly unless correct and valid address information has been entered into the soft phone service or application that reflects the application and/or associated device location. Failure of Customer to enter correct and valid address information, prior to initiation of such Service and anytime Customer's location of the soft phone changes, will likely result in a delay or inability in dispatching 911 emergency service to the proper location. Customers that ordered ANYWHERE CONNECT soft phone service prior to February 16, 2020 will not have 911 calling capability. EACH CUSTOMER OF SUCH ANYWHERE CONNECT SERVICE UNDERSTANDS THAT IT MUST USE AN ALTERNATE MEANS, OTHER THAN SOFT PHONE SERVICE, TO CONTACT 911 EMERGENCY SERVICES. Additional important 911 use of service terms are located in paragraph 5(g) below.

- (e) **Unified Communications over Wireless Internet Backup:** If Customer selects Unified Communications over Wireless Internet Backup Service, Customer will receive Wireless Internet Backup Service as described in Attachment G for Unified Communications Service provided at Customer's location(s) specified in an applicable Service Order. Unified Communications over Wireless Internet Backup Service is subject to availability and the terms and conditions in Attachment G and the applicable Service Order.
- (f) **Service Descriptions:** Spectrum's Voice Services and Hosted Communications Services listed above are described in Customer's Service Order, and/or in Spectrum's usage pricing plans, and online product descriptions, as applicable, on Spectrum's website at <https://enterprise.spectrum.com/services/voice.html>.

COMMUNICATIONS SERVICES TERMS AND CONDITIONS:

Customer's use of the Voice Services and Hosted Communications Services (collectively, "Communications Service") is subject to the following additional terms and conditions:

3. Availability of Facilities and Service Modifications:

(a) Services and associated products, facilities, equipment, features and functions will be available in accordance with the terms of this Attachment, where technically and operationally feasible. The quantity of business lines for each Service Location is dependent on the technical feasibility at that specific location. Additional construction and facilities may be required to provide requested Communications Services at Customer's expense. Customer must pay for any special construction prior to the activation of service and/or cancellation of contract.

(b) Spectrum is not obligated to provide Communications Services if Customer intends to or uses the Communications Services (i) to interfere with or impair any service over any facilities and associated Spectrum Equipment or impair the privacy of any communications over such facilities and associated Spectrum Equipment; (ii) to sell, resell, sublease, assign, license, sublicense, share, provide, or otherwise utilize in conjunction with a third party (including, without limitation, in any joint venture or as part of any outsourcing activity) the Communications Services or any component or combination thereof; or (iii) in any manner that results in non-standard calling patterns or practices, including but not limited to, use of the Communications Service for high-volume auto-dialing, continuous or extensive call forwarding, high-volume telemarketing (including, without limitation, charitable or political solicitation or polling), fax or voicemail broadcasting for services with unlimited local and long distance calling plans, and PBX hacking or modem hijacking resulting in excessive usage of long distance service (collectively, "Prohibited Use"). In addition, Prohibited Use shall include augmentation of the Communications Service or Communications Service features, in any way as to change the functionality of the Communications Service or its component features in any manner that is inconsistent with standard commercial calling patterns and practices or the terms of this Service Agreement. Such non-standard calling patterns and practices include, but are not limited to, use of three-way calling, or call forwarding, that results in unusually high traffic volumes or excessive long distance usage. A non-standard calling pattern may also include, when Customer's long distance calling minutes from (i) calls terminating to Alaska, (ii) calls terminating to Guam, (iii) calls terminating to a conference calling service operating in areas with high carrier access rates (e.g., rates that carriers pay one another for network use), or (iv) calls terminating to a chat line service, in the aggregate exceed ten percent (10%) of Customer's total long distance minutes in any one-month billing cycle.

(c) Spectrum may, from time to time, offer additional Communications Service features or functionality, or discontinue certain Communications Service features or functionality. Information about these features or functions will be available at <https://enterprise.spectrum.com/services/voice.html>. These additional Communications Services, features, or functions may be subject to additional specific terms and conditions, and may be subject to change at any time by Spectrum.

4. Communications Service Limitations:

(a) Unavailable Services; Call Blocking, Fraud, and N11. Spectrum does not offer or provide certain operator-assisted services such as dial around services (10-10-XXX), pay services, and third-party billing. Spectrum may use network management practices to block calls that have unassigned, invalid, or fraudulent numbers, that are identified as spam or malicious, that have suspicious calling patterns, or as otherwise permitted by applicable law. Calls blocked using these network management practices will not be delivered to Customer. Spectrum also blocks access to calls with 900 and 976 area codes and to international chat lines. Spectrum will initiate toll blocking if Customer's excessive use of any toll has surpassed the threshold set by Spectrum and/or Customer's account is delinquent. Notwithstanding any other provision of the Service Agreement or this Attachment, Spectrum may block calls which (i) are made to certain countries, cities, or central office exchanges, or (ii) use certain authorization codes, as Spectrum, in its sole discretion, deems reasonably necessary to prevent unlawful or fraudulent use of Communications Services. In addition, certain "N11" services (three digit dial codes such as 211) may not be available in all serving areas.

(b) Service Outages. Communications Service modems are electrically powered and will not work in a power outage or if the required broadband connection is disrupted or not operating. In the event of power outages, the modem, including all phones and Services connected to or powered by it, will not work. Power outages will disrupt Enhanced 911 ("E911") service and the use of Communications Service as the connection between a security system and central monitoring services. COMMUNICATIONS SERVICE DOES NOT HAVE ITS OWN POWER SUPPLY. IF THERE IS A POWER OUTAGE, OR IF THERE IS A DISRUPTION TO THE SPECTRUM NETWORK OR FACILITIES, COMMUNICATIONS SERVICE WILL NOT WORK. CUSTOMER ACKNOWLEDGES THAT IN SUCH CASES IT WILL NOT BE POSSIBLE TO PLACE OR RECEIVE CALLS INCLUDING CALLS TO ACCESS EMERGENCY 911 SERVICES.

(c) Security Systems and Alarm Systems. Although Spectrum will supply a connection (such as an analog line connection), that may allow the operation of Customer's existing security system, alarm system or other non-voice system (such as an elevator alarm line), Spectrum does not guarantee that any such system will be in complete operational order following the installation of Communications Service. As such, it is Customer's obligation to contact its security, alarm or other system provider to inform them of the Communications Services installation, and any change in phone number, and to request a complete operational test of their system immediately following installation of the Communications Services. Spectrum does not provide power back up and is not responsible for the operation of any Customer security, alarm, or any other system in connection with Customer Equipment and, specifically, where the Customer Equipment does not have power backup (e.g., battery backup). In addition, it is Customer's responsibility to test its system on a regular basis. Spectrum does not represent that the Service is fail-safe.

Customer is solely responsible for obtaining such testing, ensuring that such testing is completed in a timely manner, and confirming that the security system and any related Customer Equipment at the Service Location connected to the Communications Service operate properly. Customer is solely responsible for any and all costs associated with this activity. In all cases, it is Customer's responsibility to ensure that use of the Communications Service meets all applicable regulations.

(d) Prohibited Use: Spectrum prohibits the use of Communications Service as the connection between medical alert systems and a central monitoring station or a fire alarm, and Spectrum will neither connect to such services nor provide technical support for the connection.

5. Use of Services. Customer is solely responsible for: (i) prevention of Prohibited Use and unauthorized, unlawful, or fraudulent use of, or access to, Communications Services, which use or access is expressly prohibited; and (ii) administration and non-disclosure of any authorization codes provided by Spectrum to Customer. Spectrum may require Customer to immediately shut down its transmission of signals if Spectrum concludes, in its sole discretion, that such transmission is a Prohibited Use or causing interference to other customers or with other transmissions generally.

(a) Spectrum reserves the right (i) to refuse to provide, discontinue, or temporarily suspend Communications Services to or from a Service Location where the necessary facilities or equipment are not available under terms and conditions reasonably acceptable to Spectrum, or (ii) to limit or block Communications Services to and from any Service Location or the use of any authorization code, without any liability whatsoever, in the event that Spectrum detects or reasonably suspects either (a) Prohibited Use or fraudulent, or unlawful use of the Communications Services, or use of the Communications Service in violation of the Service Agreement or this Attachment, or (b) consumption of Communications Services in excess of the credit limit (if any).

(b) Customer's outgoing calls must use an active, valid telephone number assigned to Customer. Use of invalid or unassigned telephone numbers are prohibited for outgoing calls. Customer is responsible for (i) securing its Customer Equipment against placement of fraudulent calls, and (ii) ensuring that Customer Equipment is not being used for any Prohibited Use or fraudulent use or access with Communications Services. Customer shall be responsible for payment of all applicable charges for Communications Services and charged to Customer's accounts, even where those calls are originated by fraudulent means either from Customer's Service Location or from remote locations. Spectrum is not liable for any damages, including toll usage charges, Customer may incur as a result of the unauthorized use of its telephone facilities. This unauthorized use of Customer's facilities includes, but is not limited to, the placement of calls from the Service Location, and the placement of calls through Customer Equipment that are transmitted or carried on Spectrum's Network. Customer shall ensure that all uses by Customer, whether authorized by Customer or not, of the Spectrum Equipment or the Communications Services installed at the Service Location comply with all applicable laws, rules, regulations, and the Service Agreement (including this Attachment).

(c) Spectrum has the right to limit the Communications Service to reasonable quantities of minutes and messages used or consumed by Customer to prevent Prohibited Use and to maintain a high level of service for other Spectrum customers.

6. Access to Telecommunications Relay Communications Service: Telecommunications Relay Service ("TRS") enables deaf, hard-of-hearing or speech-impaired persons who use a Text Telephone ("TT") or Caption Telephone (collectively, "TDD") or similar devices to communicate with the hearing population not using TDD. It also allows the hearing population not using a TT to communicate with deaf, hard-of-hearing, or speech-impaired persons who do use a TDD. Customer will be able to access the state provider to complete such calls by either dialing the applicable telephone number directly or by dialing the number 711, where available. Spectrum may bill Customer a monthly surcharge in order to fund the TRS system. . If Customer activates Custom Caller ID for Trunks or Customer utilizes its own Customer-defined dialing scheme or PBX configuration, Customer must configure its PBX to out-pulse an active, valid telephone number that is assigned to the Customer and that accurately identifies the Service Location for each outbound call handled by that PBX so that 711/TRS calls complete to the appropriate 711/TRS center.

7. 911 Services:

(a) CUSTOMER ACKNOWLEDGES THAT THE VOICE-ENABLED FIBER CONNECTION, CABLE MODEM, INTEGRATED ACCESS DEVICE ("IAD") OR OTHER SPECTRUM EQUIPMENT USED TO PROVIDE COMMUNICATIONS SERVICE ARE ELECTRICALLY POWERED AND THAT COMMUNICATIONS SERVICE, INCLUDING THE ABILITY TO ACCESS 911 AND E911 SERVICES AND ALARM, SECURITY, AND OTHER MONITORING SERVICES, MAY NOT OPERATE IN THE EVENT OF AN ELECTRICAL POWER OUTAGE, A SPECTRUM NETWORK SERVICE INTERRUPTION, OR A THIRD-PARTY NETWORK SERVICE INTERRUPTION IF THE COMMUNICATIONS SERVICE IS PROVIDED AS AN OVER-THE-TOP OR OFF-NET (TYPE II) SERVICE USING A THIRD PARTY'S NETWORK. CUSTOMER ALSO ACKNOWLEDGES THAT, IN THE EVENT OF A POWER OUTAGE AT A SERVICE LOCATION, ANY BACK-UP POWER SUPPLY PROVIDED WITH A SPECTRUM-PROVIDED VOICE-ENABLED CABLE MODEM, IAD, OR OTHER SPECTRUM EQUIPMENT USED IN DELIVERING THE COMMUNICATIONS SERVICE MAY ENABLE SERVICE FOR A LIMITED PERIOD OF TIME OR NOT AT ALL, DEPENDING ON THE CIRCUMSTANCES, AND THAT THE USE OF A BACK-UP POWER SUPPLY DOES NOT ENSURE THAT COMMUNICATIONS SERVICE WILL BE AVAILABLE IN ALL CIRCUMSTANCES. CUSTOMER SHALL ADVISE EVERY END USER OF COMMUNICATIONS SERVICE THAT SPECTRUM VOICE-ENABLED CUSTOMER EQUIPMENT IS ELECTRICALLY POWERED AND, IN THE EVENT OF A POWER OUTAGE OR SPECTRUM NETWORK SERVICE INTERRUPTION, COMMUNICATIONS SERVICE AND 911 OR E911 MAY NOT BE AVAILABLE. CUSTOMER SHALL DISTRIBUTE TO ALL END USERS OF COMMUNICATIONS SERVICE LABELS/STICKERS (TO BE SUPPLIED BY SPECTRUM) AND INSTRUCT ALL END USERS OF COMMUNICATIONS SERVICE TO PLACE THEM ON OR NEAR THE EQUIPMENT USED IN CONJUNCTION WITH THE COMMUNICATIONS SERVICE.

(b) Customer is not permitted to move Spectrum Equipment from the Service Location in which it has been installed. If Customer moves any of the voice-enabled cable modem, IAD, or other Spectrum Equipment to an address other than the Service Location identified on the Service Order, calls from the modem, IAD, or other Spectrum Equipment to E911 will appear to E911 emergency service operators to be coming from the Service Location identified on the Service Order and not the new address. Customer shall be solely responsible for directing emergency personnel at the customer premises at each Service Location.

(c) Customer will be notified by Spectrum as to whether the Communications Service to which Customer subscribes includes the capability to support E911 service from multiple locations or from a location other than the Service Location. Customer agrees that Spectrum will not be responsible for any losses or damages arising as a result of the unavailability of Communications Service, including the inability to reach 911 or other emergency services, the inability to contact a security system or other monitoring service provider or any failure or fault relating to Customer Equipment, facilities or services, the use of third-party enterprise 911 solutions, or Customer's attempt to access Communications Service from a remote location.

(d) In some geographic areas, Communications Service does not provide the capability to support E911 service from any location other than the Service Location. In those areas, if Customer intends to assign telephone numbers to one or more locations other than the Service Location, Customer shall obtain from the incumbent LEC, a competitive LEC, or Spectrum a local telephone line or lines and ensure that (i) the address(es) associated with the additional location(s) are loaded into the 911 database by the provider of the local telephone line(s) such that 911 calls will deliver to the 911 answering point the actual location and address of the 911 caller and (ii) all 911 calls originated from the additional location(s) are transported and delivered over those local telephone lines.

IN SUCH AREAS, CUSTOMER AGREES TO DEFEND, INDEMNIFY AND HOLD HARMLESS SPECTRUM, ITS AFFILIATES, ITS SERVICE PROVIDERS AND SUPPLIERS AND THEIR RESPECTIVE OFFICERS, DIRECTORS, EMPLOYEES AND AGENTS, FROM AND AGAINST THIRD PARTY CLAIMS, LIABILITIES, DAMAGES AND EXPENSES, INCLUDING REASONABLE ATTORNEYS' AND OTHER PROFESSIONALS' FEES, ARISING OUT OF OR RELATING TO 911 CALLS MADE BY END USERS OF THE COMMUNICATIONS SERVICE FROM LOCATIONS OTHER THAN THE SERVICE LOCATION.

(e) If Customer orders E911 Location Plus, (i) Customer may add and/or manage station level address information for telephone numbers at the Service Location through use of the E911 Location Plus self-service web portal; (ii) Customer shall be solely responsible for complying with all applicable local, state, and federal laws, rules, regulations and requirements for operation and use of a multi-line telephone system and for providing accurate station level address information (i.e., the applicable characters for display at a 911 operator) for Customer's telephone numbers; (iii) Customer will transmit the telephone number to Spectrum that is associated with the station that placed a 911 call; and (iv) Customer will ensure the initial and continuing accuracy of the station level address information for each Customer telephone number in the E911 Location Plus self-service web portal.

Updates or modifications to station level address information in the E911 Location Plus self-service web portal may require up to 24 hours for implementation and/or updating. Non-Spectrum telephone numbers are not supported and may not be entered into the E911 Location Plus self-service web portal. Notwithstanding Customer's use of E911 Location Plus, Customer is solely responsible for directing emergency personnel at the Service Location.

(f) Customer shall not use the Communications Services, or allow the Communications Services to be used, (i) to provide 911 or E911 services; (ii) route 911 or E911 traffic to any public safety answering point, statewide default answering point, or appropriate local emergency authority or emergency responders; or (iii) for any automatic location information services related to E911 or in any other manner that would cause, or be likely to cause, Spectrum to qualify as a "Covered Service Provider" as defined in 47 C.F.R. §9.19 or any successor provision of the rules of the Federal Communication Commission. Any breach of this provision shall constitute a material breach of the Service Agreement.

(g) CUSTOMER ACKNOWLEDGES THAT SPECTRUM'S "ANYWHERE CONNECT" OR OTHER SOFTPHONE SOFTWARE OR APPLICATIONS (COLLECTIVELY "SOFTPHONE APPLICATIONS") ARE NOT A REPLACEMENT FOR MOBILE OR FIXED LINE VOICE SERVICES. SOFTPHONE APPLICATIONS DO NOT PERMIT END USERS TO MAKE 911 OR OTHER EMERGENCY CALLS. CUSTOMER SHALL PROVIDE ALTERNATIVE COMMUNICATION OPTIONS TO ENABLE END USERS TO MAKE 911 AND OTHER EMERGENCY CALLS WHEN USING SPECTRUM'S SOFTPHONE APPLICATIONS.

BEGINNING ON JANUARY 6, 2022: Notwithstanding the preceding paragraph, if Customer ordered soft phone service and/or a Softphone Application on or after February 16, 2020, Customer will have 911 calling capability with its soft phone service or Softphone Application beginning on January 6, 2022 if Customer's software and service is properly installed, configured and updated. Customer understands that such soft phone service and Softphone Application, including 911 calling capability, will not function properly unless correct and valid address information has been entered into the soft phone service or Softphone Application that reflects the application and/or associated device location. Customer further understands that such soft phone service and Softphone Application will not function or will not function properly: (i) if a user attempts a 911 call from a location different than the address provided in the soft phone service or Softphone Application; (ii) during any disruption of power or Internet connectivity at the user's location; (iii) during any period of services or E911 outage or failure beyond Spectrum's control; (iv) if incorrect or invalid address information is provided or if such information is not updated by user in the event of a change in user's location; (v) if user's equipment fails to function, is not properly configured, or is defective; or (vi) if instructions, requirements or obligations for proper operation of the soft phone service or Softphone Application are not executed completely and properly.

8. Custom Caller-ID (Voice Services only): If Customer activates Custom Caller ID for Trunks, which permits a customer to define the telephone number that Spectrum makes available to call recipients for Caller ID purposes, the telephone number chosen must be an active, valid telephone number that is assigned to Customer. Custom Caller ID for Trunks may be used only where Customer employs Customer Equipment that ensures that 911 and other emergency calls placed by an end user are routed to an appropriate public safety answering point or other responding agency based on the caller's location, in a manner consistent with applicable law. If Customer activates Custom Caller ID, they must configure their PBX to out-pulse an active, valid telephone number that is assigned to the Customer and that accurately identifies the Service Location for each outbound call including TRS, 711, and emergency 911 calls to be handled by that PBX. By activating Custom Caller ID for Trunks, Customer represents and warrants that it employs such a Customer Equipment solution and agrees to continue using such a solution until Customer discontinues its use of Custom Caller ID for Trunks.

Telemarketers or other entities using Custom Caller ID for Trunks must comply with applicable federal and state laws, including obligations requiring identification of: (i) the telemarketer or the party on whose behalf the telemarketing call is made and (ii) the calling party's number ("CPN"), automatic number identification ("ANI"), or customer service number of the party on whose behalf the telemarketing call is made.

The use of incorrect or fictitious CPN, ANI, or other calling party information on such telemarketing calls is prohibited. Custom Caller ID for Trunks may not be used by any person or entity in connection with any unlawful purpose. Customer shall provide proof of telephone number assignment (e.g., by business agreement or evidence the user has access to use the number) upon Spectrum's request.

9. Cross Rate Center Telephone Numbers: If Customer orders or utilizes telephone number(s) with Spectrum Trunking Service that are associated with a rate center that is different than the rate center where the Spectrum trunking service is located, (i) Customer's telephone number(s) will be provisioned as Direct Inward Dialing (DID) numbers on the Spectrum Trunking Service (referred to as "Cross Rate Center DIDs"); (ii) all calls originated from the Cross Rate Center DIDs will be rated based upon the rate center associated with the Spectrum Trunking Service location; and (iii) the address information for E911 calls from the Cross Rate Center DIDs shall be the address associated with the Spectrum Trunking Service location. Cross Rate Center DIDs may not be available in all Spectrum service areas, and Customer may purchase Remote Call Forwarding (RCF) or Remote Number Forwarding (RNF) in service areas where Cross Rate Center DIDs are not available.

10. Centralized PBX Support: If Customer orders Centralized PBX Support for a Customer PBX that serves multiple Customer locations (each, referred to as a "Remote Site"), Customer will connect each Remote Site to a single site on the Customer's network (referred to as a "Hub Site") and Spectrum Trunking Service will be installed at the Hub Site. The demarcation point for each Remote Site will be the Hub Site location where the Spectrum Trunking Service is installed. Customer is responsible for the quality of the network and connections, including the voice Quality of Service (QOS), on its side of the demarcation point, unless such network and connections are provided by Spectrum. Additionally, the following requirements are applicable to Centralized PBX Support:

(a) Telephone numbers utilized at each Remote Site (i) must be associated with the rate center where the Remote Site is located, and (ii) must be in a Spectrum service area.

(b) Cross rate center telephone number assignment is not permitted with Centralized PBX Support. Customer may purchase Remote Call Forwarding (RCF) or Remote Number Forwarding (RNF) if a Remote Site requires telephone numbers that are associated with a rate center that is different than the rate center where the Remote Site is located.

(c) The address information for E911 calls from a Remote Site shall be the address associated with the Remote Site. Customer is solely responsible for providing Spectrum with accurate telephone number and service address information for each Remote Site. Customer must contact Spectrum before moving telephones or telephone numbers to any address other than the Remote Site, otherwise calls from the telephones or telephone numbers will appear to E911 emergency service operators to be coming from the Remote Site and not the new address.

(d) Spectrum will calculate and remit 911 fees for each Remote Site based on state and local regulations at the address where telephone(s) and telephone number(s) are located and emergency services are dispatched.

(e) All calls from a Remote Site will be rated based upon the rate center associated with telephone number(s) at the Remote Site.

11. Access: Customer agrees to provide Spectrum and its authorized agents with access to Customer's internal telephone or local area network wiring at the network interface device or at some other minimum point of entry in order to facilitate the installation and operation of Communications Service over existing wiring. Customer hereby authorizes Spectrum to make any requests to Customer's landlord, building owner and/or building manager, as appropriate, and to make any requests to other or prior communications service providers, as necessary and appropriate, to ensure that Spectrum has all access to inside wiring and cabling necessary and sufficient to efficiently and securely install Communications Service and all related Spectrum Equipment. The agents and employees of Spectrum shall have the right to enter the Service Location at any reasonable hour for the purpose of installing, inspecting, maintaining, or repairing Spectrum Equipment, instruments and/or lines, or upon termination of the Communications Service, for the purpose of removing such Spectrum Equipment, instruments, and/or lines. Communications Services are offered to businesses only and are not available for residential use.

12. Customer Equipment: Spectrum's obligation is to provide Communications Services to the customer-accessible interface device or equipment installed by Spectrum at the Spectrum Network Demarcation Point at the Service Location. The "Demarcation Point" is the point of interconnection between the Spectrum Equipment or other facilities and the wiring at the Service Location. Customer is responsible for ensuring that all such Customer Equipment conforms to the Federal Communications Commission's requirements set forth in Part 68 of the Code of Federal Regulations (as amended), and Spectrum may discontinue the provision of Communications Services to any location where Customer Equipment fails to conform to such regulations.

Without limiting the foregoing, in the event that Customer-provided fiber, coax, copper wiring, and/or point-to-point wireless, or a segment of the foregoing provided by Customer, (collectively "Customer Facilities") are used in the delivery of Communications Services, Customer shall be solely responsible for the condition, performance, maintenance, repair, and replacement of such Customer Facilities, at all times. Upon request, Customer shall provide Spectrum with access to the Customer Facilities, for Spectrum to inspect the condition of Customer Facilities prior to

Spectrum's installation of the Communications Service, provided that Spectrum shall not be required to conduct such inspection, and such inspection or statements made by Spectrum in connection therewith shall in no way constitute a representation, warranty or guarantee that the Customer Facilities are fit for use with the Service. Notwithstanding anything in the Service Agreement to the contrary, Spectrum shall not be liable or responsible, nor shall it provide Service Credits under any Service Level Agreements, for any Service delays, disruptions, degradations, repairs, maintenance, failures or any other Service issues caused by or resulting from Customer Facilities.

Customer shall be solely responsible for satisfying all legal requirements for interconnecting Customer-provided terminal equipment or communications systems with other provider's facilities, including, without limitation, application for all licenses, permits, rights-of-way, and other arrangements necessary for such interconnection. Satisfaction of all legal requirements, any interface equipment or any other facilities necessary to interconnect the facilities of Spectrum and other providers must be provided at Customer's sole expense.

13. CPNI: As a provider of telecommunications and interconnected VoIP services, Spectrum takes seriously its responsibility to protect the confidentiality of its customers' proprietary network information ("CPNI"). Spectrum is committed to protecting its telecommunications and interconnected VoIP service customers' CPNI in accordance with applicable regulatory and statutory requirements. CPNI is customer-specific data that is collected by Spectrum in the course of providing telecommunications or interconnected VoIP services to its customers, and includes information relating to the quantity, technical configuration, type, destination, location, and amount of telecommunications and interconnected VoIP service usage by Customer, and information contained in Customer's bills that is obtained by Spectrum pursuant to its provision of telecommunications or interconnected VoIP service. Customer CPNI will be protected by Spectrum as described herein, in the Spectrum Privacy Policy and in accordance with applicable federal and state requirements. Notwithstanding anything else in this Agreement, the following shall not be CPNI: (i) Customer's directory listing information (i.e., Customer's name, address, and telephone number), and (ii) aggregated, deidentified and/or compiled information that does not contain individual customer characteristics, even if CPNI was used as a basis for such information.

- (a) Spectrum may use and disclose Calling Details and CPNI when required by applicable law.
- (b) Spectrum may use Calling Details and CPNI and share (including via email) Calling Details and CPNI with its partners and contractors, as well as with Customer's employees and representatives, without Customer consent: (i) to provide services and bills to Customer; (ii) pursuant to applicable law; (iii) to protect the interests of Spectrum, Customer and related parties in preventing fraud, theft of services, abuse, harassment and misuse of telephone services; (iv) to protect the security and integrity of Spectrum Network systems; and (v) to market additional Spectrum services to Customer that are of the same category as the services that Customer purchases from Spectrum.
- (c) Spectrum will obtain Customer's consent before using Calling Details or CPNI to market to Customer Spectrum services that are not within the categories of Services that Customer purchases from Spectrum. Customer agrees that Spectrum will not be liable for any losses or damages arising as a result of disclosure of Calling Details or CPNI in accordance with the terms of this Attachment.
- (d) Spectrum will respond to Customer requests for Customer Calling Details only in compliance with Spectrum's then- current authentication requirements and applicable law. Such authentication requirements may require Customer to obtain a secure password, which may be required for both online and telephone requests for Calling Details. Spectrum will notify Customer of any requests to change account passwords, activate online account access, and change Customer's account address of record. Spectrum may provide such notice by voicemail, by email or by regular mail to Customer's prior account address of record.
- (e) Customer may identify a person or persons who are authorized to request Calling Details by executing an Agency Letter provided by Spectrum upon request. Customer is responsible for: (i) ensuring that Spectrum receives timely notice of any changes to the list of authorized individuals identified in the Agency Letter. Spectrum will not be liable to Customer for any disclosure of Calling Details (including CPNI) that occurs if Spectrum has complied with the Agency Letter.
- (f) Provided that Customer is served by at least one dedicated Spectrum representative under this Attachment B, Spectrum may use any one of the authentication methods specified below to confirm that a person seeking Customer CPNI (including, without restriction, call detail records) is authorized to receive it.
- (g) Spectrum will not be liable to Customer for any disclosure of CPNI (including call detail records) that occurs if Spectrum has complied with one or more of these authentication methods.
 - Agency Letter. As provided in paragraph 12.e, Spectrum may provide CPNI to any individual pursuant to the terms of an Agency Letter.

- Circuit ID. Spectrum may provide Customer CPNI to an individual that correctly identifies a Customer Circuit ID—i.e., a Spectrum-specific identifier assigned to a data or voice network connection between two locations.
- Premier Code. Spectrum may provide Customer CPNI to an individual that correctly identifies Customer's Premier Code—i.e., a 4-digit code that Spectrum may provide to Customer.
- Security Code (CPNI code). Spectrum may provide Customer CPNI to an individual that correctly identifies the account's security code – i.e., a 4-digit code that Spectrum may provide to Customer.
- Last 4 digits of any MAC addresses listed on account. Spectrum may provide Customer CPNI to an individual that correctly identifies the last 4 digits of the MAC address of any Spectrum-issued device listed on the account – i.e., a cable modem, telephony equipment, set top boxes, etc.
- Full serial number of any piece of Spectrum Equipment on Customer's account. Spectrum may provide Customer CPNI to an individual that correctly identifies the full serial number of any Spectrum-issued equipment listed on the account – i.e., a cable modem, telephony equipment, set top boxes, etc.

Spectrum reserves the right to add, remove, or alter these authentication methods in its sole discretion.

In the event of a conflict or inconsistency between the CPNI terms in this Attachment B and the remainder of the Service Agreement, the CPNI terms in Attachment B shall control.

14. Directory Listings: Spectrum will facilitate the inclusion of its business customers in alphabetical white and yellow pages directories and/or electronic compilations, as requested and available in Spectrum's service area. These listings are intended as a resource for interested parties who can use them to find the telephone numbers of Spectrum customers who subscribe to Communications Services. Spectrum, in its sole discretion, may limit the length of any listing in a directory or electronic compilation by abbreviating the listing. Listings may be subject to additional rules and restrictions. Toll free and private number service may be available to Customer for an additional charge. A listing may be omitted from a directory or electronic compilation upon Customer's request.

IN THE EVENT THAT A MATERIAL ERROR OR OMISSION IN CUSTOMER'S DIRECTORY LISTING INFORMATION, REGARDLESS OF FORM, IS CAUSED BY SPECTRUM, CUSTOMER'S SOLE AND EXCLUSIVE REMEDY SHALL BE A SERVICE CREDIT IN AN AMOUNT SET BY SPECTRUM'S THEN-CURRENT STANDARD POLICIES OR AS PRESCRIBED BY APPLICABLE REGULATORY REQUIREMENTS, IF ANY. SPECTRUM SHALL HAVE NO OTHER LIABILITY FOR ANY ERROR OR OMISSION IN ANY DIRECTORY LISTING INFORMATION.

15. Usage Rates/Minute Packages: Communications Services may be subject to usage pricing plans or minutes of use packages that apply charges for certain calls, including international calls and inbound toll-free calls. Unless otherwise specified in Customer's Service Order or Contract, usage pricing plans or packages are available for Trunking Service at enterprise.spectrum.com/services/voice/enterprise-trunking/rates.html and for Unified Communications at enterprise.spectrum.com/services/voice/unified-communications/rates.html. Spectrum reserves the right to change its usage pricing plans and packages at any time.

16. Number Porting: Upon submission of a Service Order, Customer may port a telephone number within the rate center for its particular Service Location, or a toll-free number from an existing toll-free service provider, to Spectrum for use with Communications Services. Customer represents and warrants that it has all necessary rights and authority for any porting request, will provide copies of letters of authority authorizing the same upon request, AND SHALL INDEMNIFY, DEFEND AND HOLD HARMLESS SPECTRUM AND ITS AFFILIATES FROM ANY THIRD-PARTY CLAIM RELATED TO OR ARISING OUT OF ANY PORTING REQUEST. Spectrum shall coordinate telephone number porting with Customer's former local service provider ("FLSP") or former toll-free service provider, as appropriate, using the operational process for coordinating telephone number porting as prescribed by the appropriate regulatory authority.

Spectrum may receive requests to port a telephone number currently assigned to Customer to a third -party service provider. Customer agrees that until such time as the porting process has been completed and no further traffic for any ported telephone number traverses the Spectrum Network, Customer shall remain bound by the terms of the Service Agreement and this Attachment (including, without limitation, Customer's obligation to pay for any applicable Services) for any and all traffic which remains on any Customer telephone numbers.

Notwithstanding the foregoing, Customer shall notify Spectrum at least five (5) business days in advance of Customer requesting more than twenty (20) telephone numbers to be ported from Spectrum to another service provider. Customer has no property right in telephone number(s) or any other call number designations associated with the Communication Services, and Spectrum may change such numbers as deemed necessary.

17. Call Redirect: If a PRI Service, Analog Lines over Fiber, or Hosted Communication Service Customer elects to redirect calls to an alternate number and if the receiving telephone number is charged as domestic long distance, charges will be applied against Customer's MOU package on the account or, if exceeded, at the applicable long distance rates.

18. Fiber Internet Access Bundles: If Customer purchases a discounted bundled offering from Spectrum including a SIP Trunking Service or Hosted Communications Services combined with Spectrum Fiber Internet Access, Customer must have the Trunking or Hosted Communications Service installed and billing within four months after the provisioning and turn-up of the bundled data circuit.

The monthly recurring charge will revert to the non-bundled rate for the installed service if Customer fails to accept both Services within this timeframe.

19. Unified Communications Service Data: Spectrum and any third-party service provider Spectrum uses to provide Unified Communications Services may use Customer data provided to such service provider in the course of the performance of the Unified Communications Services, including but not limited to any personal data of Customer's employees ("UCS Data"), other than content transmitted by the Unified Communications Services, to (a) communicate with Spectrum or Customer, and (b) administer and/or perform this Service Agreement, any Service Order, and/or any agreement between Spectrum and such third-party service provider. Spectrum and such service provider may access or disclose UCS Data and related information, to: (i) satisfy legal requirements, comply with the law or respond to subpoenas, warrants or court orders, or (ii) act on a good faith belief that such access or disclosure is necessary to protect the personal safety of Spectrum's or such service provider's employees, customers or the public.

20. Voicemail; Call Recording and HIPAA. This paragraph shall apply if Customer is a Covered Entity or Business Associate under HIPAA. If Customer is a Covered Entity or Business Associate, and intends to create, receive, maintain or transmit protected health information ("PHI") through the use of the Hosted Communications Services, Customer agrees that with regard to the Voice Services (i.e. telephone service alone), Spectrum is acting solely as a "conduit". Under HIPAA, a "conduit" is a party that transports information but does not access it other than on a random or infrequent basis necessary for the performance of the transportation service or as required by law. However, Customer agrees that it shall notify Spectrum, and the parties shall enter into Spectrum's Business Associate Agreement, if Customer is to receive or store any PHI on the voicemail or call recording features of the Hosted Communications Services, both of which must occur before such receipt or storage of PHI. In such event, Customer further agrees that it shall not enable or otherwise use any "voicemail to e-mail" feature in connection with the Hosted Communications Services. As used herein, "HIPAA" means the Health Insurance Portability and Accountability Act of 1996, as amended, and its implementing rules and regulations, and "Covered Entity," "Business Associate," and "protected health information" shall have their respective meanings as defined by HIPAA.

21. Webex End User Terms. When using Webex products or services offered through Spectrum, Customer and each End User agrees and accepts Cisco's applicable Webex terms, including the following:

(i) Cisco Privacy Data Sheets for Webex Meetings and Webex Teams available at:

https://trustportal.cisco.com/c/r/ctp/trust-portal.html#/customer_transparency, and

(ii) Cisco End User License Agreement for the Cisco client software installed by Customer or End User available at www.cisco.com/go/eula.

Attachment C

Spectrum Business High-Speed Internet Service ("Internet Service")

Spectrum Business High-Speed Internet Service¹: Internet access service implemented using a hybrid fiber/coax ("HFC") or a fiber access network. Customer interface to the data network is via Ethernet connection. Internet Service enables a variety of upstream and downstream rates. If Customer elects to receive Internet Service, Spectrum shall provide connectivity from Customer site(s) to Customer's data network.

Certain Internet Services, or features of Internet Services, may not be available in all service areas and may change from time to time, in Spectrum's sole discretion. In addition, certain non-facilities-based services provided by third parties may be offered to Customer by Spectrum ("Third-Party Services"). Third Party Services may be subject to additional terms and conditions. Except to the limited extent described in this Attachment, Spectrum makes no warranties of any kind (express or implied) regarding Third-Party Services and hereby disclaims any and all warranties pertaining thereto (including implied warranties of title, non-infringement, merchantability, and fitness for a particular purpose). Spectrum does not have title to and is not the manufacturer of any software or hardware components of any Third-Party Services nor is Spectrum the supplier of any components of such software or hardware. IN NO EVENT SHALL SPECTRUM BE LIABLE FOR ANY DAMAGES ARISING FROM THE PERFORMANCE OR NONPERFORMANCE OF ANY THIRD-PARTY SERVICES.

Customer's use of the Internet Service is subject to the following additional terms and conditions:

1. **Minimum Equipment Requirements.** Customer shall maintain certain minimum equipment and software to receive the Internet Service (see www.business.spectrum.com for the current specifications). The minimum configuration standards may change, and Spectrum will make reasonable efforts to support previously acceptable configurations; however, Spectrum is not obligated to continue to provide such support. Spectrum may supply Spectrum Equipment such as modems, gateways, routers, or wireless cards, for a fee, to operate the Internet Service. Spectrum reserves the right to provide service only to users with Spectrum-approved equipment. Customer acknowledges that such Spectrum Equipment may require updates and/or changes to the software resident in the Spectrum Equipment and that Customer may be required to perform such updates and/or changes. Customer hereby authorizes Spectrum to perform updates or changes, on-site or remotely from time to time as Spectrum deems necessary, in Spectrum's sole discretion. Customer will not connect any equipment, other than equipment authorized by Spectrum, to the Spectrum Network. When Spectrum installs the Internet Service, Customer will need a network interface card or adapter providing an Ethernet connection. Alternatively, Customer may connect to a networking device (commonly referred to as a router or gateway).
2. **Software.** At the time of installation of the Internet Service, Spectrum may provide Customer with common Spectrum or third-party software (e.g., a browser and plug-ins) to enable and enhance the Internet Service, subject to the license terms and restrictions in the Spectrum Service Agreement. Customer hereby represents and warrants to Spectrum that Customer owns the operating system software and associated use/license rights thereto for the computers that are connected to the Spectrum Network.
3. **Internet Service Speeds.** Spectrum shall use commercially reasonable efforts to achieve the Internet speed attributable to the bandwidth for the Internet Service selected by Customer, however, actual speed, also known as throughput rate, may vary. Many factors affect speed experienced by Customer as outlined in Spectrum's Network Management Practices.
4. **Security.** Customer shall take commercially reasonable security measures when using the Internet Service and assumes sole responsibility for use of the Internet Service and for access to and use of Customer Equipment used in connection with the Internet Service and Spectrum Network.
5. **Electronic Addresses; Mailboxes.** All non-vanity email addresses, email account names, and IP addresses ("Electronic Addresses") provided by Spectrum (and not through Customer's domain) are the property of Spectrum. Customer may not alter, modify, sell, lease, assign, encumber or otherwise tamper with the Electronic Addresses.

¹ Customers that purchased Internet services from Time Warner Cable Business Class, Brighthouse Networks, or Charter before June 11, 2017 may continue to receive the same Internet service plan, features, and supplemental services at the same prices offered as of June 11, 2017 ("Legacy Services") until such time as Spectrum discontinues the Legacy Services by written notice to such Customers. If Customer elects to receive Spectrum Business Internet Services available as of June 11, 2017, then Customer will no longer be eligible to receive any Legacy Services, including, without limitation, any supplemental services or features that may not be available as part of the Spectrum Business Internet Services. Please contact your Spectrum sales representative for further information.

6. Mailboxes. Spectrum owns any and all mailboxes associated with the Internet Service and may reclaim such mailboxes at any time for any reason. Spectrum may also limit the number of new email addresses available per account and the number of email messages that may be sent within a 24-hour time period. Spectrum may lock inactive mailboxes and prohibit the mailbox from receiving new email messages. Customer acknowledges that upon termination of Internet Service, Spectrum will suspend all accounts associated with the Internet Service and delete the contents of all mailboxes, if any. Deleted content cannot be recovered. Email addresses are not permanently retired and become eligible to be reused at Spectrum's sole discretion.
7. Mail Storage. In no event will Spectrum be responsible for maintaining, and Spectrum will not guarantee storage of, email for any period of time. Spectrum also reserves the right to enforce email storage limits.
8. Cookies. Customer may access their Spectrum email account at <https://www.spectrumbusiness.net> or by using the Customer's software application (e.g., Outlook, Outlook Express, Apple Mail). When accessing email at <https://www.spectrumbusiness.net>, Customer must have its Internet browser configured to accept cookies. Spectrum will notify the End User if the browser is not configured to accept cookies.
9. Changes of Address. Spectrum may change addressing schemes, including email and IP addresses provided by Spectrum.
10. Acceptable Use Policy. Customer shall comply with the terms of Spectrum's Acceptable Use Policy ("AUP") found at www.business.spectrum.com and that policy is incorporated by reference into this Service Agreement. Customer represents and warrants that Customer has read the AUP and shall be bound by its terms as they may be amended, revised, replaced, supplemented or otherwise changed from time-to-time by Spectrum with or without notice to Customer. Spectrum may suspend Service immediately for any violation of the AUP.
11. Spectrum Business WiFi. Spectrum Business WiFi supported by a Spectrum-provided wireless router is a service available to certain Customers and provides wireless access to the Internet Service within the Service Location ("WiFi Network"), for which Customer may be charged a fee consistent with Spectrum's then-current practices. Customer must purchase Spectrum Internet Service in order to receive Spectrum Business WiFi. The Spectrum-provided WiFi router comes programmed with certain default settings and configurations for the WiFi Network. Customer may modify the default settings and configurations on the Spectrum-provided WiFi router although Spectrum recommends maintaining the default configuration and settings. Spectrum does not guarantee the security of the Spectrum-provided WiFi router and Customer's connection to the Internet Service via the WiFi Network. Customer understands and agrees that Customer is solely responsible for the security of its WiFi Network and must enable and use encryption in order to access Spectrum-provided applications. Customer understands that this service is intended to be used by the Customer and its End Users and that Spectrum accepts no liabilities for any third-party usage.
12. The Spectrum-provided WiFi router will collect and maintain certain information regarding access to and use of the WiFi Network, which information shall include but not be limited to device identifiers, device name, device type, applications and protocols, connections, and traffic flows. Such information will be used by Spectrum to provide the Internet Service and support, as well as for Spectrum's internal business analytics regarding the use of the Internet Service. Customer acknowledges and agrees that Spectrum shall have access to the network name and password associated with the Spectrum-provided WiFi router in order to provide support and diagnostic services. Spectrum reserves the right to modify the WiFi network name and password for the Spectrum-provided WiFi router in order to safeguard Internet security, the security and privacy of Customer's information, where required by law, or for other good cause to provide, upgrade, and maintain the Internet Service, and protect the network, other users of the Internet, or our customers and subscribers. Abusive, vulgar, offensive, inappropriate or profane WiFi Network names are prohibited and may be modified in Spectrum's sole discretion. Customer acknowledges that the Spectrum-provided WiFi router is Spectrum Equipment.
13. Spectrum Business WiFi Hotspot. Spectrum reserves the right to preconfigure the Spectrum-provided WiFi router to distribute a wireless Internet access point (i.e., a Spectrum Business WiFi Hotspot, a "WiFi Hotspot") separate from the WiFi Network. Any use of bandwidth from such wireless access point by third parties will not be considered to be use by the Customer for any purpose. Customer shall have the right to disable such WiFi Hotspot, and shall not be responsible for the security of the WiFi Hotspot.
14. To be eligible to receive the WiFi Hotspot, Customer must be receiving Spectrum Internet Service. Subject to the foregoing, Spectrum will, and Customer grants Spectrum permission to, attach, install, maintain, operate, and upgrade WiFi-related equipment, cables and devices ("WiFi Equipment") on and within the Service Location. The WiFi Equipment will be operated by Spectrum, at no cost to Customer, in order to provide the WiFi Hotspot at the Service Location(s). Customer agrees to provide a standard power source for operation of the WiFi Equipment.

(a) Customer's use of the WiFi Hotspot is subject to the following additional terms and conditions:

- i. The WiFi Hotspot made available at Service Location(s) may be accessed by Customer and its End Users through their Spectrum accounts for no additional charge.
- ii. To access the WiFi Hotspot, Customer and its End Users and patrons must have a WiFi-enabled device that meets the technical specifications for the WiFi Hotspot.
- iii. Customer grants Spectrum the right to advertise, market and otherwise promote Customer's location(s) as a WiFi Hotspot access point(s), in any and all forms of media now known or hereafter developed, in Spectrum's sole discretion, and Customer grants Spectrum a license to use Customer's names, trademarks and logos in connection with such advertising, marketing and promotion.
- iv. Customer will not be entitled to receive any refunds or credits should the WiFi Hotspot be interrupted or fail, regardless of the length of time during which the WiFi Hotspot is unavailable.
- v. All WiFi Equipment constitutes Spectrum Equipment. Customer may not relocate or disconnect the WiFi Equipment.

15. Desktop Security Service. Desktop Security Service is made up of software and hardware components. Spectrum is not the manufacturer or supplier of any software or hardware components of the Desktop Security Service. Spectrum shall update the Desktop Security Service from time-to-time based on manufacturer-provided updates.

Attachment D

Fiber Internet Access Service ("FIA Service")

Fiber Internet Access: If Customer elects to receive the FIA Service, Spectrum shall provide Customer with a dedicated, scalable connection over a packet-based infrastructure with Internet service provider ("ISP") peering between Customer's data network identified on a Service Order and Spectrum's facilities.

FIA Service, or features of FIA Service, may not be available in all service areas. Spectrum's FIA Service is "On-Net" if it is provided by Spectrum to Service Locations through the Spectrum Network. Spectrum may, in its discretion, provide Customer with "Off-Net" services to geographic locations that are outside of Spectrum's service area or are not currently connected to the Spectrum Network through third party service providers. In addition, certain non-facilities-based services provided by third parties may be offered to Customer by Spectrum ("Third Party Services"). Third Party Services and Off-Net Services may be subject to additional terms and conditions.

Customer's use of the FIA Service is subject to the following additional terms and conditions:

1. **FIA Service Speeds.** Spectrum shall use commercially reasonable efforts to achieve the Internet speed attributable to the bandwidth for the FIA Service selected by Customer on the Service Order, however, actual speed, also known as throughput rate, may vary. Many factors affect speed experienced by Customer as outlined in Spectrum's Network Management Practices.
2. **Bandwidth Management.** Spectrum shall have the right, but not the obligation, to (a) monitor traffic on its Network; and (b) monitor Customer's bandwidth utilization and to limit excessive use of bandwidth (as determined by Spectrum) as Spectrum deems appropriate to efficiently manage the Spectrum Network. If Customer purchases Multi-Path FIA Service, Customer must ensure that no individual Path or data flow of such Service exceeds 2 Gbps (i.e. the rate of data transmission between any two MAC addresses and IP addresses). If Customer's Multi-Path FIA Service includes a Path or data flow that exceeds 2 Gbps, Spectrum may limit such Path or data flow to 2 Gbps. For purposes of this Attachment, (i) "Path" shall mean a connection permitting data transmission between a MAC address and IP address and another MAC address and IP address, and (ii) "Multi-Path" shall mean FIA Services permitting data transmission between or among three (3) or more MAC addresses and IP addresses.
3. **Acceptable Use Policy.** Customer shall comply with the terms of Spectrum's Acceptable Use Policy ("AUP") found at <https://enterprise.spectrum.com> (or the applicable successor URL) and that policy is incorporated by reference into this Service Agreement. Customer represents and warrants that Customer has read the AUP and shall be bound by its terms as they may be amended, revised, replaced, supplemented or otherwise changed from time-to-time by Spectrum with or without notice to Customer. Spectrum may suspend Service immediately for any violation of the Spectrum AUP.
4. **DDoS Protection Services.**
 - (a) This Section only applies if Customer elects to purchase DDoS Protection Service (whether by monthly subscription or on a per incident basis) to enable detection of distributed denial of service ("DDoS") attacks, receive notifications of attacks, mitigation services, and post-event reporting of DDoS attack activity. Spectrum monitors Customer Internet traffic as it travels across Spectrum's Network to detect anomalies that are symptomatic of a volumetric DDoS attack, as reasonably determined by Spectrum (a "DDoS Attack"). Spectrum requires that Customer: (i) provide information regarding Customer's Internet traffic before Spectrum can provision the DDoS Protection Service and (ii) cooperate with Spectrum to conduct mitigation testing in order to activate the DDoS Protection Service. After DDoS Protection Service activation, Spectrum will monitor Customer's Fiber Internet Access (FIA) network traffic flow for variations to the baseline traffic patterns. When the DDoS Protection Service detects an anomaly that is symptomatic of a DDoS Attack, the DDoS Protection Service alerts Spectrum. The DDoS Protection Service and associated countermeasures are configured to reduce disruption of Customer's legitimate traffic, but Customer may experience slower Internet traffic speed during a DDoS Attack. Spectrum will remove the countermeasures and redirect Customer's inbound network traffic to its normal path if Spectrum determines that the DDoS Attack has ended and there is no activity symptomatic of a DDoS Attack for an additional 4 hours. Customer may obtain status updates and reporting from Spectrum through a customer portal, or other means as determined by Spectrum. During the provisioning process, Customer may designate whether Spectrum is to provide "Proactive" or "Reactive" mitigation services as further described below. If Customer has designated Proactive mitigation, Customer may switch to Reactive mitigation and if Customer designated Reactive mitigation, Customer may switch to Proactive mitigation, at any time during the Initial Order Term. Spectrum will use commercially reasonable efforts to implement Customer's change request within five (5) business days of receipt of Customer's request.

(b) DDoS Proactive Mitigation Services: If Customer designates Proactive mitigation services, following service activation, Spectrum will automatically implement countermeasures upon Spectrum's detection of a DDoS attack.

(c) DDoS Reactive Mitigation Services: If Customer designates Reactive mitigation services, Customer understands that Spectrum will not automatically initiate any DDoS countermeasures unless and until a Customer representative calls Spectrum to notify Spectrum that Customer may be experiencing a DDoS Attack. If Spectrum has an existing ticket indicating detection of a DDoS Attack, Spectrum will use commercially reasonable efforts to initiate countermeasures within 15 minutes.

(d) Customer Requirements: DDoS Protection Services are only available in connection with Spectrum's On-Net FIA Services and are not available in all locations. Spectrum's DDoS Protection Service is provided on an FIA connection by FIA connection basis. In the event Customer has more than one FIA connection advertising the same IP address(es), Customer is required to purchase DDoS Protection Service for each FIA connection. Spectrum's ability to provide the DDoS Protection Services is contingent on (i) Customer providing accurate and timely information to Spectrum, including IP addresses and (ii) Customer-provided equipment and software being compatible with the DDoS Protection Service as determined by Spectrum in its sole discretion (e.g., Spectrum will not be able to provide a 3GB DDoS Protection Service if Customer has a 1GB Firewall).

(e) Disclaimers: Customer acknowledges the following additional terms for the DDoS Protection Services:

- i. SPECTRUM DOES NOT SUPPORT, AND SHALL HAVE NO OBLIGATION TO PROVIDE, MITIGATION WITH RESPECT TO IPv6.
- ii. DDoS mitigation only mitigates the effects of certain types of DDoS attacks and is not designed as a comprehensive security solution. When Customer Internet traffic is traveling over the Spectrum Network, Spectrum makes no guarantees that only DDoS attack traffic will be prevented from reaching the destination or that only legitimate traffic will reach Customer.
- iii. Spectrum makes no warranty, express or implied, that: (1) with respect to DDoS Protection Service, all DDoS attacks will be detected; (2) DDoS Protection Service will successfully mitigate the incident, including without limitation if the DDoS attack generates a traffic volume that exceeds the amount of traffic that Spectrum can divert; or (3) the DDoS Protection Services will be uninterrupted or error-free.

(f) Termination:

If Customer terminates any FIA Service for which Customer has also subscribed to DDoS Protection Service for any reason other than Spectrum's material, uncured breach, then Customer shall be deemed to have terminated the corresponding DDoS Protection Service and Customer shall pay any applicable Termination Charges in accordance with the Service Agreement.

5. DDoS Protection Incident Services. DDoS Protection Incident Services is available if Customer is not an active DDoS Protection subscriber and requests one-time DDoS attack mitigation.

(a) Email Order. DUE TO THE URGENT NATURE TO MITIGATE A DDOS ATTACK, CUSTOMER MAY ORDER DDOS PROTECTION INCIDENT SERVICE VIA EMAIL. TO INITIATE DDOS PROTECTION INCIDENT SERVICE, CUSTOMER MAY AUTHORIZE COMMENCEMENT OF SERVICES VIA SPECTRUM'S THEN- DESIGNATED EMAIL ACCEPTANCE PROCESS. CUSTOMER'S AFFIRMATIVE REPLY ACCEPTING DDOS PROTECTION INCIDENT SERVICE WILL CONSTITUTE A BINDING AGREEMENT BETWEEN CUSTOMER AND SPECTRUM AND CUSTOMER SHALL PAY AN INCIDENT CHARGE FOR EACH MITIGATION WINDOW (DEFINED BELOW) IN ACCORDANCE WITH THE TERMS OF THE AGREEMENT AND AS OUTLINED IN THE AGREED TO EMAIL ACCEPTANCE PROCESS. The per-Mitigation Window incident charge is based on the FIA circuit bandwidth and will be set forth in the email referenced herein.

(b) During the provision of DDoS Protection Incident Service, Customer may elect to covert to subscription-based DDoS Protection Service by contacting Customer's sales account representative.

(c) Promptly after Spectrum's receipt of the email indicating acceptance, DDoS Protection countermeasures will start the Mitigation Window. The DDoS Protection Service and associated countermeasures are configured to reduce disruption of Customer's legitimate traffic, but Customer may experience slower Internet traffic speed during a DDoS Attack. Spectrum will continue countermeasures for the duration of each Mitigation Window. Once Spectrum determines that the DDoS Attack has ended and there is no activity symptomatic of a DDoS Attack then, at the conclusion of the Mitigation Window, DDoS Protection Incident Service will end and Spectrum will redirect Customer's inbound network traffic to its normal path.

(d) Mitigation Window: A “Mitigation Window” means Spectrum’s provision of DDoS Protection Incident Service for a consecutive 72 hour period that begins when Customer accepts the DDoS Protection Incident Service via email reply to Spectrum and Spectrum commences the DDoS Protection Incident Service. Unless Customer requests termination of DDoS Protection Incident Service, if an attack persists beyond a single 72- hour Mitigation Window, Spectrum will commence new subsequent 72-hour Mitigation Windows until the DDoS attack subsides or Customer requests termination of DDoS Protection Incident Service. Each subsequent Mitigation Window is subject to additional fees.

Attachment E

WIDE AREA NETWORK (“WAN”) SERVICES

Ethernet, Cloud Connect and Wavelengths

1. **Ethernet Service:** Spectrum will provide Ethernet Services for Customer locations connected over coaxial and/or fiber-optic cable. Connectivity is established between two or more Customer end-points under a unique customer topology. Spectrum will install the coaxial or fiber-optic cable into each Customer site as listed in the Service Order(s). Spectrum will also supply an edge or network interface device, which is Spectrum Equipment, at each site that will be capable of receiving the Service as specified in the Service Order(s).

Spectrum's Ethernet Services are “On-Net” if they are provided by Spectrum to Service Locations through the Spectrum Network. Spectrum may, in its discretion, provide Customer with “Off-Net” services to geographic locations that are outside of Spectrum's service area or are not currently connected to the Spectrum Network through third party service providers. Off-Net Services may be subject to additional terms and conditions.

2. **Cloud Connect Service:** Spectrum will provide a Cloud Connect Service allowing Customer a private, layer 2 connectivity to cloud service providers (CSPs). Therefore, all terms herein shall apply to the Cloud Connect Service in addition to the Ethernet Service.

3. **Wavelengths Service:** Spectrum will provide Wavelengths for Customer locations connected over fiber-optic cable. Wavelengths are a high speed (10Gbps and 100Gbps), optical data transport solution that uses dense wave division multiplexing (DWDM) technology, delivering low-latency bandwidth across Spectrum Enterprise's dense fiber network. Connectivity is established between two Customer end-points in a point-to-point topology. Spectrum will install the fiber-optic cable into each Customer site as listed in the Service Order(s). Spectrum will also supply an edge device, which is Spectrum Equipment, at each site that will be capable of receiving the Service as specified in the Service Order(s).

Spectrum's Wavelengths are “On-Net” if they are provided by Spectrum to Service Locations through the Spectrum Network. Spectrum may, in its discretion, provide Customer with “Off-Net” services to geographic locations that are outside of Spectrum's service area or are not currently connected to the Spectrum Network through third party service providers. Off-Net Services may be subject to additional terms and conditions.

4. **Additional terms of use:** Customer's use of Ethernet Service, Wavelength and, as applicable, Cloud Connect Service, are subject to the following additional terms and conditions:

(a) If Customer purchases Multi-Path Ethernet Service, Customer must ensure that no individual Path or data flow of such Service exceeds 2 Gbps (i.e. the rate of data transmission between any two MAC addresses and IP addresses). If Customer's Multi-Path Ethernet Service includes a Path or data flow that exceeds 2 Gbps, Spectrum may limit such Path or data flow to 2 Gbps. For purposes of this Attachment, (i) “Path” shall mean a connection permitting data transmission between a MAC address and IP address and another MAC address and IP address, and (ii) “Multi-Path” shall mean Ethernet Services permitting data transmission between or among three (3) or more MAC addresses and IP addresses.

(b) Spectrum shall have the right, but not the obligation, to (a) monitor traffic on the Spectrum network, in its sole discretion; and (b) monitor Customer's bandwidth utilization as Spectrum deems appropriate to efficiently manage its Network.

(c) Customer's use of Ethernet and/or Wavelengths Services is presumed by Spectrum to be jurisdictionally interstate, pursuant to the Federal Communications Commission's mixed use “10% Rule” (47 C.F. R. 36.154, 4 FCC Rcd. 1352). It is Customer's sole responsibility to notify Spectrum if Customer's use of the Service is not jurisdictionally interstate pursuant to the 10% Rule and, so long as Customer's use of the Service remains not jurisdictionally interstate, Customer must certify at least annually that this condition remains in effect, using the form and format available upon request from Spectrum. If Customer fails to provide such certification or if the Customer's certification is inaccurate or invalid, Customer shall be liable for any resulting fees, fines, penalties and/or costs incurred by Spectrum.

In addition, if Spectrum determines that Customer's use of the Ethernet Services is likely to be deemed not to be jurisdictionally interstate, and therefore that Spectrum's provision of the Ethernet Services is likely to put Spectrum or its licenses, permits or business at risk, or otherwise cause financial, regulatory or operational problems for Spectrum, then Spectrum may immediately suspend the provision of any or all Ethernet Service under any or all affected Service Orders until such time as either (a) Customer provides Spectrum with satisfactory assurances that Customer's use of Ethernet Services shall be deemed to be jurisdictionally interstate or (b) Customer is otherwise brought into full compliance with any applicable laws and regulations. Unless prohibited under applicable law, Customer at its own expense, shall indemnify, defend, and hold harmless Indemnified Parties against any and all third party claims, liabilities, lawsuits, damages, losses, judgments, costs, fees and expenses incurred by any Indemnified Parties, including reasonable attorney and other professional fees and court costs incurred by Spectrum Indemnified Parties, to the full extent that such arise from or relate to any fees, fines or penalties incurred by Spectrum as a result of Customer's violation of the 10% Rule.

Attachment F

Managed Services

Software-Defined Wide Area Networking Service (“SD-WAN Service”), Managed Network Edge Service (“MNE”), Managed WiFi Service, Managed Router Service (“MRS”), Managed Security Service (“MSS”) and Virtual Security Service (“vSS”) (collectively, “Managed Services,” and each individually, a “Managed Service”)

If Customer elects to purchase a Managed Service, Spectrum shall provide Customer with any required customer premises equipment (“CPE”) through which Customer can receive the purchased Managed Service(s) at Customer’s Service Location(s) across Customer’s network, as may be more particularly described and set forth in the applicable Service Order.

Customer’s use of any of the Managed Services, as applicable, is subject to the following additional terms and conditions:

The Managed Services may include software, firmware, and hardware components supplied by Spectrum or third parties. Spectrum is not the manufacturer or supplier of any software or hardware components of the Managed Services. Spectrum may update a Managed Service from time to time based on manufacturer-provided updates.

Technical Configuration Questionnaire.

Spectrum may request that Customer complete a “Technical Configuration Questionnaire” to obtain necessary information in order to provide a Managed Service. Incomplete or incorrect configuration information may adversely affect the Managed Service.

Security Limitations.

In accordance with the Disclaimer of Warranty and Limitation of Liability section of Spectrum’s Terms of Service, Customer assumes sole responsibility for use of the Managed Service and for access to and use of Customer Equipment used in connection with the Managed Service.

1. SOFTWARE DEFINED WIDE AREA NETWORK SERVICE: This section applies only if Customer purchases SD-WAN Service.

(a) Spectrum shall provide Customer with one or more SD-WAN CPE through which Customer can deploy and use Virtual Private Network connectivity and associated virtualized network functions at Customer’s Service Location(s) across Customer’s network, as may be more particularly described and set forth in the applicable Service Order.

(b) Customer is responsible for Internet connectivity at all Customer’s Service Location(s) in order for Customer to utilize the SD-WAN Service. If Internet connectivity at a Service Location for any reason at any time suffers from degradation or is unavailable, then the SD-WAN Service at such Service Location may be degraded or inoperable.

2. MANAGED NETWORK EDGE SERVICE: This section applies only if the Customer purchases one or more of the following MNE Service categories.

Spectrum shall provide Customer with one or more CPE providing various network functions at Customer’s Service Location(s) across Customer’s network, as may be more particularly described and set forth in the applicable Service Order as per the table below:

Service Category	Service Description
Managed Network Edge	MNE Service provides Customer with router, security, and VPN capabilities at Customer’s Service Locations.
Managed Network Edge WiFi	MNE WiFi Service provides Customer with wireless Networking connectivity at Customer’s Service Locations.
Managed Network Edge Switch	MNE Switch Service provides Customer with Layer 3 switching at Customer’s Service Locations.

Managed Camera	Network Edge	MNE Camera Service provides Customer with CPE for capturing video data at Customer's Service Locations.
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- (a) Customer is responsible for Internet connectivity at all Customer's Service Location(s) in order for Customer to utilize the MNE Service. If Internet connectivity at a Service Location for any reason at any time suffers from degradation or is unavailable, then the MNE Service at such Service Location may be degraded or inoperable.
- (b) Applicable to Spectrum MNE WiFi and MNE Camera: Spectrum will provide Customer with "Wireless Access Plan" with MNE Wireless and/or MNE Camera Services to identify recommended placement locations and coverage areas (based on square footage) consistent with quantity of devices ordered. As with any wireless service, actual coverage may vary from design and is limited based on varying factors such as but not limited to the number of devices deployed, distance from power source, structural impediments, and other interference factors. It is Customer's responsibility to purchase additional Managed Network Edge WiFi or Camera Services to augment coverage as may be needed.

3. MANAGED WIFI SERVICE: This section applies only if Customer purchases the Managed WiFi Service.

(a) Spectrum will provide Managed WiFi solution with wireless access points ("WAPs") deployed at the designated Service Location to enable designated users of the Customer's choice to wirelessly access the Internet as more specifically set forth in a Service Order. Managed WiFi Service or certain features, may not be available in all service areas and may change from time to time, in Spectrum's sole discretion

(b) Internet Access. Spectrum may provide Managed WiFi Service to locations that use a centralized Internet access configuration where Spectrum will not be the primary Internet access provider if Customer purchases an Internet access Service for the sole purpose of providing Spectrum Enterprise out of bandwidth management ("OOB"). OOB service would only provide connectivity to the Managed WiFi Service equipment (switches and controllers).

(c) Connectivity to Local Area Networks. Configuration of the Managed WiFi Service will be as agreed in the WiFi questionnaire completed by the Parties. Managed WiFi Service may provide a separate SSID for employee Internet access if specified on the WiFi questionnaire. A second WLAN will be created on the wireless network with its own VLAN assigned. The aggregation switch will be configured to hand off an Ethernet Service port to Customer. In this scenario, network functions (Dynamic Host Configuration Protocol (DHCP) and Network Address Translation (NAT), for example) may be handled by Customer's LAN. Customer will need to train and engage Customer's staff for all ongoing support issues. The Managed WiFi Service does not include support for connectivity to any device (printers, laptops, computers, routers, etc.).

4. MANAGED ROUTER SERVICE: This section only applies if Customer purchases MRS.

(a) Spectrum will provide a managed router solution with a router deployed at the designated Service Location configured according to the Questionnaire. MRS or certain features, may not be available in all service areas and may change from time to time.

(b) Connectivity. MRS is only available when connected via Spectrum FIA, Spectrum High Speed Internet Service, or Spectrum Ethernet services including in-network and Type II connections. A third party connection can be used as a secondary connection where Spectrum is providing the primary connection.

(c) Termination. If Customer terminates any Spectrum connection service for which Customer has also attached the MRS, leaving the Manager Router connected only to non-Spectrum service for any reason other than Spectrum's material, uncured breach, then Customer shall be deemed to have terminated the corresponding MRS and Customer shall pay any applicable Termination Charges in accordance with the Terms of Service. In all cases, MRS cannot be delivered unless connected to a Spectrum service and shall be considered terminated if there is no Spectrum connection service.

5. MANAGED SECURITY SERVICE: This section only applies if Customer purchases MSS.

(a) Spectrum will provide a managed firewall solution with a firewall deployed at the designated Service Location configured according to the Questionnaire. MSS or certain features, may not be available in all service areas and may change from time to time.

(b) Connectivity. MSS is only available when connected via Spectrum FIA or Spectrum High Speed Internet services including in-network and Type II connections. A third party connection can be used as a secondary connection where Spectrum is providing the primary connection.

(c) Standard and Advanced. MSS has two service levels with different features available. MSS Standard provides firewall functions such as port forwarding and NAT. MSS Advanced provides the features from MSS Standard plus additional features such as anti-virus/anti-malware, URL and web filtering, content filtering, intrusion prevention system (IPS) and deep packet inspection. Only the features purchased shall be provided to Customer.

(d) Termination. If Customer terminates any Spectrum connection service for which Customer has also attached MSS leaving MSS connected only to a non-Spectrum service for any reason other than Spectrum's material, uncured breach, then Customer shall be deemed to have terminated the MSS and Customer shall pay any applicable Termination Charges in accordance with the Terms of Service. In all cases, MSS cannot be delivered unless connected to a Spectrum service and shall be considered terminated if there is no Spectrum connection service.

6. **VIRTUAL SECURITY SERVICE:** This section only applies if Customer purchases vSS

(a) vSS delivers firewall capabilities through a virtual firewall hosted in a Spectrum Data Center. The Data Center location is based on the geographic location of Customer site(s) and other considerations made at Spectrum's sole discretion.

(b) Connectivity. vSS is only available when connected via Spectrum Ethernet, Spectrum FIA, and/or SD-WAN Service(s) including in-network and Type II connections.

(c) Standard and Advanced. vSS has two service levels with different features available. vSS Standard provides firewall functions such as port forwarding, VPN support and NAT. vSS Advanced provides the features from vSS Standard plus additional features such as anti-virus/anti-malware, URL and web filtering, content filtering, intrusion prevention services (IPS) and deep packet inspection. Only the features purchased shall be provided to Customer.

(d) Termination. If Customer terminates any Spectrum connection service for which Customer has also attached the vSecurity Service then Customer shall be deemed to have terminated the corresponding vSS and Customer shall pay any applicable Termination Charges in accordance with the Terms of Service. In all cases, vSS cannot be delivered unless connected to a Spectrum service and shall be considered terminated if there is no Spectrum connection service.

Attachment G

Wireless Internet Access Service

Spectrum Wireless Internet Access Service: Wireless Internet access service is a fixed-location data service, not a voice service that is implemented using 4G LTE Internet access technology ("WIA Service"). The network used to transmit the data services that support WIA Service is owned and operated by a licensed commercial mobile network operator(s) and not Spectrum (the "Third-Party Network"). WIA Service may not be available in all Spectrum service areas.

Spectrum offers two types of WIA Service: **Wireless Internet** and **Wireless Internet Backup**. Customer's use of Wireless Internet and/or Wireless Internet Backup Service is subject to the following additional terms and conditions:

1. **Wireless Internet:**

(a) **Plan Terms.** Wireless Internet is available in multiple service plans with either unlimited data usage per month or with a data allowance limit per month. For Wireless Internet ordered with unlimited data usage, Spectrum reserves the right to revise the wireless data rate of such service plan to 600Kbps when Customer has used 70GB of data within a single monthly billing cycle. At the start of the next billing cycle, the data usage and data speed will reset. For Wireless Internet ordered with a data allowance, once the data allowance is reached in a given monthly billing cycle, excess data charges may apply as outlined in Section 4 below.

(b) **Data Sharing; Excess Data Charges.** If Customer purchases more than one of the same Wireless Internet service plans (excluding unlimited plans), all such same service plans will participate within the same data pool ("Data Pool"). For example, if Customer purchases 3-1GB Wireless Internet service plans and 2-5GB Wireless Internet service plans, then Customer will have two separate Data Pools, a 1GB service plan Data Pool and a 5GB service plan Data Pool. The maximum Data Allowance for a Data Pool is calculated as the Wireless Internet service plan data allowance multiplied by the number of service plans. Any unused data in the maximum Data Allowance for a single service plan within the Data Pool is first applied to the overages for the service plan with the lowest overage need and then to the next lowest overage service plan until the maximum Data Allowance has been applied. If the total data usage is less than the maximum Data Allowance for the Data Pool, there is no excess usage charge. If, however, all of the service plans within the Data Pool collectively exceed the maximum Data Allowance, then Customer shall be subject to additional Service Charges with respect to the excess usage as stated on the applicable Service Order. Unused Data Allowance in a given billing cycle does not "roll over" to future billing cycles. Wireless Internet service unlimited service plans and Wireless Internet Backup services are not eligible for participation within a Data Pool.

2. **Wireless Internet Backup:** Wireless Internet Backup is a secondary Internet service and may have limited functionality during failover of the primary Internet service. Customer may only order Wireless Internet Backup with and for the same Order Term as a new or existing FIA Service (up to a maximum of 200 Mbps) provided by Spectrum, and not a third party provider, for the same Service Location, which service shall be cancelled if the FIA Service is terminated for any reason. The wireless data rate will not exceed 10 Mbps. Spectrum may terminate the Wireless Internet Backup Service if Spectrum determines, in its sole discretion, that: (a) Spectrum is unable to provide the Wireless Internet Backup at the requested Service Location; or (b) Customer is using the Wireless Internet Backup as a primary Internet service. Spectrum's termination of the Wireless Internet Backup Service shall have no effect on the FIA Service, which Service Order will remain in effect.

3. **WIA Billing and Data Usage.** The Service Charges will be billed in the amounts stated on the applicable Service Order. Spectrum invoices for monthly recurring Service Charges, plus applicable taxes, fees, and surcharges, in advance on a monthly basis. All usage-based charges will be invoiced monthly in arrears. Except as set forth below with respect to data sharing, if a Service Order for Wireless Internet sets forth a maximum "Data Allowance" (defined below), then Customer shall be subject to the additional Service Charges with respect to such excess usage that is stated on the applicable Service Order. "Data Allowance" means the aggregate number of gigabytes of data that may be sent and received using the Wireless Internet services in a single monthly billing cycle under the applicable Wireless Internet service plan, rounded up to the nearest gigabyte.

4. **Service Quality.** Spectrum selects the Third-Party Network from multiple network operators for each Service Location. Customer acknowledges that (i) WIA Service may be unavailable if the wireless device used in providing WIA Service is not in range of a transmission site; and (ii) there are many factors that may impact availability and quality of WIA Service, including without limitation, network capacity, signal strength, terrain, trees, placement of buildings, environmental conditions, the characteristics of the physical wireless device and any device to which it is attached, government regulations, maintenance, or other activities affecting service operations;

(iii) service interruptions may occur as a result of acts of third parties that damage or impair the Third-Party Network or in connection with modifications, upgrades, relocations, repairs or other similar activities conducted by the Third-Party Network operator; and (iv) data delays and omissions may occur. Spectrum does not guarantee any bandwidth specifications and actual Internet upload and download speed, also known as throughput rate, may vary. The Third-Party Network operators may also suspend services from time-to-time. Customer waives all rights and claims against Spectrum and the Third-Party Network operators related to, or the result of, the unavailability OR QUALITY of WIA SERVICE AND/OR the Third-Party Network.

5. Power Disruptions. The WIA Service equipment is electrically powered and will not work in a power outage. Spectrum may supply Customer with a battery backup for use in the event of a power outage in connection with the Wireless Internet Backup service. WIRELESS INTERNET ACCESS SERVICE DOES NOT HAVE ITS OWN POWER SUPPLY. IF THERE IS A POWER OUTAGE, WIRELESS INTERNET ACCESS SERVICES WILL NOT WORK.

6. Acceptable Use Policy; Third Party Network Terms.

(a) Customer shall comply with the terms of Spectrum's Acceptable Use Policy ("AUP"), found at www.enterprise.spectrum.com (or the applicable successor URL) and that policy is incorporated by reference into this Service Agreement. Customer represents and warrants that Customer has read the AUP and shall be bound by its terms as they may be amended, revised, replaced, supplemented or otherwise changed from time-to-time by Spectrum with or without notice to Customer. Spectrum may suspend Service immediately for any violation of the AUP. The AUP shall apply even though the traffic is delivered over a Third-Party Network.

(b) Customer shall not resell the WIA Service, either alone or as part of a solution, to end users. Customer must also comply with the applicable service terms and conditions and acceptable use and other policies of the Third-Party Network operators ("Third-Party Terms") found at:

AT&T Internet of Things Wireless Communications Service Guide
http://serviceguidenew.att.com/sq_flashPlayerPage/M2M

Verizon ThingSpace Terms and Conditions
<https://thingspace.verizon.com/legal/terms-and-conditions/>

The Third-Party Terms may be amended, revised, or supplemented from time to time in the Third-Party Network operator's sole discretion. Customer is solely responsible to verify the applicable Third-Party Terms, including any changes to such Third-Party Terms.

(c) To the extent that the Third-Party Terms or any acceptable use policy are inconsistent with the Spectrum Terms of Service or AUP, the Spectrum Terms of Service and AUP shall control.

7. Security; Use Restrictions. Customer shall take commercially reasonable security measures when using the WIA Service, and Customer assumes sole responsibility for use of the WIA Service and for access to and use of Customer Equipment used in connection with the WIA Service. If Customer Equipment is lost or stolen, Customer shall immediately notify Spectrum in writing so that Spectrum can suspend the WIA Service with respect to such Customer Equipment in order to prevent unauthorized use of the WIA Service. Until Spectrum receives Customer's notification, in a manner directed by Spectrum, of lost or stolen Customer Equipment, Spectrum is entitled to assume that any use of the WIA Service in connection with such device is authorized by Customer and Customer shall be responsible for any such use and associated charges. Customer shall not use WIA Services for any remote medical monitoring or any other activity that is subject to the Health Insurance Portability and Accountability Act. Due to regulatory requirements, Customer must obtain Spectrum's approval before installing, deploying or using any regeneration equipment or similar mechanism (for example, a repeater) to originate, amplify, enhance, retransmit or regenerate WIA Services.

8. Termination.

(a) If Customer cancels a WIA Service, in addition to any applicable Termination Charges, Customer shall pay all Service Charges for the WIA Service through the end of the monthly billing period during which the WIA Service was cancelled, including charges for exceeding any data usage limitations that applied to a WIA Service plan, and applicable taxes and fees.

(b) When a line of service is terminated, Customer shall ensure that the Equipment that was activated on that line ("Terminated Equipment") does not register or attempt to register after such termination on the Third-Party Network on which the WIA Service had been provided.

Spectrum shall have the right to use over-the-air means to access Terminated Equipment for the purpose of downloading software or the Third-Party Network operator's then-current preferred roaming list designed to disable Terminated Equipment to prevent attempts to contact the Third-Party Network.

(c) Spectrum may terminate WIA Service immediately upon notice to Customer if Spectrum is no longer permitted by the Third-Party Network operator to provide WIA Service to its customers for any reason.

NO THIRD-PARTY LIABILITY. CUSTOMER EXPRESSLY UNDERSTANDS AND AGREES THAT IT HAS NO CONTRACTUAL RELATIONSHIP WHATSOEVER WITH THE THIRD-PARTY NETWORK OPERATORS OR THEIR AFFILIATES OR CONTRACTORS AND THAT CUSTOMER IS NOT A THIRD-PARTY BENEFICIARY OF ANY AGREEMENT BETWEEN SPECTRUM OR ITS LICENSORS AND THE THIRD-PARTY NETWORK OPERATORS. IN ADDITION, CUSTOMER ACKNOWLEDGES AND AGREES THAT : (A) THE THIRD-PARTY NETWORK OPERATORS AND THEIR AFFILIATES AND CONTRACTORS SHALL HAVE NO LEGAL, EQUITABLE, OR OTHER LIABILITY OF ANY KIND TO CUSTOMER AND CUSTOMER HEREBY WAIVES ANY AND ALL CLAIMS OR DEMANDS THEREFOR; (B) DATA TRANSMISSIONS AND MESSAGES MAY BE DELAYED, DELETED OR NOT DELIVERED, (C) THE SERVICE IS A FIXED-LOCATION DATA SERVICE, NOT A VOICE SERVICE, AND 911 OR SIMILAR EMERGENCY CALLS MAY NOT BE COMPLETED, AND (D) THE THIRD-PARTY NETWORK OPERATORS CANNOT GUARANTEE THE SECURITY OF WIRELESS TRANSMISSIONS AND WILL NOT BE LIABLE FOR ANY LACK OF SECURITY RELATING TO THE USE OF THE CONNECTIVITY SERVICES.

Spectrum Enterprise

Proposal for City of Port Orange

Presented To:
Joseph Castro
City Clerk
1000 City Center Circle
Port Orange, Florida 32129
jcastro@port-orange.org

Presented By: Ms. Stephanie
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Charter Communications Operating, LLC SPIN: 143050436
Request for Proposal for City of Port Orange

Spectrum
ENTERPRISE

Monday, July 12, 2021

Mr. Joseph Castro
City Clerk
City of Port Orange
1000 City Center Circle
Port Orange, Florida 32129
jcastro@port-orange.org

Dear Mr. Castro:

Spectrum Enterprise^{*} is pleased to submit the enclosed proposal in response to your Request for Proposal (RFP). Our response demonstrates Spectrum's ability to provide network solutions that will enable City of Port Orange to meet its technology needs.

Spectrum provides advanced broadband services to more than one million business customers nationally, and we are one of the largest Ethernet providers in the country and the largest provider in the major US cities we serve.

Partnering with Spectrum provides the foundation to open opportunity, drive innovation and deliver exceptional experiences. Spectrum's advanced technology and product innovations address customer's growing demands for increased bandwidth, scalability, reliability and mobility. Spectrum is committed to delivering industry-leading client service and support.

Thank you for the opportunity to submit this response to your RFP. Please do not hesitate to call if you have further questions or if there is anything else you need at this time. I look forward to speaking with you soon!

Sincerely,



Rick Brackeen
Sales Director Vertical Accounts

^{*} Spectrum Enterprise is a commercial brand of Charter Communications, Inc. The legal entity proposing hereunder is Charter Communications Operating LLC, a subsidiary of Charter Communications, Inc.

TERMS OF OFFER

This proposal shall not be considered an acceptance of any offer by City of Port Orange or otherwise create a binding contract between City of Port Orange and Spectrum.

Spectrum's bid is based upon services being delivered under the terms of the Spectrum Enterprise Service Agreement which incorporates the Spectrum Enterprise Commercial Terms of Service (available at <https://enterprise.spectrum.com/legal/se-terms-and-conditions.html> or any successor URL), plus any related attachments, Service Level Agreements and applicable Service Order(s) (collectively, the "Agreement").

Spectrum remains open to negotiating the Agreement, and once a mutually negotiated contract is entered into by the parties, it shall supersede and replace any terms and conditions of the RFP.

In the event only a portion of Spectrum's proposal is accepted, Spectrum reserves the right to further negotiate the terms of such partial acceptance prior to final bid award acceptance by Spectrum.

The terms of this proposal are confidential and should not be disclosed directly or indirectly to any third party, except as may be required by law.

The qualifications stated herein apply to all parts, provisions, and documents of the RFP and Spectrum's response, regardless of whether an explicit exception or qualification is taken thereto by Spectrum.

DEFINITIONS OF ABBREVIATED TERMS

Technology evolves at a rapid pace and Spectrum stays on the cutting edge of that evolution. The names of specific technologies or services are sometimes cumbersome and become abbreviated for colloquial use. We have provided a list of the terms used throughout this proposal and have defined them for your convenience.

SINGLE LOCATION TERMS	ABBREVIATION
INFORMATION TECHNOLOGY	IT
SERVICE PROPOSAL TERMS	ABBREVIATION
PRIVATE BRANCH EXCHANGE	PBX
MONTHLY RECURRING CHARGE	MRC
ONE-TIME CHARGE	OTC
QUANTITY	QTY
SERVICE CAPACITY	SVC. CAP.
INTERNET PROTOCOL	IP
DIRECT INWARD DIAL	DID
MINUTES OF USE	MOU
FIA TERMS	ABBREVIATION
FIBER INTERNET ACCESS	FIA
LOCAL AREA NETWORK	LAN
NETWORK OPERATIONS CENTER	NOC
SERVICE LEVEL AGREEMENT	SLA

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EXECUTIVE SUMMARY

Spectrum Enterprise ("Spectrum"), a commercial brand of Charter Communications, is pleased to provide this response illustrating our ability to provide City of Port Orange with broadband services. We take pride in being an innovative resource for businesses, schools and communities. Our reliable and economical service is a natural fit with your mission.

Unsurpassed Expertise and Customer Support

A network of specially trained, industry experts supports Spectrum. We have around-the-clock, U.S.-based business support centers and knowledgeable, locally based technicians who are specifically trained to help with your unique needs. Our dedicated work ethic, shared knowledge, and proprietary systems allow us to ensure that the solutions we are quoting City of Port Orange will match your specific and discrete needs.

When you collaborate with Spectrum for communications services, we assign a dedicated account team who will support your services:

- ▶ **Account Executive:** a dedicated, local market expert who is available for your consultation needs
- ▶ **Sales Engineering:** trained technical experts who customize designs based on your needs.
- ▶ **Project Management:** customer focused experts who manage your build and communicate with you every step of the way
- ▶ **Account Manager:** your point of contact; responsible for providing you with accurate billing and consultation on future growth needs
- ▶ **Network Operations Center:** Spectrum staff that continuously monitors the network

Renewal Plan

As your incumbent provider, we have developed this proposal with the benefit of our experience, and have based it on our knowledgeable understanding of your requirements. Our combination of technology services and proposed cost, based on actual experience with City of Port Orange, provides an incredible value. By choosing once again to collaborate with Spectrum, you will be choosing a vendor with the proven infrastructure and experienced team currently in place to support the program. It is Spectrum's objective to continue our partnership with you while continuing to focus on responsiveness, transparency, and continuity of services. It is with that focus we have developed our proposal response to the RFP.

ABOUT US

Spectrum Enterprise, a commercial brand of Charter Communications, is a national provider of scalable, fiber-based technology solutions serving many of America's largest businesses and communications service providers. The broad Spectrum Enterprise portfolio of networking and managed services solutions includes Internet access, Ethernet and Managed Network Services, Voice and TV solutions. Our team of experts works closely with clients to achieve greater business success by providing solutions designed to meet their evolving needs. For more information, visit enterprise.spectrum.com.

Standing at the intersection of technology and entertainment, we facilitate essential communications that connect more than 28 million residential and commercial customers in 41 states. Our commitment to serving customers and exceeding their expectations is the foundation of our business strategy and this philosophy that guides our 98,000 employees.

All of our services are delivered over our state-of-the-art network and we back them up with professional customer service and support from local technicians. We are dedicated to bringing our clients innovative, reliable services, and responsible care.

THE NEW GOVERNMENT NETWORK, TODAY

Advanced solutions and services for federal, state, and local governments

Spectrum Enterprise delivers the Government solutions that equip staff, agencies and citizens to reliably and securely connect and collaborate. A smart technology partner helps you accomplish your mission-critical objectives.

EVERYTHING BEGINS AND ENDS WITHIN YOUR FOUR WALLS

IT Operations for a Single Location Produces a Unique Set of Challenges

In many ways, the IT needs of a single location are more challenging than a business with hundreds of office locations. A slow connection or an outage for a large multi-location business is an inconvenience, but if a company that operates from a single location that loses connectivity, your operation stops - no phones, no Internet and no clients. Your network not only supports your day-to-day operations, it's also your source for staying ahead of the competition. While businesses of all sizes are using cloud and mobility to fuel their ability to be more efficient and increase revenue, single location operations have a far greater opportunity to more rapidly turn technology into a competitive advantage.

Spectrum Enterprise Enables Innovation

To lead the competition, you need network access that's reliable, secure and affordable, and it needs to be scalable to grow with your business. Our cloud connectivity solutions, high-speed Internet connectivity, highly-performing networking and voice services can give you the access to the innovation you need to establish and maintain a competitive advantage.

With Spectrum, you can:

- ▶ Grow your business with high-performance cloud connectivity that's scalable, reliable, and secure
- ▶ Create a great client experience across every channel – online, in person, and over the phone
- ▶ Save your company time, money, and internal resources with a dedicated account team that is with you every step of the way

FIBER INTERNET ACCESS (FIA)

Accelerate your organization with a reliable, powerful and dedicated Internet access service

Today's organizations depend on high-performing Internet solutions to keep critical applications up and running and business operating. Without a dependable Internet connection, network resources are constrained, impacting both employees and customers.

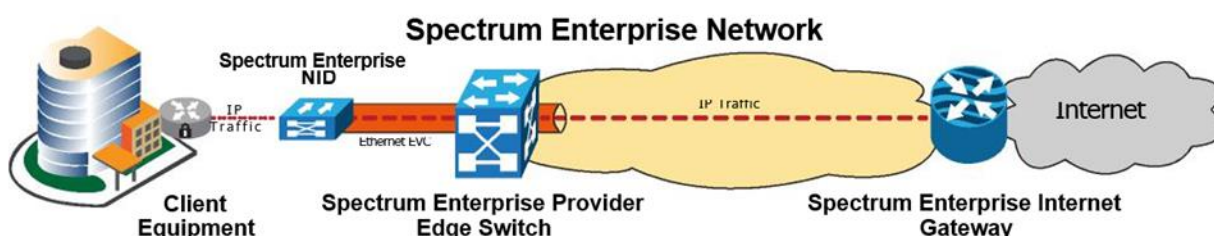
Spectrum Enterprise Fiber Internet Access (FIA) is a dedicated service that offers reliable nationwide connectivity with performance and support you can always count on. Delivering scalable Internet access, we offer 99.99% service availability all the way to the equipment at your location. Connect wherever you are with a service available nationwide that accelerates the pace of your organization.

Product Highlights

- Superior performance – Improves business productivity through a high-performing Internet service ensuring reliable connectivity
- Scalability and reach – Provides an easily scalable platform with national reach and dense metro coverage to support current and future bandwidth needs
- Business continuity – Optional diversity solutions to support Internet uptime in the event of a wireline disruption
- End-to-end support – Reduces complexity via a single, nationwide partner providing one resource team, one contact point for services and support including the in-building connection
- Cost effective – FIA delivers value with competitive, straightforward pricing

Key Features

- Dedicated connection that is not shared with others, delivered over a reliable advanced fiber network
- Industry-leading service-level agreement (SLA) metrics offer availability, low latency, jitter and packet loss all the way into the client suite
- Symmetrical access that scales from 25 Mbps to 10 Gbps from a single provider
- 24/7/365 US-based support and local technicians
- Multiple physical diversity and redundancy options to help protect your network



PRODUCT BRIEF FIBER INTERNET ACCESS

Optional managed network services

- Enhance FIA with a suite of complementary managed services products designed to protect, simplify and improve the performance of your network.
- Managed Security Service – Reduce the risk of external Internet threats with a comprehensive security service

- DDoS Protection – Protect your network from malicious volumetric attacks with world-class threat identification and mitigation
- Managed WiFi – Connect to the Internet seamlessly, anywhere with consistent and easily accessible WiFi
- Managed Router Service – Optimize your network routing with an all-inclusive expertly managed service

FIA technical specifications

Network

- IP over IEEE 802.3-based, full-duplex, noncircuit switched services
- Provisioned via our advanced fiber-rich network from the client premises to one of many hub locations throughout the Spectrum Enterprise network footprint
- Multiple levels of network fault tolerance provide a highly reliable and secure Internet access service
- Fiber access circuit is unaffected by electromagnetic interference

Routing

- Static or border gateway protocol (BGP) traffic routing options

Internet Access Demarcation

- Fiber connections to the Spectrum Enterprise network are monitored 24/7/365 via a dedicated network interface device (NID)
- Traffic is routed over the Spectrum Enterprise IP network until it is required to travel to the public network in order to reach its destination
- Demarc extension included for most buildings in footprint

Static IP addresses

- Initial IP block is included
- Additional IP address space available upon request
- Support for dual stacking of IPv4 and IPv6

VOICE AND UNIFIED COMMUNICATIONS SOLUTIONS

To thrive in today's global business economy, you need voice systems that keep your clients connected and your employees productive. Spectrum Enterprise provides next generation communications solutions that deliver superior quality and cost advantages with modern collaboration features to keep your workforce and clients connected.



Quality that scales

Elastic voice solutions that adapt as your business grows



Cost effective

Simplified pricing without hidden costs for long distance



Hands on support

Real time visibility and control through one pane of glass.* Monitored 24/7 and backed by industry leading SLAs

*Available in select areas

Increase productivity and reduce cost with next generation communication solutions

Unified Communications

Empower employees with anywhere, anytime communication across any device with an all-inclusive and managed cloud-based voice and collaboration solution that features instant messaging, file sharing, video calling and mobile device integration.

Hosted Call Center

Designed for today's modern call center with the scalability to grow as your needs expand. Take advantage of Unified Communications to support both small and complex call center operations with robust analytics and reporting.

Interoperable and feature-rich support for fiber solutions for premise based phone systems

PRI

Increase productivity with an easy to scale solution that can be managed with your existing PRI compatible phone system

SIP Trunking

Scale across multiple configurations with a reliable and easy to manage solution, compatible with enterprise IP-PBXs

ENTERPRISE TRUNKING

Get reliable, secure and highly scalable connectivity to the Public Switched Telephone Network (PSTN) over the Spectrum Enterprise private fiber network.

Enterprise Trunking overview

Organizations with on-premises Private Branch Exchanges (PBXs) and key systems need to access the PSTN easily and cost-effectively. Enterprise Trunking enables clear, reliable voice service that can easily scale to shifting business needs. SIP and PRI trunk solutions deliver flexibility and productivity, backed by competitive service level agreements (SLAs) over a private fiber network to ensure quality, reliability and security. And Enterprise Trunking offers superior value, with unlimited local calling and a bundle of long distance and inbound toll free calling included with every trunk. An optional analog lines capability enables consolidation of all your voice communications needs under one service provider.

Product highlights

- ▶ **Leverage dedicated voice bandwidth:** Enterprise Trunking provides dedicated bandwidth for voice calls, so voice and traffic never competes with your data service
- ▶ **Match your trunk to your business requirements:** Trunks are delivered as your choice of ISDN SIP or PRI solutions. SIP trunks can be expanded by as few as 4 call paths and PRI is available as a full 23B+D or a fractional 12B+D trunk. Analog line options over our private fiber network are also available, all to meet your specific needs.
- ▶ **Keep your network secure:** Leverage the power of a private, fiber network, separate from the public Internet, ensuring a reliable voice solution
- ▶ **Monitor call detail and reporting:** Configure trunk features in real time with an online portal that enables secure access to call usage details and reporting
- ▶ **Ensure speed and reliability to the PBX:** Calls are carried over our dedicated all-fiber network, proactively monitored 24/7/365—and backed by stringent SLAs
- ▶ **Maximize business continuity:** Calls can be received at another facility even in the event of a service disruption
- ▶ **Online access and control:** Manage peak business demands by rerouting overflow calls and utilize valuable features such as caller ID and call blocking from anywhere
- ▶ **Assure IP PBX compatibility:** IP PBX equipment is tested and pre-approved, either internally or externally, with leading IP PBX manufacturers - including Avaya, Cisco, Mitel, NEX, Panasonic and more - to ensure interoperability (SIP only). SIPconnect™ certification provides additional assurance of interoperability
- ▶ **Streamline business operations:** Bundle Internet, voice, television, network services and cloud services with a single-source provider
- ▶ **Value:** Get more value for your communications dollar with unlimited local calling and generous MOU packages
- ▶ **Future-proof service:** evolve on your own path at your own pace with the technology that fits your strategy

PRODUCT BRIEF ENTERPRISE TRUNKING

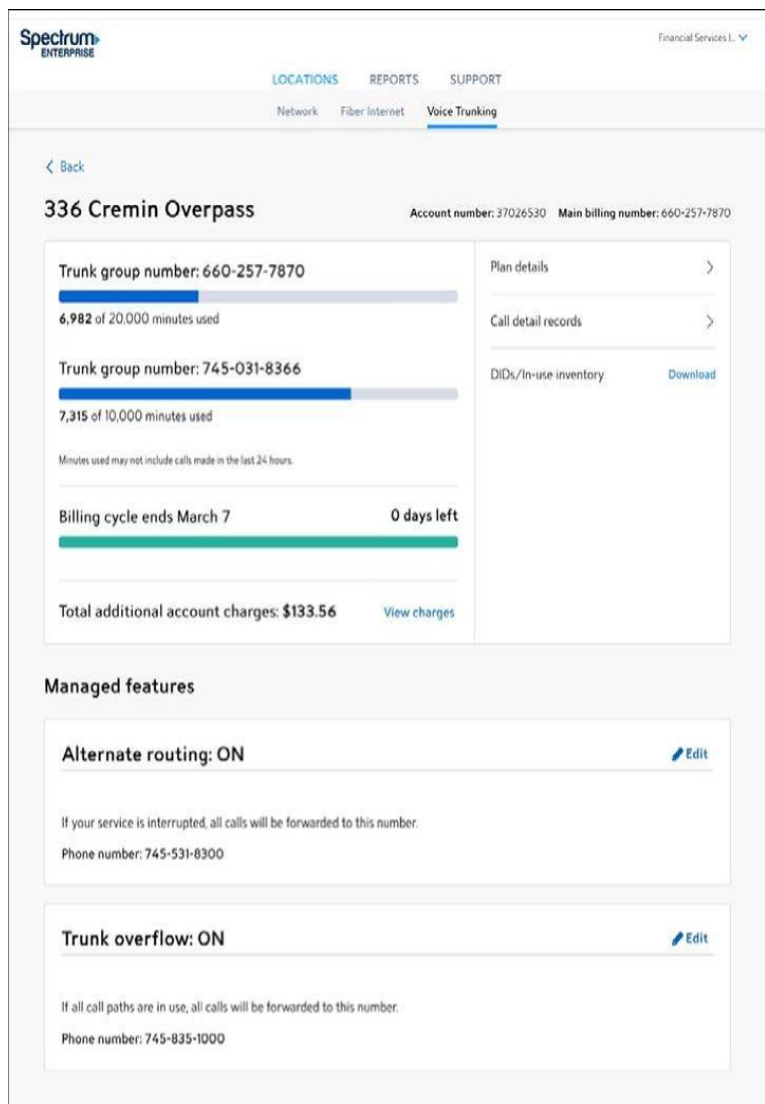
Simplified management and robust reporting

The [SE.net](#) portal enables easy, convenient, real-time management of key trunk service features. Secure and accessible from any Internet connection, the [SE.net](#) Portal allows a company's administrator to:

- ▶ Manage Spectrum Enterprise services, including Trunking, in real time
- ▶ See call activity and MOU usage; manage Trunking inventory to help optimize voice services
- ▶ Simplify expense management with online account detail including:
 - ▶ Call type
 - ▶ Time of day or specific days
 - ▶ Lead number of a trunk group
 - ▶ Long distance and international usage

Learn more

enterprise.spectrum.com/voice



The screenshot displays the Spectrum Enterprise portal interface for account 37026530. The top navigation bar includes 'LOCATIONS', 'REPORTS', and 'SUPPORT', with 'Voice Trunking' selected under the 'Network' tab. The main content area is titled '336 Cremin Overpass' and shows two trunk groups with their respective usage and billing cycle information. A sidebar on the right provides links to 'Plan details', 'Call detail records', and 'DIDs/In-use inventory'. Below the main content, the 'Managed features' section lists 'Alternate routing: ON' and 'Trunk overflow: ON', each with an 'Edit' link and a description of the feature's function.

Trunk group number	Usage
660-257-7870	6,982 of 20,000 minutes used
745-031-8366	7,315 of 10,000 minutes used

Billing cycle ends March 7, 0 days left

Total additional account charges: \$133.56

Managed features:

- Alternate routing: ON** (Edit)

If your service is interrupted, all calls will be forwarded to this number.
Phone number: 745-531-8300
- Trunk overflow: ON** (Edit)

If all call paths are in use, all calls will be forwarded to this number.
Phone number: 745-835-1000

SPECTRUM SERVICE PROPOSAL

These prices will remain in effect throughout the Initial Order Term, subject to the following contingencies:

- ▶ final engineering, design and site visits; and acceptance of and entering into the Spectrum Enterprise Service Agreement (as may be negotiated by the parties as stated in the Terms of Offer section above), which shall govern the contractual relationship between the parties and the provision of the services under such contract

Investment for Spectrum Services Based on a 24 Month Initial Order Term

LOCATION	SERVICE	QTY/ SVC. CAP	OTC	MRC
1000 City Center Circle	FIA	1 GB	\$0.00	\$2,200.00
1000 City Center Circle	FIA	2 GB	\$0.00	\$2,450.00
1000 City Center Circle	FIA	5 GB	\$0.00	\$4,000.00
1000 City Center Circle	FIA	10 GB	\$0.00	\$6,000.00
1000 City Center Circle	SIP	0-48	\$0.00	\$14.00 Per trunk
1000 City Center Circle	SIP	49-100	\$0.00	\$12.00 Per trunk

Pricing is provided only for the sites shown in the Service Proposal. Pricing for additional sites shall be determined upon Spectrum's receipt of site information for the new service location, evaluation of the requested services, performance of surveys, and other information that may be required.

Pricing shown above is exclusive of taxes, fees and surcharges. MRCs and OTCs are subject to taxes, fees and surcharges as described in Section 7(b) (Taxes, Surcharges and Fees) of the Spectrum Enterprise Service Agreement.

SPECTRUM'S RESPONSE TO CITY OF PORT ORANGE

Spectrum is pleased to submit this formal proposal for Internet and PRI/SIP Services to City of Port Orange. On the pages to follow, Spectrum has responded to your Request for Proposal and addressed each requirement to demonstrate that we can provide you with the best, most timely, cost effective solution to meet your needs. We based our responses on an understanding of your needs from both a technical and a business perspective. Whenever possible, we linked our responses back to your needs to show you not only what we offer, but also why it matters to you. We also provided evidence of our competence to deliver solutions in a professional manner, and have indicated the value of our recommendations for you.

As the second largest cable operator in the United States, Spectrum can provide customized solutions in several marketplaces that are unified, powerful, cost-effective, easily managed, and perhaps most importantly, reliable.

Spectrum owns and operates our network from end-to-end and offers one phone number to call after installation for all support and service inquiries. There is never any question as to how to get help, or who will be supporting you should you ever need assistance.

- ▶ **Service and Savings:** Owning our network allows us to not only manage and monitor your services, but also pass cost savings on to our end customers with highly competitive rates
- ▶ **Reliable connectivity:** With dedicated connectivity up to 10 Gbps, Spectrum can offer the newest technology and services
- ▶ **Adaptability:** Spectrum offers future-proof solutions that are scalable and flexible to adapt to our customers changing requirements
- ▶ **Service:** We serve all of our customers with a dedicated team of Account Executives with supporting teams that understand complex requirements for acquiring, funding and installing solutions like yours

We understand that not all businesses have the same needs and are committed to working with our clients to move past limitations, integrating the most valuable solutions, and achieving greater success together. We invite you to review the following response and discover how Spectrum can provide a solution for you. Our customers value our knowledge and understanding of their challenges, objectives, operating environments, and rely on our accumulation of best practices from the industry. We realize that your initiatives can often create more ways to use our services than was originally anticipated, so you need to be able to adapt quickly, as demand increases. Since we design solutions that solve your specific needs and anticipate future growth needs, we know that you will achieve the results that you expect from your broadband provider now, and into the future.

CITY OF PORT ORANGE, FLORIDA

REQUEST FOR PROPOSAL

RFP #21-07

INTERNET AND VoIP SERVICES



City of Port Orange Purchasing Division

Prepared by Michael Hall, Purchasing Agent Release Date: June 7, 2021

**Proposal Due Date and Time:
July 12, 2021 at 2:30 P.M.**

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

purchdiv@port-orange.org
www.port-orange.org



Legal Notice to Proposers

RFP 21-07 INTERNET AND VoIP SERVICES

Notice is hereby given that the City of Port Orange is soliciting proposals for RFP 21-07 Internet and VoIP Services. Proposals will be accepted in the City Clerk's Office, Port Orange City Hall, 1000 City Center Circle, Port Orange, Florida 32129 until 2:30 P.M. on July 12, 2021, which may be amended by addendum issued by the City. All untimely proposals will not be considered and will be returned to the proposer unopened. All proposals will be evaluated to ensure they contain all required forms in order to deem the proposer responsive or non-responsive. Proposals will be opened, and proposers names will be read aloud at 2:30 P.M. in the Council Chambers located on the first floor of City Hall, 1000 City Center Circle, Port Orange, Florida, 32129.

There will be a Non-Mandatory Pre-Proposal Conference for the project at 10:00 A.M. (local time) on June 21, 2021 at City Hall, Council Chambers (1st floor), 1000 City Center Circle, Port Orange, Florida 32129. All attendees to the Pre-Proposal Conference MUST sign in. The representative of each proposer shall be an authorized employee of the proposer and shall sign in accordingly. Proposers are encouraged to attend the Non-Mandatory Pre-Proposal Conference and are urged to obtain RFP documents and familiarize themselves with the documents prior to the Pre-Proposal Conference.

DESCRIPTION: *The City of Port Orange is soliciting sealed proposals to obtain dedicated Internet Access and VoIP Service. Proposers must be a commercial entity licensed to do business in the State of Florida and perform the services identified herein. Proposers must be properly registered and licensed to provide the services identified in the scope of work, by all applicable state and local agencies.*

All Requests for Proposals are solicited and will be evaluated on the criteria outlined in the RFP. An evaluation committee primarily comprised of City staff has been appointed to evaluate and rank the proposals received in accordance with the Code of Ordinances, City of Port Orange, Chapter 2, Article VI, Division 2, and the Policies and Procedures as set forth in the City's Purchasing Manual. Code of Ordinances, City of Port Orange is on file in the Office of the City Clerk, City Hall, 1000 City Center Circle, Port Orange, Florida, 32129, and at www.municode.com.

Copies of the proposal documents, requirements, scope of service and all other pertinent information necessary to submit a complete package may be obtained electronically from the City of Port Orange website at www.port-orange.org/bids.aspx and DemandStar via their website at www.demandstar.com. All questions shall be directed in writing to the to the Purchasing Agent, Michael Hall, mhall@port-orange.org or purchdiv@port-orange.org and reference "Questions on RFP 21-07 Internet and VoIP Services" in the subject line. Last day for questions will be June 28, 2021 at 5:00 P.M.

Spectrum has read and understands.

[Remainder of this page left intentionally blank]

SEALED PROPOSAL DO NOT OPEN

SEALED PROPOSAL NO.	RFP 21-07
PROPOSAL TITLE:	<u>Internet and VoIP Services</u>
DUE DATE/TIME:	July 12, 2021 at 2:30 P.M.
SUBMITTED BY:	(Name of Company)
DELIVER TO: City of Port Orange City Clerk's Office Attn: Michael Hall Purchasing Agent Finance Department 1000 City Center Circle Port Orange, Florida, 32129	
DATE/TIME RECEIVED:	

(To be stamped by Clerk's Office)

SECTION 1 – PURPOSE AND OVERVIEW

The purpose for this Request for Proposals (RFP) is to solicit competitive sealed proposals from certified firms or companies (proposers) to obtain dedicated Internet Access and VoIP Service.

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

Spectrum has read and understands, provided that Spectrum shall have no responsibility for any errors or omissions in City's RFP documents. Any errors in Spectrum's proposal due to errors or omissions in this RFP shall not be the responsibility of Spectrum.

[Remainder of this page left intentionally blank]

SECTION 2 – INSTRUCTIONS TO PROPOSERS

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

TIMELINE (Local Time)

The City reserves the right to alter dates as needed.

Date of Distribution:.....	June 7, 2021
Non-Mandatory Pre-Proposal Conference:	June 21, 2021 at 10:00A.M.
Deadline for Questions:	June 28, 2021 by 5:00 P.M.
Final Addendum Posting:	July 5, 2021 by 5:00 P.M.
Proposals Due:.....	July 12, 2021 by 2:30 P.M.
Evaluation Period:	July 13 – July 20, 2021
Evaluation Committee Meeting:	To Be Determined
City Council Meeting for Approval of Recommendation of Award	To Be Determined

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

City of Port Orange City Clerk's
Office Attn: Michael Hall, Purchasing
Agent 1000 City Center Circle
Port Orange, FL, 32129

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

Proposals shall be sealed, and proposers must indicate on the outside of their proposal the following:

- a) Request for Proposal (RFP) Number and Title
- b) Date of Opening
- c) Name of Proposer
- d) Address of Proposer

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

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

All proposals will be opened publicly, and the names of all proposers shall be read aloud. All conferences and meetings regarding this RFP are recorded electronically (audio only). The City of Port Orange reserves the right to reject any or all proposals or parts of proposals, if it is in the best interest of the City.

Spectrum has read and understands the above instructions. In the event only a portion of Spectrum's proposal is accepted, Spectrum reserves the right to further negotiate the terms of such partial acceptance prior to final bid award acceptance by Spectrum.

PRE-PROPOSAL CONFERENCE

There will be a Non-Mandatory Pre-Proposal Conference for the project at 10:00 A.M. (local time) on June 21, 2021 at City Hall, Council Chambers (1st floor), 1000 City Center Circle, Port Orange, Florida 32129. All attendees to the Pre-Proposal Conference **MUST** sign in. The representative of each proposer shall be an authorized employee of the proposer and shall sign in accordingly.

Proposers are encouraged to attend the Non-Mandatory Pre-Proposal Conference and are urged to obtain RFP documents and familiarize themselves with the documents prior to the Pre-Proposal Conference. All prospective Proposers are strongly encouraged to attend because the Pre-Proposal Conference will offer potential proposers the opportunity to ask questions and discuss the project directly with staff.

Spectrum has read and understands.

QUESTIONS REGARDING THIS RFP

All questions shall reference **"Questions on RFP 21-07 Internet and VoIP Services"** in the subject line. All questions concerning this RFP shall be submitted in writing no later than the date and time referenced in the Timeline above to:

Michael Hall
Purchasing Agent
1000 City Center Circle Port
Orange, FL, 32129
mhall@port-orange.org
or_purchdiv@port-orange.org

Spectrum understands and has complied.

ADDENDA REGARDING THE REQUEST FOR PROPOSALS

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

It is the proposer's responsibility to be sure all correct number of addenda was received. The proposer should verify with the designated contact persons prior to submitting a proposal that all addenda have been received. Proposers should acknowledge the correct number of addenda received as part of their proposals. It is the responsibility of the proposer to ensure all addenda have been received prior to submitting a proposal.

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

Spectrum understands.

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

Spectrum understands.

CLARIFICATIONS

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

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

Spectrum understands. Please refer to the Terms of Offer of Spectrum's proposal.

MINIMUM QUALIFICATIONS

Proposers must be commercial entity licensed to do business in the State of Florida or appropriate qualified commercial entity licensed in the area specified in the scope of work and to perform the services identified herein.

Proposers must be properly registered and licensed to engage in the scope of work pertaining to this RFP, by all applicable state and local agencies.

Proposers must provide a minimum of three (3) verifiable references from similar scopes of work as identified in this RFP following the requirements in Section 7. Failure to provide references that verify required experience will cause the proposer to be deemed non-responsive. The City of Port Orange is not to be used as a reference.

Spectrum understands and has complied.

NO LOBBYING

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

Spectrum has read and understands.

EXCEPTIONS TO SPECIFICATIONS

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

Spectrum understands. Please refer to the Terms of Offer of Spectrums' proposal. Spectrum's bid is based upon services being delivered under the terms of the Spectrum Enterprise Service Agreement which incorporates the Spectrum Enterprise Commercial Terms of Service (available at <https://enterprise.spectrum.com/legal/se-terms-and-conditions.html> or any successor URL), plus any related attachments, Service Level Agreements and applicable Service Order(s) (collectively, the "Agreement").

Spectrum remains open to negotiating the Agreement, and once a mutually negotiated contract is entered into by the parties, it shall supersede and replace any terms and conditions of the RFP.

The qualifications stated herein apply to all parts, provisions, and documents of the RFP and Spectrum's response, regardless of whether an explicit exception or qualification is taken thereto by Spectrum.

PROPOSAL SUBMISSION AND WITHDRAWAL

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

Spectrum understands.

CORRECTION OF PROPOSALS

Correction of inadvertently erroneous proposals shall be permitted up to the time of RFP opening. Proposers shall not be allowed to modify their proposals after the opening time and date.

Spectrum understands, provided that any errors or omissions in Spectrum's proposal due to errors or omissions in this RFP shall not be the responsibility of Spectrum. Spectrum reserves the right to revise this proposal in the event of any gross errors or omissions of which the City knows or should have known.

WITHDRAWAL OF PROPOSALS

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

Spectrum understands.

OPENING OF PROPOSALS

Proposals will be received until the date and time stated in this RFP and will be publicly opened and read at the place, time and date stated. No responsibility will attach the Purchasing Division for the premature opening of a proposal not properly addressed and identified.

Spectrum has read and understands.

REJECTION OF PROPOSALS

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

PROPOSALS MAY BE REJECTED AND/OR PROPOSER(S) DISQUALIFIED FOR THE FOLLOWING REASONS

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

Spectrum has read and understands.

OWNERSHIP OF DOCUMENTS

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

Spectrum understands.

AMERICANS WITH DISABILITIES ACT (ADA)

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

Spectrum understands.

SECTION 3 – SCOPE OF WORK

Introduction & Background

The City of Port Orange is requesting proposals from qualified service providers for enterprise grade internet access and telephony service. The intent of this RFP is to enter into a contract or contracts for Internet Access and Telephony Service for a two (2) year term with an option to renew for an additional two (2) years beginning October of 2021.

The City of Port Orange is currently connected to the internet via Spectrum Enterprise at the synchronous rated bandwidth of 1Gbps with a Class C IP address range of 75.112.90.130 through 75.112.90.254.

Telephony service is currently provided by the means of 48 concurrent SIP sessions with a block of 500 direct inward dials in the 386-506-5500 through 386-506-5999 range.

Please see Spectrum's Service Proposal for pricing, Initial Order Term, Service Location(s), bandwidth information, and service offering.

Upon expiration of the Initial Order Term, the applicable Service Order shall automatically renew for successive one-month terms (each a "Renewal Order Term", collectively with the Initial Order Term, the "Order Term"), unless either Spectrum or Customer elects to not renew the Service Order by notice provided to the other at least thirty (30) days in advance of the expiration of the then-current Order Term. Upon award, Spectrum can negotiate optional renewal terms in addition to Spectrum's standard month-to-month renewal terms.

Specifications

Qualified service providers will be required to provide all necessary connections and equipment in order to deliver enterprise grade internet connectivity and telephony access at the point of presence (POP) at Port Orange City Hall, located at 1000 City Center Circle, Port Orange, FL.

INTERNET ACCESS

- Minimum synchronous bandwidth of 1Gbps, scalable up to 10Gbps using existing leased circuits/networks or using circuits/networks bundled as part of the solution.
- Minimum of 128 contiguous static IP addresses reserved exclusively for the use of the City of Port Orange.
- Internet Access delivered to point of presence (POP) at Port Orange City Hall.
- All equipment to include connections, routers, media converters, battery backups, etc.
- Industry standard 99.9% uptime service level agreement (SLA).
- Access to network operations center (NOC) technical support and troubleshooting service 24 hours per day, 365 days per year.

Please see Spectrum's Service Proposal for pricing, Initial Order Term, Service Location(s), bandwidth information, and service offering. Please review Spectrum's Service Level Agreement herein for more information.

Customer shall have the option to add Services and increase speed and bandwidth during the Order Term of the Service Order. Customer will notify Spectrum of its desired additional Services or increased speed and bandwidth and, provided that Spectrum is able and willing to provide the requested change in Services, Customer shall be responsible for the corresponding increase in Monthly Recurring Charges for such additional Services or increased speed and bandwidth, as well as construction and installation costs (if applicable). Added services may be coterminous if the parties agree upon appropriate Monthly Recurring Charges and any non-recurring charges to correspond with the decreased initial term for such additional Services.

Spectrum's obligation is to provide Communications Services to the customer-accessible interface device or equipment installed by Spectrum at the Spectrum Network Demarcation Point at the Service Location. The "Demarcation Point" is the point of interconnection between the Spectrum Equipment or other facilities and the wiring at the Service Location. Additional charges may be applicable to extend the Demarcation Point for any sites identified as a Type II Service Location.

Spectrum Equipment will be provided and maintained as set forth in Section 6 (Equipment) of Spectrum's Commercial Terms of Service. Spectrum's Service Level Agreement for the Services included in the RFP response applies to the technical specifications, credits, outages, and requirements of the provision of Services.

TELEPHONY SERVICE

- Session Initiation Protocol (SIP) Trunk with minimum 48 concurrent calls, scalable up to a minimum of 100 concurrent calls.
- Local number portability for continued use of current direct inward dial (DID) block of 386-506-5500 through 386-506-5999.
- Trunk shall provide local, long distance, and international calling with the option for bundled usage packages and/or pricing per minute.
- Trunk shall provide E911 calling with PS/ALI service.
- Trunk should be engineered for voice quality of service.
- Compatibility and interface with Cisco Unified Communications Manager call control platform.
- Industry standard 99.9% uptime service level agreement (SLA).
- Access to network operations center (NOC) technical support and troubleshooting service 24 per day, 365 days per year.

Please see Spectrum's Service Proposal for pricing, Initial Order Term, Service Location(s), bandwidth information, and service offering. Spectrum's Service Level Agreement for the Services included in the RFP response applies to the technical specifications, credits, outages, and requirements of the provision of Services.

Please review the Enterprise Trunking section above for more information on SIP Trunking and protocols. Spectrum is the incumbent and currently reserves the block of DID's.

Term

The term of this contract shall be for two (2) years with an option to renew for an additional two (2) years at the discretion of the City of Port Orange.

Please see Spectrum's Service Proposal for pricing, Initial Order Term, Service Location(s), bandwidth information, and service offering.

Upon expiration of the Initial Order Term, the applicable Service Order shall automatically renew for successive one-month terms (each a "Renewal Order Term", collectively with the Initial Order Term, the "Order Term"), unless either Spectrum or Customer elects to not renew the Service Order by notice provided to the other at least thirty (30) days in advance of the expiration of the then-current Order Term. Upon award, Spectrum can negotiate optional renewal terms in addition to Spectrum's standard month-to-month renewal terms.

Proposal Submission Requirements

The successful proposer shall submit a proposal to include the following requirements:

- Provide internet access synchronous bandwidth monthly pricing based on a dedicated internet access speed of 1Gbps.
- Provide internet access static IP addressing monthly pricing based on a bundle of 128 dedicated IP addresses.
- Provide internet access sample service level agreements (SLA).
- Provide telephony service monthly pricing for session-initiated protocol (SIP) trunking based on 48 concurrent SIP sessions.
- Provide telephony service monthly pricing for portability and ownership for block of 500 direct inward dials (DID).
- Provide telephony service monthly pricing for bundled/bulk usage packages and pricing per minute for long distance and international calling rates.
- Provide telephony service sample service level agreements (SLA).
- Provide minimum of three (3) verifiable references from similar scopes of work.

Spectrum understands.

EVALUATION CRITERIA

1 .	Fee Proposal	50
2 .	Quality of Response	25
3 .	References	25

[Remainder of this page left intentionally blank]

SECTION 4 – STANDARD PURCHASE DEFINITIONS

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

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

19. Evaluator is a member of the evaluation committee/team.
20. Intent to Award is a document that informs the public and respondents of the City's decision to award a contract pursuant to a previously issued competitive solicitation.
21. Issues means points, matters, or concerns to be addressed during negotiations.
22. Non-Professional Services are services performed that are not of a professional nature such as lawn care, security, janitorial, etc.
23. Offer means a complete signed Response submitted to the City in response to a Solicitation including, but not limited to, a Bid submitted in response to an Invitation to Bid, a proposal submitted in response to a Request for Proposal, a Quote submitted in response to a Request for Quotation, a Statement of Qualifications and interest submitted in response to a Request for Statements of Qualifications, or a Reply submitted in response to an Invitation to Negotiate.
24. Outlier is a proposal which is determined by the Purchasing Director or Manager to be significantly dissimilar to or inconsistent with, competing bids or offers.
25. Pre-Proposal Conference means a meeting conducted by the Purchasing Office, held in order to allow proposers to ask questions about the proposed Contract and particularly the Contract specifications with the City department requesting the goods/services.
26. Price Analysis is an evaluation of the total cost of a contract in order to determine if the price is reasonable.
27. Procurement (Process) is a term used in the governmental sector for the combined functions of acquiring (purchasing) needed goods and/or services, receiving and inspection, inventory management, contract administration, and disposal/surplus.
28. Professional Services means those services within the scope of the practice of architecture, professional engineering, landscape architecture, or registered surveying and mapping, as defined by the laws of the state, or those performed by any architect, professional engineer, landscape architect, or registered surveyor and_mapper in connection with his or her professional employment or practice.
29. Protest is a formalized process by which respondents have an opportunity to challenge a procurement practice or contract award.
30. Proposal is a complete, properly signed Response to a Request for Proposal, based on performance that is_offered rather than on that of price alone, which if accepted, would bind the proposer to perform the resultant Contract.
31. Purchase Order is an order placed by the Purchasing Division for the purchase of Goods or Services written on the City's standard Purchase Order form and which, when accepted by the proposer, becomes a contract. The Purchase Order is the Bidder's authority to deliver and invoice the City for Goods or Services specified, and the City's commitment to accept the Goods or Services for an agreed upon price.
32. Request for Proposal (RFP) means a formal request to prospective proposers requesting qualifications of the proposer and pricing for a specified Good or Service which has been advertised for proposal in a newspaper.
33. Respondent means an entity that has (or will, i.e. "prospective respondents") submitted a response to a competitive solicitation conducted to create a contractual relationship for the provision of commodities or services.

- 34. Response/Submission means all materials submitted to the City by a respondent as part of a solicitation. A response may be called a bid, proposal, statement of qualifications, or a reply, depending on the type of competitive solicitation being issued.
- 35. Responsible (Proposer) is a proposer who has the capability in all respects to fully perform the contract requirements and the integrity and reliability that will assure good faith performance.
- 36. Responsive (Proposer) is a proposer that has submitted a bid, proposal, statement of qualifications, or reply that conforms in all material respects to the solicitation.
- 37. Scope means the extent of the area or subject matter that something deals with or to which it is relevant.
- 38. Scope of Work means a description of the work activities, deliverables, and/or timeline that a proposer must execute in terms of delivering specific commodities or in performance of contractual services.
- 39. Services include all work or labor performed for the City on an independent contractor basis other than construction.
- 40. Solicitation means a formal request, as applicable, for prospective proposers to submit responses to a Request for Proposal.
- 41. Solicitation Document means a document, or collection of documents, either paper or electronic, that contains all information required to conduct a competitive procurement project according to §287.057, Florida Statutes.
- 42. Stakeholder means an individual, who is not likely to become a proposer, who has an interest in the commodities/contractual services needed.
- 43. Subcontractor means a person, firm or entity providing goods or services to a proposer to be used in the performance of the proposer's obligations under the Contract.
- 44. Subject Matter Expert means a person who has working or expert knowledge about a particular topic or field.

Note to City of Port Orange, in regards to Section 5 – General Terms and Conditions, please refer to the Terms of Offer section of Spectrum's proposal. Spectrum's bid is based upon services being delivered under the terms of the Spectrum Enterprise Service Agreement which incorporates the Spectrum Enterprise Commercial Terms of Service (available at <https://enterprise.spectrum.com/legal/se-terms-and-conditions.html> or any successor URL), plus any related attachments, Service Level Agreements and applicable Service Order(s) (collectively, the "Agreement").

Spectrum remains open to negotiating the Agreement, and once a mutually negotiated contract is entered into by the parties, it shall supersede and replace any terms and conditions of the RFP.

The qualifications stated above and herein apply to all parts, provisions, and documents of the RFP and Spectrum's response, regardless of whether an explicit exception or qualification is taken thereto by Spectrum.

SECTION 5 – GENERAL TERMS AND CONDITIONS

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

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

1. ADDENDUM

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

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

2. ANTI-COLLUSION STATEMENT

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

3. APPLICABLE LAWS

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

4. ASSIGNMENT

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

5. AUTHORITY TO CONDUCT BUSINESS IN FLORIDA

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

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

6. AWARDS

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

7. AWARD AND EXECUTION OF CONTRACT

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

8. PROPOSAL RETURNS

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

9. PROTEST

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

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

10. STATEMENT EVALUATION

Proposers who wish to receive a copy of the statement evaluation may obtain it via www.demandstar.com or on the City of Port Orange website, Bid opportunities page at www.port-orange.org/bids.aspx or by email_purchdiv@port-orange.org.

11. BONDS

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

12. CERTIFICATE OF INSURANCE

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

13. CHANGE ORDERS

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

14. CHANGE ORDER REQUEST NOTIFICATION

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

15. CLEAN UP

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

16. CONDUCT OF PROPOSERS

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

17. CONE OF SILENCE

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

Exceptions to the Cone of Silence:

- Written communication directed to the Procurement Officer.

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

18. CONFLICT OF INTEREST

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

19. CONFLICT OF INSTRUCTIONS

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

20. CONTRACT

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

21. CONTRACT OBLIGATION

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

22. CONTRACT RENEWALS

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

23. COOPERATIVE PURCHASING

The City Manager may elect to purchase through or join with other governmental units in cooperative purchasing ventures when the best interest of the City would be served thereby, provided the same is in accordance with all applicable laws. In the event the City Manager should elect to purchase through or join with other governmental agencies in cooperative purchasing ventures, all purchases in excess of twenty-five thousand dollars (\$25,000.00) shall require council approval before the purchasing contracts are entered into. (Code 1981, § 8-33, Ord. 1997-22, § 5.6-1997; Ord. No. 2004-15, § 4, 7-20-2004)

24. COPYRIGHT AND PATENT RIGHTS

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

25. COST INCURRED BY PROPOSER

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

26. DEBARMENT HISTORY

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

27. DEFAULT PROVISIONS

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

28. DISCLOSURE OF CONFLICTS

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

29. EXCEPTIONS TO REQUIREMENTS

For purposes of evaluation, the proposer must indicate any exception to the requirements, terms, and/or conditions, no matter how minor. This includes any agreement or contract forms supplied by the proposer that are required to be signed by the City. If exceptions are not stated by the proposer, in his proposal, it will be understood that the item(s)/services fully comply with

the requirements, terms and/or conditions stated by the City. Exceptions are to be listed by the proposer on an attachment included with the proposal. The City will not determine exceptions based on a review of any attached sales or manufacturer's literature.

30. E-VERIFY

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

31. FACILITIES

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

32. FAILURE TO RESPOND

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

33. FINANCIAL STABILITY

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

34. 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.

35. GOVERNING FORMS

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

36. GOVERNING LAW

Proposers shall comply with all applicable federal, state, and local laws and regulations. All responses are solicited and shall be made pursuant to the Code of Ordinances, City of Port Orange, Chapter 2, Article VI, Division 2, Section 2-263, and all responses will be evaluated in accordance with the provisions thereof. Code of Ordinances, City of Port Orange is on file in the Office of the City Clerk, City Hall, 1000 City Center Circle, Port Orange, Florida and at www.municode.com. The City of Port Orange is also governed by the Consultants' Competitive Negotiation Act, Section 287.055, Florida Statutes, as the method of selecting architects, engineers, and land surveyors. The City has utilized the procedures in the Act for Professional counselors, environmentalists, planners, general contractors, computer systems, designers, telecommunications consultants, maintenance technicians, financial services, and other professional services. Every acquisition equal to or greater than \$10,000.00 must have a

signed, notarized "Public Entity Crimes Form" to comply with Section 287.133(3)(a), Florida Statutes. Also required is the "Drug-Free Preference Form" to comply with Section 287.087, Florida Statutes. Each form is included in the Solicitation.

37. GRANT FUNDING

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

38. HIPAA COMPLIANCE

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

39. INDEMNIFICATION/HOLD HARMLESS

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

40. INDEPENDENT CONTRACTOR

It is expressly understood and agreed by both parties hereto that the City is contracting with the successful proposer as an independent contractor. The parties hereto understand and agree that the City shall not be liable for any claims which may be asserted by any third party occurring in connection with the services to be performed by the successful proposer under this contract and that the successful proposer has no authority to bind the City. The proposer represents itself to be an independent contract or offering such services to the public and shall not represent himself or his employees to be an employee of the City. Therefore, the proposer shall assume all legal and financial responsibility for taxes, FICA, employee fringe benefits, worker's compensation, employee insurance, minimum wage requirements, overtime, etc., and agrees to indemnify, save, and hold the City, its officers, agents, and employees, harmless from and against, any and all loss; cost (including attorney's fees); and damage of any kind related to such matters. The proposer shall further understand that the City cannot save and hold harmless and or indemnify the proposer and/ or the proposer's employees against any liability incurred or arising as a result of any activity of the proposer or any activity of the proposer's employees performed in connection with the Contract.

41. INSPECTIONS AND TESTING

City of Port Orange reserves the right to inspect any item(s) or service location for compliance with specifications and requirements and needs of the using department. If a proposer cannot

furnish a sample of a Response item, where applicable, for review, or fails to satisfactorily show an ability to perform, the City can reject the Response as inadequate and non-responsive.

42.

INSURANCE

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

43.

INSURANCE CANCELLATION

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

44.

INSURANCE REQUIREMENTS

If required, the proposer shall provide to the City a certificate of insurance identifying the City of Port Orange as an additional insured. For workers' compensation coverage, the proposer's insurance certificate shall include the insurer's waiver of subrogation in lieu of naming the city as an additional insured for workers' compensation. Proposer may use leased employees if the proposer ensures that all workers who access the jobsite are employees covered by the employee leasing company, and no non-employees are permitted to access the jobsite. Any proposer using a leased employee shall complete the City's Leased Employee Affidavit Form Exhibit. Policies other than Workers' Compensation shall be issued by insurers licensed and/or duly authorized under Florida Law to do business in the State of Florida and all Insuring companies are required to have a minimum rating of "A" in the "Best Key Rating Guide" published by A.M. Best & Company, Inc. Policies for Workers' Compensation may be issued by companies authorized as a group self-insurer by F.S. 440.572. The proposer shall not commence work under the contract until the City has received a certificate or certificates of insurance and endorsement. Evidencing in the required insurance. The proposer shall provide the City written notice of cancellation, non-renewal, 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.

[Remainder of this page left intentionally blank]

Standard Insurance Requirements			
	Insurance	Standards	Additional Requirements
U Requir	Workers'	Contract Amount Limits	U If Contract requires work on or about navigable waters, Longshoreman's and Harbor Workers' Coverage required. U If vessels involved, Jones Act coverage with limits of \$500,000 required.
	The Contractor shall maintain coverage for its employees with statutory workers' compensation limits, and no less than the limits indicated in the Schedule of Limits for Employers' Liability. Said coverage shall include a waiver of subrogation in favor of the City. The City will not accept elective exemptions. Any contractor using an	Up to \$10 million Statutory/ \$500,000 \$10 - \$20 million Statutory/ \$1,000,000 Contracts over \$20 million to be determined by the City.	
U Requir	Comprehensive General Liability (including Completed Operations and Contractual Liability)	Limits: Combined Single Limit	U When work is on or under Railroad rights of way or properties, the Contractor shall take out and maintain during the life of the Contract, Railroad protective liability and property damage insurance in amounts as requested by the Railroad.
		Injury and Property damage \$1,000,000 occurrence \$1,000,000 aggregate	
U Requir	Comprehensive Business, Automobile Liability to include all owned, hired, and non-owned	Limits: Auto Liability Body	
		Property Damage: \$1,000,000 each occurrence \$1,000,000	
Additional Insurance Requirements			
☐	Property Insurance Builders Risk.	Limits: Buildings - Completed value of Contract.	If Agreement requires handling or installation of Owner's equipment, coverage should be furnished on "All Risk" form, including transit and Owner shall be named.
		"All Risk" coverage on latest SO for or its equivalent.	
U	Professional Liability	Limits: Coverage - \$1,000,000	
U	Installation Floater (IT)	Limits: Coverage - \$ To be	
U	Contractor Pollution Liability	Limits: Coverage - \$1,000,000	
U	Errors and Omissions	Limits: Coverage - \$1,000,000	
U	Umbrella Policy	Limits: Coverage – \$ To be	

U	Payment and Performance Bond Required	Limits: Coverage - Equal to amount of Contract.	
	City Manager waives Payment and Performance Bond for work under \$25,000.00.		
U	Unless otherwise required by law, City Manager waives Insurance for FOB goods under \$25,000.00.		

45. INVOICES AND PAYMENTS

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

46. IRREVOCABILITY OF RESPONSES

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

47. LATE SUBMISSIONS, LATE MODIFICATIONS AND LATE WITHDRAWALS

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

48. LEGAL REQUIREMENTS

Applicable provision of all federal, state, county and local laws, and all ordinances, rules, and regulations shall govern development, submittal and evaluation of all responses received in response hereto and shall govern any and all claims and disputes which may arise between person(s) submitting a response to a Solicitation hereto and the City by and through its officers, employees and authorized representatives, or any other person, natural or otherwise; and lack of knowledge by any proposer shall not constitute a cognizable defense against the legal effect thereof. Upon execution of a contract, the successful proposer shall hold harmless, indemnify and defend the City of Port Orange, its members, officials, officers and employees against any claim, action, loss, damage, injury, liability, cost and expense of whatsoever kind or nature (including, but not by way of limitation, attorneys' fees and court costs) arising out of or incidental to the performance of the Contract, whether or not due to or caused by negligence of the City of Port Orange, its members, officials, officers or employees. This Contract requirement shall be reflected in the insurance coverage certificate.

49. LICENSES, PERMITS AND TAXES

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

50. LITERATURE (if applicable)

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

51. LOCAL PREFERENCE

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

- A. Request for proposals, qualifications, or other qualitative submittal(s). In any ranking conducted pursuant to a request for proposals, qualifications, or other qualitative submittal(s) where the proposers are rated by a point system, local businesses shall be granted the following preference:
 1. Port Orange business shall be granted up to eight (8) percent of the available points.
 2. Volusia County business shall be granted up to five (5) percent of the available points.
 3. Florida business shall be granted up to three (3) percent of the available points.
 4. Tied bid preference. In case of a tie between a local business and a non-local business, the local business shall prevail. In case of a tie between two or more local businesses, the following order of preference shall control: first priority to Port Orange business, second priority to Volusia County business, and third priority to Florida business.
- a) Misrepresentation prohibited, penalty. Any business that misrepresents the local preference status of its firm in a proposal or bid submitted to the city shall lose the privilege to claim preference status and shall lose eligibility to claim local preference status for a period of one year.
- b) Local preference not required. This section shall not be deemed to require the granting of a local preference, and nothing herein prohibits the award of a contract to a non-local business where such award is in the public interest.
- B. Definitions. The following words, terms, and phrases, when used in this section, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

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

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

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

52. NON-DISCRIMINATION

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

53. NON-EXCLUSIVITY OF CONTRACT

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

54. NON-PERFORMANCE

Failure to meet the expected quality of workmanship, schedule, or other criteria agreed upon, shall be considered a default. In case of default, the City may procure the required services from other sources and hold the Consultant responsible for any excess costs occasioned thereby and may immediately cancel the contract.

55. NOTICE TO CONTRACTOR

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

56. OPTIONAL CONTRACT USAGE

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

57. PRE-PROPOSAL CONFERENCE

The Purchasing Manager shall determine if a pre-proposal conference is required and provide the date, time and location in the Solicitation legal advertisement and Solicitation requirements. The conference shall normally be held in the Council Chambers, located on the first floor of City Hall, 1000 City Center Circle, Port Orange, Florida. A site visit may be included and shall immediately follow. Attendance to the pre-proposal conference is non-mandatory. The representative of each proposer shall be an authorized employee of the proposer and shall sign in accordingly.

58. POSTPONEMENT/CANCELLATION/WAIVER OF IRREGULARITIES

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

59. PROPRIETY INFORMATION

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

60. PROTECTION

Precaution shall be exercised at all times for the protection of persons, (including employees) and property. All existing structures, utilities, services, roads, trees, shrubbery, etc. shall be protected against damage or interrupted service at all times by the proposer during the term of

contract, and the proposer shall be held responsible for any damage to the property occurring by reason of his operation on the property.

61. PUBLIC ENTITY CRIMES

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

62. PUBLIC RECORDS COMPLIANCE

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

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

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

63. PUBLIC RECORDS/PUBLIC MEETINGS EXEMPTION STATEMENT

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

portions of these meetings must still be recorded and are subject to disclosure at the time of an intended award decision or within 30 days of the bid or proposal opening, whichever is earlier. Portions of the meetings that do not involve presentations, questions and answers, or negotiation strategy or negotiation sessions are still open to the public and competing proposers, but the new law limits public attendance to portions of such meetings.

64. QUESTIONS, INTERPRETATIONS

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

65. RECORDS/AUDIT

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

66. REQUEST FOR ADDITIONAL INFORMATION

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

67. REVIEW OF RESPONSES/SUBMISSIONS

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

68. RIGHT OF NEGOTIATION RFP

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

69. RIGHT OF WITHDRAWAL

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

70. RIGHTS TO SOLICITATION SUBMITTED MATERIAL

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

71. RULES, REGULATIONS AND LICENSING REQUIREMENT

The proposers shall comply with all laws, ordinances, and regulations applicable to the services contemplated herein, including those applicable to conflict of interest and collusion.

Proposers are presumed to be familiar with all federal, state, and local laws, ordinances, codes, and regulations that may in any way affect the services offered.

72. SEPARATION AND DISTRIBUTION

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

73. SEVERABILITY

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

74. SIGNATURE REQUIRED

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

75. SIGNED RESPONSE CONSIDERED AN OFFER

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

76. SOLICITATION FORM COMPLETION, SUBMISSION AND RECEIPT OF RESPONSES

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

77. STATE LICENSING REQUIREMENTS

All entities defined under Chapters 607, 608, 617 or 620, Florida Statutes, seeking to do business with the City shall be on file and in good standing with the State of Florida's Department of State.

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

78.SUBCONTRACTING

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

79.TAXES

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

80.TERMINATION

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

81.TERMINATION NOTICE

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

82.USE OF SOLICITATION FORMS

The proposer shall complete the appropriate Solicitation Form(s) included in the Solicitation. All blanks on the Solicitation Forms shall be completed. If a question or confirmation is not applicable, it should be answered with an "N/A." Supplemental information may be attached to the Solicitation Forms. Failure to fully complete the appropriate Solicitation Forms may result in disqualification of the Response. If additional space for a response is required, attach an additional page to the page on which the question is stated. Clearly identify the number of the question to which the response is attached. Further, if additional Solicitation Form pages are needed, photocopy or replicate as appropriate, and attach such additional pages to the page on which the question or chart is stated. The signature of the Authorized Person or Entity must be that of an officer, partner or a sole proprietor of the entity making the response. The original Response, and each copy submitted shall contain an original signature on the proposer's Acknowledgement Form contained in each Solicitation.

83. VARIANCES

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

84. WAIVER OF IRREGULARITIES

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

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SECTION 6 – SPECIAL CONDITIONS

PERIOD OF OFFER VALIDITY

Proposals offered in this RFP must remain firm for a period of ninety (90) Days from the RFP opening date.

Spectrum understands.

CONTRACT TERM

The term of this contract shall be for two (2) years with an option to renew for an additional two (2) years at the discretion of the City of Port Orange.

Please see Spectrum's Service Proposal for pricing, Initial Order Term, Service Location(s), bandwidth information, and service offering.

Upon expiration of the Initial Order Term, the applicable Service Order shall automatically renew for successive one-month terms (each a "Renewal Order Term", collectively with the Initial Order Term, the "Order Term"), unless either Spectrum or Customer elects to not renew the Service Order by notice provided to the other at least thirty (30) days in advance of the expiration of the then-current Order Term. Upon award, Spectrum can negotiate optional renewal terms in addition to Spectrum's standard month-to-month renewal terms.

ELIGIBILITY OF PROPOSER

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

INSURANCE

See Section 5, Pages 41 and 42 for Insurance Requirements.

PAYMENT AND PERFORMANCE BOND

Should the City of Port Orange not select the incumbent for these services, a Payment and Performance Bond may be required from the awarded proposer.

Spectrum's Services shall be provided in accordance with the Spectrum Enterprise Service Agreement as mutually agreed upon between the parties and any applicable Service Level Agreements. Spectrum does not provide performance or payment bonds related to the provision of Spectrum Services.

NOTICE

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

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SECTION 7 – PROPOSAL SUBMITTAL & REQUIREMENTS

Proposals shall include all of the information solicited in this RFP, and any additional data that the respondent deems pertinent to the understanding and evaluation of the proposal. The respondent should not withhold any information from the written response in anticipation of presenting the information orally or in a demonstration, since oral presentations or demonstrations may not be solicited.

Submittal of a proposal shall constitute the Vendor's agreement and intent to follow and adhere to all statements, offerings and monetary incentives contained within this proposal.

The sections of the submitted proposals that will be scored during the evaluation process are identified with the maximum attainable points. Additional areas used for awarding evaluation points are addressed in "Section 8 – Evaluation of Proposals."

In conjunction with other material and information requested in the RFP, all Vendors responding to this solicitation shall provide one (1) original, and one (1) identical digital version in pdf format on CD or USB flash/thumb drive. The digital version **must** be an identical copy of the fully signed original submission. All required attachments are to be in 8 1/2" by 11" format, clearly legible, tabbed and bound in the following order:

Spectrum has read and understands.

TABLE OF CONTENTS

The Table of Contents should outline in sequential order the areas of submittal. All pages, including enclosures, must be clearly and consecutively labeled and/or numbered and correspond to the Table of Contents.

Spectrum has read and has complied.

STATEMENT OF INTEREST

The responding firm will provide a letter, on letterhead, not exceeding two (2) pages, which serves as a statement of interest and introduction to the submittal. The Statement of Interest shall show the RFP number and title. This letter must be signed by the person authorized to bind the firm, company, or corporate entity. The Statement of Interest should also include the name and contact information of a customer contract manager who will serve as the main point of contact for all issues related to the services performed under the scope of this RFP.

Spectrum understands.

COMPANY HISTORY, QUALIFICATIONS, ABILITY, and CAPACITY

- Legal name and principal office address.
- Telephone number and e-mail address.
- State of incorporation of the entity.
- List of names and addresses of the primary owners/board members.
- Name of agent who is authorized to negotiate with the City of Port Orange.
- List of currently or previously performed projects of similar work.
- Provide a summary of qualification and experience of providing internet and VoIP Services.

Spectrum understands.

BUSINESS LICENSES/SUNBIZ

- Include copy of license to do business in the State of Florida or Sunbiz report showing your company registered as "Active."

- Include a copy of any and all professional licenses and certifications as required to perform the services described herein and of the professional licenses for each team member.

Spectrum understands and has complied.

FINANCIAL STABILITY/LITIGATION and DEBARMENT HISTORY

- All Respondents shall be prepared to supply a financial statement upon request, preferably a certified audit of the last available fiscal year. A third party prepared financial statement and the latest Dunn & Bradstreet report will be accepted in lieu thereof.
- It is essential that the Vendor clearly demonstrates the financial ability to reliably deliver services. This Tab shall contain information on the nature and magnitude of any litigation or proceeding whereby, during the past five (5) years, a court or any administrative agency has ruled against the firm in any matter related to the professional activities of the firm.
This shall include any class actions within your company where named, industry investigations by the Attorney General, in addition to individual cases.
- This Tab shall contain information on the nature and magnitude of any debarment or proceeding during the past five (5) years against the firm in any matter related to the professional activities of the firm.
- This shall include any debarment actions against your company by the City or other public entity.
- Respondent must indicate whether any contract awarded by another government agency has been terminated in default or convenience.
- Respondent has a continuing duty to inform the City of any new claims filed against the Respondent.
- A copy of the most recent external peer review report and any letter of comment.
- Please refer to Spectrum's public investor's page for any requested financial information. <https://ir.charter.com/financial-information/annual-reports>. Spectrum does not comment on prior or ongoing litigation, which may be confidential. Any material litigation would be reported in Charter Communications, Inc.'s public filings at the above link. However, Spectrum is not a party to any lawsuit which will have an adverse impact on Spectrum's ability to perform the services offered in this proposal.

REFERENCES

Include all required City of Port Orange forms. **FAILURE TO PROVIDE ALL INFORMATION** listed on each form may result in the rejection of your proposal or a reduction in evaluation points. Required forms include:

- Provide a minimum of three (3) verifiable references (**DO NOT INCLUDE THE CITY OF PORT ORANGE AS REFERENCES**) within the last five (5) years for the services described in this RFP. Include the name and type of entity, the contact name, email address and telephone number of the public officer in charge of the contract, and the years in which the services have been provided.

***The information provided under this tab, must be current and the City must be able to contact references for verification as part of the evaluation process.**

- All reference contact information MUST be verified as current by the proposer prior to submittal. References which cannot be verified using the provided contact information will receive no points under the evaluation criteria.
- Below is a sample of the verification questions that may be used:
 1. Did they meet the terms of the contract?
 2. Was the project completed on time and within budget?
 3. Did they respond in a timely manner to calls, requests, etc.?
 4. Did they provide adequate staff to take care of the needs of your company/agency?
 5. In your previous projects, were there any change orders? If so, how many?

Spectrum has read and acknowledges the reference section. Spectrum has completed form 9.8 herein.

REQUIRED FORMS

Include all required City of Port Orange forms. **FAILURE TO PROVIDE ALL INFORMATION** listed on each form may result in the rejection of your proposal or a reduction in evaluation points. Required forms include:

- Form 9.1 Proposal Submittal Checklist
- Form 9.2 Proposer's Acknowledgement Form
- Form 9.3 Addendum and Change Order Procedure Acknowledgement Form
- Form 9.4 Drug-Free Preference Statement
- Form 9.5 Sworn Statement on Public Entity Crimes
- Form 9.6 Affidavit of Anti-Collusion Form
- Form 9.7 Statement of Qualifications
- Form 9.8 Professional References for Previous Experience
- Form 9.9 Local Business Affidavit of Eligibility
- Form 9.10 E-Verify Affidavit
- Form 9.11 Certification Regarding Debarment
- Proposal Form

Spectrum understands and complied.

SECTION 8 – EVALUATION OF PROPOSALS

EVALUATION CRITERIA

Firms submitting the required criteria will have their proposals evaluated and scored for quality of response, references, and cost. The following represents the principal selection criteria, which will be considered during the evaluation process. Criteria will be weighted based on 100% of total value. Category Scores listed below are the maximum number of points to be awarded per each evaluator.

<u>EVALUATION CRITERIA FOR PROPOSALS</u>	CATEGORY SCORE
<i>FEE PROPOSAL</i>	<i>(50 points)</i>
<i>QUALITY OF RESPONSE</i>	<i>(25 points)</i>
<i>REFERENCES.....</i>	<i>(25 points)</i>
<i>Total Maximum Points</i>	<i>(100 points)</i>

BONUS POINTS: Local Preference per Ordinance Sec. 2-275

- *Port Orange Business - eight percent of available points (8 points)*
- *Volusia County Business - five percent of available points (5 points)*
- *Florida Business - three percent of available points (3 points)*

RFP EVALUATION SCHEDULE

Refer to the Timeline in Section 2 of the RFP document regarding proposed evaluation date(s) and time(s). *The City reserves the right to alter dates as needed.*

EVALUATION PROCEDURE

The Evaluation Committee is comprised of City staff and may include City Council Member who will evaluate, and rank proposals based on a weighted score point formula. All interested professionals are hereby cautioned **not** to contact any staff or Council member of the City of Port Orange, or any member of the Evaluation Committee. Any and all questions should be made through the Purchasing Manager and any attempts to lobby or persuade through any other channels may result in disqualification.

All proposals will be subject to a review and evaluation process. It is the intent of the City that all Vendors responding to this RFP, who meet the requirements, will be ranked in accordance with the criteria established in these documents. The City will consider all responsive and responsible proposals received in its evaluation and award process.

The City's evaluation criteria, as identified above, for proposals will include consideration of, but will not be limited to the following:

1. Responsiveness of the proposal related to the Scope of Services;
2. The ability, capability and skill of the Vendor to perform the contract, including the range of services offered.
3. Whether the provider can perform the contract within the time specified without delay or interference.
4. The quality, availability and adaptability of the supplies or contractual services to the particular use required;
5. The character, integrity, reputation, judgment, experience and efficiency of the Vendor;
6. Professional licensure required when service of a skilled nature is required by law to perform such service and/or skill;
7. The quality of performance of previous contracts;
8. The number and scope of conditions attached to the bid or proposal;
9. Responsiveness of client references;
10. Net costs.
11. Local preference policy (if applicable)

Spectrum has read and acknowledges the evaluation of this proposal.

FORMAL ORAL INTERVIEWS/PRESENTATIONS In Person (If Required)

Upon completion of the technical criteria evaluation of written proposals, rating and ranking, the City of Port Orange, through the Proposal Evaluation Committee and Purchasing, reserves the right to interview any, all, or none of the Respondents that responded to the RFP and to require formal presentations with the key personnel who will administer and be assigned to work on behalf of the contract before recommendation of award.

If the City chooses to allow oral interviews and/or presentations, such interviews or oral presentations **will not be open** to the public pursuant to the conditions set forth in Florida Statute § 286.0113. If oral presentations or interviews are held the following guidelines will be used:

The City's Purchasing Division will establish the schedule and proposers will be notified via email at least five (5) calendar days in advance of the date, time and place of the presentations. The specific format of each presentation will be provided to proposers with the notifications.

The City will allot equal time for each proposer divided into two sequential parts: formal presentations and questions and answers. The times allotted are maximums and no proposer will be penalized for using less than the allotted time.

Not applicable.

FINAL RANKING AND RECOMMENDATION FOR AWARD

After evaluations are completed, the Evaluation Committee will score the proposals for qualifications, experience, engagement approach, and schedule to determine a final ranking of the proposers considered to be most capable of performing the required project in the best interest of the City. The aforementioned evaluation criteria represents the principal selection criteria, which will be considered during the evaluation process. Criteria will be weighted based on 100% of total value. Category Scores listed below are the maximum number of points to be awarded per each evaluator.

The Evaluation Committee's final ranking will be provided to the Purchasing Agent to read aloud. The City's Purchasing Agent will provide a notice of intent to award via posting on www.demandstar.com and the City's website, www.port-orange.org. The City project manager will create an agenda item recommending award to the City Council. City Council's decision will be final.

Spectrum understands.

[Remainder of this page left intentionally blank]

SECTION 9 – REQUIRED FORMS

FORM 9.1 – PROPOSAL SUBMITTAL CHECKLIST

- ☒ Form 9.2 – Proposer’s Acknowledgement
- ☒ Form 9.3 – Addendum and Change Order Procedure Acknowledgement
- ☒ Form 9.4 – Drug Free Preference Statement
- ☒ Form 9.5 – Public Entity Crimes Statement
- ☒ Form 9.6 – Affidavit of Anti-Collusion
- ☒ Form 9.7 – Statement of Qualifications
- ☒ Form 9.8 – Professional References for Previous Experience
- ☒ Form 9.9 – Local Business Affidavit of Eligibility
- ☒ Form 9.10 – E-Verify Affidavit
- ☒ Form 9.11 – Certification Regarding Debarment
- ☒ Proposal Form
- ☒ Copy of License (Contractor, Sunbiz, etc.)
- ☒ Submission of one (1) original marked “ORIGINAL” and one (1) digital (CD or flash drive) version in PDF format.

BY: Charter Communications Operating, LLC

Name of Business

Authorized Signature

Date

This document must be completed and returned with your Submittal

FORM 9.2 – PROPOSER'S ACKNOWLEDGEMENT FORM

I have carefully examined the Request for Proposals (RFP), Instructions to Proposers, General and/ or Special Conditions, Specifications, and any other documents accompanying or made a part of this invitation.

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

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

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

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

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

NO EXCEPTIONS ALLOWED AFTER THE PROPOSAL IS SUBMITTED:

Please check one: ☐ I take NO exceptions. ☒ Exceptions (list below; add additional pages if necessary):
Notwithstanding any pre-printed statements in this form to the contrary, the responses stated herein are subject to the Terms of Offer section of Spectrum's proposal

Charter Communications Operating, LLC

12405 Powerscourt Drive

NAME OF BUSINESS

MAILING ADDRESS

St. Louis Missouri 63131

CITY, STATE & ZIP CODE

Rick Brackeen Sales Director Vertical Accounts
NAME, TITLE, TYPED

(407) 415-8083

TELEPHONE NUMBER/FAXNUMBER

43-1843260

FEDERAL IDENTIFICATION #

Stephanie.Roberts@Charter.com

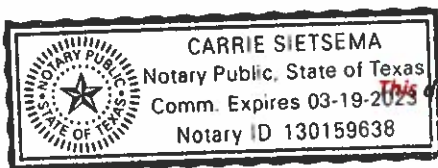
E-MAIL ADDRESS

STATE OF Texas COUNTY OF TRANS

The foregoing instrument was acknowledged before me this day of July 9, 2021 by Ricky Brackeen, who is personally known to me or who has produced ad identification and who did take an oath.

My Commission Expires: 3/19/2023

[Signature]
Notary Public



This document must be completed and returned with your Submittal

FORM 9.3 – ADDENDUM and CHANGE ORDER PROCEDURE ACKNOWLEDGEMENT

ADDENDUM ACKNOWLEDGEMENT

I have carefully examined the Request for Proposals (RFP), Instructions to Proposers, General and/or Special Conditions, Specifications, and any other documents accompanying or made a part of this Request for Statement of Qualifications.

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

Addendum # 1 Date: 6-30-2021 Addendum # _____ Date: _____
Addendum # 2 Date: 7-1-2021 Addendum # _____ Date: _____

CHANGE ORDER PROCEDURE ACKNOWLEDGEMENT

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

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

Please refer to the Terms of Offer section of Spectrum's proposal.
Spectrum requires a service order for evidence to any change orders.

Charter Communications Operating, LLC
Name of Business

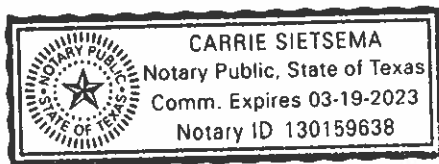
By: [Signature]
Printed Name: Rick Brackeen
Title: Sales Director Vertical Accounts

STATE OF Texas
COUNTY OF Texas

Sworn to (or affirmed) and subscribed before me this 9 day of July, 2021 by
Ricky Brackeen as Director of Sales of
(NAME) (TITLE)
Charter Communications Operating LLC and who:
(NAME OF ORGANIZATION)

[Notary: Please select one]

is personally known to me; or
has produced TXDL as identification.



[Signature]
Notary Public, State of Texas
Printed, typed, or stamped name, commission, and expiration:

This document must be completed and returned with your Submittal

FORM 9.4 – DRUG-FREE PREFERENCE STATEMENT

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

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

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

Charter Communications Operating, LLC

Name of Business

By: [Signature]

Printed Name: Rick Brackeen

Title: Sales Director Vertical Accounts

STATE OF TEXAS
COUNTY OF TRANS

Sworn to (or affirmed) and subscribed before me this 9 day of July, 2021, by
Ricky Brackeen as Director of Sales of

(NAME)

(TITLE)

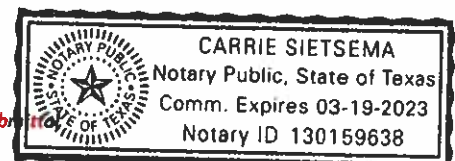
Charter Communications Operating LLC and who:
(NAME OF ORGANIZATION)

[Notary: Please select one]

is personally known to me; or
has produced TXDL as identification.

[Signature]
Notary Public, State of Texas

Printed, typed, or stamped name, commission, and expiration:



This document must be completed and returned with your Submittal.

Spectrum is committed to providing a Drug-Free Workplace and has implemented a comprehensive Drug-Free Workplace policy. Spectrum's signature above indicates compliance with its own Drug-Free Workplace policies and not necessarily those of the City. Spectrum follows all mandatory Florida statutes as applicable to the Services provided.

FORM 9.5 – SWORN STATEMENT UNDER SECTION 287.133(3)(A), FLORIDA STATUTES, ON PUBLIC ENTITY CRIMES
(To be signed in the presence of notary public or other officer authorized to administer oaths.)

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

1. The business address of Charter Communications Operating, LLC (name of Offeror or business) is 12405 Powerscourt Drive St. Louis, Missouri 63131.
2. My relationship to Charter Communications Operating, LLC (name of Offeror or business) is _____ (relationship such as sole proprietor, partner, president, vice-president).
3. I understand that a public entity crime as defined in Section 287.133 of the Florida Statutes includes a violation of any state or federal law by a person with respect to and directly related to the transaction of business with any public entity in Florida or with an agency or political subdivision of any other state or with the United States, including, but not limited to, any proposal or contract for goods or services to be provided to any public entity or such an agency or political subdivision and involving antitrust, fraud, theft, bribery, collusion, racketeering, conspiracy or material misrepresentation.
4. I understand that "convicted" or "conviction" is defined by the Florida Statutes to mean a finding of guilt or a conviction of a public entity crime, with or without an adjudication of guilt, in any federal or state trial court of record relating to charges brought by indictment or information after July 1, 1989, as a result of a jury verdict, non-jury trial, or entry of a plea of guilt or nolo contendere.
5. I understand that "affiliate" is defined by the Florida Statutes to mean (1) a predecessor or successor of a person or a corporation convicted of a public entity crime, or (2) an entity under the control of any natural person who is active in the management of the entity and who has been convicted of a public entity crime, or (3) those officers, directors, executives, partners, shareholders, employees, members, and agents who are active in the management of an affiliate, or (4) a person or corporation who knowingly entered into a joint venture with a person who has been convicted of a public entity crime in Florida during the preceding 36 months.
6. Neither the Offeror or contractor, nor any officer, director, executive, partner, shareholder, employee, member, or agent who is active in the management of the Offeror or contractor, nor any affiliate of the Offeror or contractor has been convicted of a public entity crime subsequent to July 1, 1989. (Draw a line through paragraph 6 if paragraph 7 below applies.)
7. ~~There has been a conviction of a public entity crime by the Offeror or contractor or an officer, director, executive, partner, shareholder, employee, member or agent of the Offeror or contractor who is active in the management of the Offeror or contractor or an affiliate of the Offeror or contractor. A determination has been made pursuant to Section 287.133(3) by order of the Division of Administrative Hearings that it is not in the public interest for the name of the convicted person or affiliate to appear on the convicted proposer list. The name of the convicted person or affiliate is _____ . A copy of the order of the Division of Administrative Hearings is attached to this statement. (Draw a line through paragraph 7 if paragraph 6 above applies.)~~

Charter Communications Operating, LLC
Name of Business

By: [Signature]
Printed Name: Rick Brackeen
Title: Sales Director Vertical Accounts

STATE OF TEXAS
COUNTY OF TRANS

Sworn to (or affirmed) and subscribed before me this 9 day of July, 2021 by Ricky Brackeen as Director of Sales of Charter Communications Operating LLC and who:

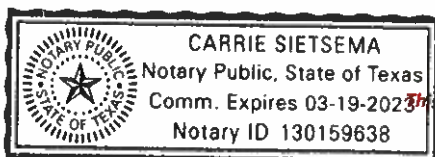
(Notary: Please select one)

is personally known to me; or
has produced TXDL as identification.

[Signature]

Notary Public, State of TEXAS

Printed, typed, or stamped name, commission, and expiration:



This document must be completed and returned with your Submittal

FORM 9.6 – ANTI-COLLUSION FORM

ANTI-COLLUSION STATEMENT PROPOSAL FORM:

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

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

IT IS AGREED BY THE UNDERSIGNED PROPOSER THAT THE SIGNING AND DELIVERY OF THE PROPOSAL REPRESENTS THE PROPOSER'S ACCEPTANCE OF THE TERMS AND CONDITIONS OF THE FOREGOING SPECIFICATIONS, CONTRACT AND PROVISIONS, AND IF AWARDED, THIS CONTRACT WILL REPRESENT THE AGREEMENT BETWEEN THE PROPOSERS AND THE CITY OF PORT ORANGE.

NAME OF FIRM: Charter Communications Operating, LLC

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

PRINTED SIGNATURE: Rick Brackeen

TITLE: Sales Director Vertical Accounts

ADDRESS: 12405 Powerscourt Drive

CITY: St. Louis STATE: MO ZIP CODE: 63131

TELEPHONE: (407) 415-8083 FAX: _____

COMPLETION TIME: _____

F.E.I.N. NUMBER: 43-1843260

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

NO PROPOSAL (REASON): _____

This document must be completed and returned with your Submittal

FORM 9.7 – STATEMENT OF BIDDER'S QUALIFICATIONS

The undersigned warrants that he or she is duly authorized to complete this document, and hereby affirms that the information contained in Form 9.7 is complete, true, and correct to the best of their knowledge and belief. If necessary, questions may be answered on separate paper and attached, with any additional information that may be pertinent.

- A. Name of Bidder: Charter Communications Operating, LLC
- B. Permanent main office address: 12405 Powerscourt Dr. St. Louis, Missouri 63131
- C. Date organized: 1993
- D. If a corporation, where incorporated: Delaware
- E. How many years have you been engaged in the contracting business under your present firm or trade name? 28
- F. Contracts on hand: (Schedule these, showing amount of each contract and the appropriate anticipated dates of completion.) Not applicable
- G. General character of work performed by your company: Telecommunications
- H. Have you ever failed to complete any work awarded to you? If so, where and why? Not applicable
- I. Have you ever defaulted on a contract? If so, where and why? No
- J. List the more important projects recently completed by your company, stating the approximate cost for each and the month and year completed.
- K. List your major equipment currently owned or leased: Confidential information
- L. Experience in work similar to this type of project: Confidential Information
- M. Background and experience of the principal members of your organization, including the officers.
- N. Credit currently available: \$ Confidential Information
- O. Give bank reference: Confidential Information
- P. Will you, upon request, fill out a detailed financial statement and furnish any other information that may be required by the Owner? ☐ Yes ☒ No http://ir.charter.com/phoenix.zhtml?c=112298&p=irol-irhome
- Q. The undersigned hereby authorizes and requests any person, firm, or corporation to furnish any information requested by the Owner in verification of the recitals comprising this Statement of Bidder's Qualifications.

<https://ir.charter.com/financial-information/sec-filings>

Charter Communications Operating, LLC

Name of Business

By: [Signature]

Printed Name: Rick Brackeen

Title: Sales Director Vertical Accounts

STATE OF Texas

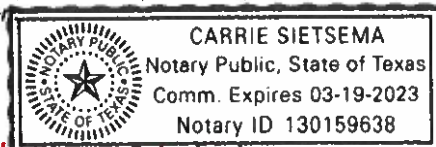
COUNTY OF TRAVIS

The foregoing instrument was acknowledged before me by means of online notarization, this 9 day of July, 2021, by RICKY BRACKEEN who is personally known to me or who produced TXDL as identification.

My Commission Expires: 03/19/2023

[Signature]
Notary Public, State of Texas

Printed, typed or stamped name, commission and expiration



This document must be completed and returned with your Submittal.

FORM 9.8 – PROFESSIONAL REFERENCES FOR PREVIOUS EXPERIENCE

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

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

(Do not include the City of Port Orange)

1. Company Name: City of Groveland
Contact Person: Andy Sapp
City, State: Groveland, Florida
Telephone Number: (352) 429-2141
Email Address: Andy.Sapp@groveland-FL.gov
Description of goods or
Services provided: Hosted voice, Fiber, Metro-E, COAX, and Fiber Connect+
Contract Amount: \$10,674.00
Start/End Date of Contract: TBD
2. Company Name: City of Winter Springs
Contact Person: Jonathan Duryea
City, State: Winter Springs, Florida
Telephone Number: (407) 327-7571
Email Address: jduryea@winterspringsfl.org
Description of goods or
Services provided: Fiber , voice, and COAX
Contract Amount: \$1,419.00
Start/End Date of Contract: TBD
3. Company Name: Lake Apopka Natural Gas District
Contact Person: Scott Minter
City, State: Apopka, Florida
Telephone Number: (407) 287-8910
Email Address: Scott.Minter@langd.org
Description of goods or
Services provided: Fiber, Voice, and Metro-E
Contract Amount: \$2,885.00
Start/End Date of Contract: TBD

This document must be completed and returned with your Submittal.

LISTING OF PREVIOUS EXPERIENCE

Commercial Client List

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

List clients to whom you currently provide or have in the past provided equal or similar to those required under the City's contract and as outlined in this bid package. A minimum of three (3) projects shall be listed below in order to propose on this contract.

	Contact Name	Phone	Current Client? Y or N	Number of years' service provided	Description of service
1	Andy Sapp	(352) 429-2141	Y	5	Hosted voice, Fiber, Metro-E, and COAX
2	Jonathan Duryea	(407) 327-7571	Y	3	Fiber, Voice, and COAX
3	Scott Minter	(407) 287-8910	Y	N/A	Fiber, Voice, and Metro-E

This document must be completed and returned with your Submittal.

FORM 9.9 - LOCAL BUSINESS AFFIDAVIT OF ELIGIBILITY

City of Port Orange

*This declaration is executed under penalty of perjury of the laws to the United States and State of Florida***THIS AFFIDAVIT IS SUBMITTED IN REFERENCE TO THE FOLLOWING SOLICITATION:**RFSQ/RFP/ITN/BID/CONTRACT/PROJECT #(as applicable): RFP 21-07 Internet and VOIPBUSINESS NAME: Charter Communications Operating, LLC CONTACT PERSON/TITLE: Sales MAILING ADDRESS: 12405 Powerscourt Dr.CITY-STATE-ZIP: St. Louis, Missouri 63131 Length of Time at Address Provided: 28 yearsPhysical Presence of Business: ☐ Headquarters and/or ☒ Principal Place of BusinessAnd within Legal Boundaries: ☐ City of Port Orange ☐ Volusia County ☐ State of FloridaFEIN (Federal Employer Identification Number): 43-1843260BUSINESS STRUCTURE: ☐ Corporation ☒ LLC ☐ Partnership ☐ Sole Proprietorship☐ Other (Specify): _____PHONE NUMBER: (407) 415-8083

FAX: _____

EMAIL: Stephanie.Roberts@charter.com****Please attach a valid business tax receipt, or other such documentation******ATTESTATION – I understand that:**

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

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

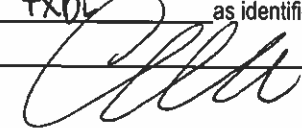
Charter Communications Operating, LLC

Name of Business

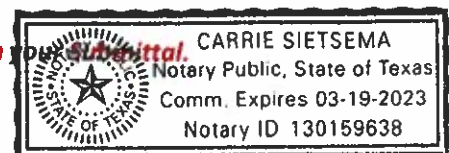
By: _____

Printed Name: Rick BrackeenTitle: Sales Director Vertical AccountsSTATE OF TexasCOUNTY OF TRANS

The foregoing instrument was acknowledged before me by means of ☒ physical presence or ☐ online notarization, this 9 day of July, 2021, by Ricky Brackeen, as Director of Sales of Charter Communications Operating, LLC. He or she is ☐ personally known or ☒ produced TXDL as identification.


Notary Public, State of TEXAS

Printed, typed or stamped name, commission and expiration:

This document must be completed and returned with your Submittal.



CITY OF PORT ORANGE
CONTRACTOR E-VERIFY AFFIDAVIT
IN ACCORDANCE WITH SECTION 448.095, FLORIDA STATUTES

Project Name: Internet and VOIP

Solicitation Number: RFP 21-07

I, the undersigned, hereby certify that Charter Communications Operating, LLC [insert contractor company name] does not employ, contract with, or subcontract with an unauthorized alien, and is otherwise in full compliance with Section 448.095, Florida Statutes.

Further, I certify all employees hired on or after January 1, 2021 have had their work authorization status verified through the E-Verify system. I acknowledge that it is my responsibility to insure full compliance with Section 448.095, Florida Statutes. I am aware enrollment in the E-Verify system for employers can be done at www.e-verify.gov.

A true and correct copy of Charter Communications Operating, LLC [insert contractor company name] proof of registration in the E-Verify system is attached to this Affidavit.

By affixing my signature below, I hereby affirm that I am duly authorized to bind the company reference herein and I will comply with all applicable E-Verify requirements.

Rick Brackeen Sales Director Vertical Accounts
(Print or Type Name, Title)

[Signature]
(Signature of Affiant)

43-1843260

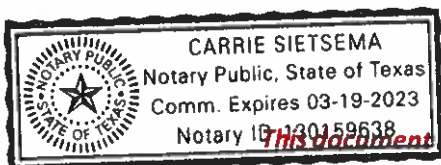
(Federal Employer ID Number - FEIN)

261876

(E-Verify Number)

STATE OF ~~FLORIDA~~ Texas
COUNTY OF Travis

The foregoing instrument was acknowledged before me by means of ☒ physical presence or ☐ online notarization, this 9 day of July, 2021, by Ricky Brackeen as Director of Sales of Charter Communications Operating, LLC on behalf of the company. He/she is personally known to me or has produced TXDL (TYPE OF ID) as identification.



[Signature]
Notary Public, State of Florida at Large State of Texas
Printed, typed or stamped name, commission and expiration of commission term

This document must be completed and returned with your Submittal.

FORM 9.11 – CERTIFICATION REGARDING DEBARMENT

**CERTIFICATION REGARDING DEBARMENT, SUSPENSION AND OTHER RESPONSIBILITY
MATTERS**

**PRIMARY COVERED TRANSACTIONS
(TO BE COMPLETED BY PRIME CONTRACTOR)**

1. The prospective primary participant certifies to the best of its knowledge and belief, that it and its principals:
 - (a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;
 - (b) Have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
 - (c) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph (1) (b) of this certification;
 - (d) Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State or local) terminated for cause or default.
2. Where the prospective primary participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

Charter Communications Operating, LLC
Organization Name

RFP 21-07
Bid Number or Project Name

Rick Brackeen Sales Director Vertical Accounts
Name(s) and Title(s) of Authorized Representatives


Signature

7/9/21
Date

This document must be completed and returned with your Submittal

PROPOSAL FORM



**PROPOSAL FORM
CITY OF PORT ORANGE
RFP #21-07**

Internet and VoIP Communication Services

Completed Attachment 1 Proposal form MUST be included with Proposal Submission

Instruction to save Attachment from DemandStar website:

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

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

NAME OF BUSINESS:	Charter Communications Operating, LLC
CONTACT PERSON:	Stephanie Roberts
EMAIL ADDRESS:	Stephanie.Roberts@Charter.com
AUTHORIZED SIGNATURE:	

PROPOSAL PRICING

ITEM #	DESCRIPTION	UNIT	TOTAL COST
1	Internet access synchronous bandwidth based on a dedicated internet access speed of 1Gbps	Monthly	\$2,200.00 -
2	Internet access static IP addressing based on a bundle of 128 dedicated IP addresses	Monthly	\$210.00 -
4	Telephony service for session-initiated protocol (SIP) trunking based on 48 concurrent SIP sessions	Monthly	\$672.00 -
5	Telephony service for portability and ownership for block of 500 direct inward dials (DID)	Monthly	\$15.00 -
6	Telephony service for bundled/bulk usage packages	Monthly	\$1,350.00 -
7	Telephony service for long distance and international calling rates	Minute	\$ 0.00 25,000 LD minutes -
		Total Cost of Proposal	\$ 4,447.00 -

This document must be completed and returned with your Submittal

AFFIDAVIT REGARDING WORKERS' COMPENSATION

IMPORTANT

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

State of _____

County of _____

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

WITNESS:

By: _____

Name: _____

CONTRACTOR:

Company: _____

By: _____

Name/Title: _____

STATE OF _____

COUNTY OF _____

The foregoing instrument was acknowledged before me by means of _____ physical presence or _____ online notarization, this _____ day of _____, 20__, by _____, as _____ of _____, a _____. He or she is _____ personally known or _____ produced _____ as identification.

Notary Public, State of _____

Printed, typed, or stamped name, commission, and expiration:

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

LEASED EMPLOYEE AFFIDAVIT
EXHIBIT CONTRACT # _____

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

OR

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

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

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

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

Name of Employee Leasing Company: _____

Workers' Compensation Carrier: _____

A.M. Best Rating of Carrier: _____

Inception Date of Leasing Arrangement: _____

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

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

Name of Contractor: _____

Signature of Owner/Officer: _____

Title: _____ Date: _____



CITY OF PORT ORANGE STANDARD CONTRACT FOR SERVICES

This Standard Contract for Services ("Contract") is entered into this ____ day of _____, 2021, by and between the **CITY OF PORT ORANGE**, a Florida municipal corporation, whose principal address is 1000 City Center Circle, Port Orange, Florida 32129 (the "City"), and _____, a _____ corporation whose principal address is _____ ("Contractor"). The City and Contractor are collectively referred to herein as the "Parties."

1. Provision of Services

(a) The Contractor hereby agrees to furnish an Internet and VoIP, pursuant to Request for Proposal 21-07 ("RFP 21-07"). This Contract together with RFP 21-07, Addenda, and Contractor's proposal, all of which may be referred to as the "Contract" and all of which are made a part hereof by reference, shall constitute the formal written contract between the City and Contractor. For convenience, Section 3, Scope of Services, from RFP 21-07, and the Bid Tabulation as submitted by Contractor in Contractor's Proposal, are attached hereto as **Exhibit "1"**. Vendor Access Security Policy 1-6, revised February 17, 2021, is attached hereto as **Exhibit "2"**. A complete copy of RFP 21-07, Addenda, and Contractor's Proposal are available in the Office of the City Clerk. Contractor represents that they are familiar with the documents that make up the Contract, as referenced hereinabove.

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

Term: The term of this Contract shall become effective on the last date the Contract is signed by the Parties and shall continue for a period of two (2) years ("Term").

Renewal: Upon mutual written agreement of the Parties, this Contract may be renewed for one (1) two-year period, subject to review and approval of the City Manager and budget appropriation.

Manner and Place: The work shall be performed in accordance with and in a manner as required by all current federal, state, county, fire, building and land development codes, laws, ordinances and regulations, and with applicable permits and licenses per the City Code of Ordinances.

Time and Essence: Contractor acknowledges that time is of the essence for this Contract.

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

2. City Obligations. In return for the services identified above, the City agrees to compensate the Contractor at the pricing set forth in Exhibit "1," attached hereto, in an amount not to exceed _____ and

___/100 Dollars (\$_____). All payments shall be governed by the Local Government Prompt Payment Act as set forth in Sections 218.70 through 218.79, Florida Statutes, as amended.

3. Contract Administration. The Information Technology Manager, James Hicks, shall perform contract administration of this Contract. The City may change the contract administrator, from time to time and at any time, upon written notice to Contractor. For notice provisions, see the paragraph below entitled "Notice."

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

5. Termination for Convenience of the City

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

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

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

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

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

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

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

- (i) With respect to all Contract performance prior to the effective date of Notice of Termination, the total of:

- (1) the cost of work performed or supplies delivered;
 - (2) the cost of settling and paying any reasonable claims as provided in paragraph (c) (iv), above;
 - (3) a sum as profit on (a) determined by the Finance Director to be fair and reasonable.
- (ii) The total sum to be paid under (i) above shall not exceed the contract price, as further reduced by the contract price of work or supplies not terminated.

(g) In the event that the Contractor is not satisfied with any payments which the Finance Director shall determine to be due under this clause, the Contractor may appeal any claim to the City Council in accordance with Paragraph 23 of this contract concerning disputes.

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

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

8. Examination of Records

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

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

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

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

(a) Keep and maintain public records required by the City to perform the service.

(b) Upon request from the City's custodian of public records, provide the City with a copy of the requested record or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in Section 119, Florida Statutes, or as otherwise provided by law.

(c) Ensure that public records that are exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the Contract term and following completion of the Contract if the Contractor does not transfer the records to the City.

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

If Contractor does not comply with a public records request, the City shall deem the non-compliance a breach of this Contract, and the Contractor may be subject to penalties under Section 119.0701, Florida Statutes.

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

10. Termination for Non-Appropriation of Funds

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

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

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

Policies other than Workers' Compensation shall be issued by insurers licensed and/or duly authorized under Florida Law to do business in the State of Florida and all insuring companies are required to have a minimum rating of "A-" in the "Best Key Rating Guide" published by A.M. Best & Company, Inc. Contractor shall not commence work under this Contract until the City has received a certificate or certificates of insurance with endorsement evidencing the required insurance. Insurer shall provide the City written notice of cancellation, nonrenewal or any other changes in coverage no later than thirty (30) days prior to the effective date of the change and shall provide notice to the City no later than 10 days after non-payment. The Certificates of Insurance and required insurance policies shall contain provisions that thirty (30) days prior written notice shall be given to the City of any cancellation, intent not to renew, or reduction in the policies or coverages.

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

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

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

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

Standard Insurance Requirements									
	Insurance	Standards	Additional Requirements						
☒	<u>Workers' Compensation</u> The Contractor shall maintain coverage for its employees with statutory workers' compensation limits, and no less than the limits indicated in the Schedule of Limits for Employers' Liability. Said coverage shall include a waiver of subrogation in favor of the City. The City will not accept elective exemptions. Any contractor using an employee leasing company shall complete the Leased Employee Affidavit Form Exhibit.	<table><tr><td><u>Contract Amount</u></td><td><u>Limits</u></td></tr><tr><td>Up to \$10 million</td><td>Statutory/\$500,000</td></tr><tr><td>\$10 - \$20 million</td><td>Statutory/\$1,000,000</td></tr></table> Contracts over \$20 million To Be Determined by the City.	<u>Contract Amount</u>	<u>Limits</u>	Up to \$10 million	Statutory/\$500,000	\$10 - \$20 million	Statutory/\$1,000,000	☐ If Contract requires work on or about navigable waters, Longshoreman's and Harbor Workers' Coverage required. ☐ If vessels involved, Jones Act coverage with limits of \$500,000 required.
<u>Contract Amount</u>	<u>Limits</u>								
Up to \$10 million	Statutory/\$500,000								
\$10 - \$20 million	Statutory/\$1,000,000								
☒	Comprehensive General Liability (including Completed Operations and Contractual Liability)	<u>Limits:</u> Combined Single Limit Bodily Injury and Property damage \$1,000,000 occurrence \$1,000,000 aggregate	☐ When work is on or under Railroad rights of way or properties, the Contractor shall take out and maintain during the life of the Contract, Railroad protective liability and property damage insurance in amounts as requested by the Railroad.						

☒	Comprehensive Business, Automobile Liability to include all owned, hired and non-owned automobiles.	<u>Limits:</u> Auto Liability Body Injury and Property Damage: \$1,000,000 each occurrence \$1,000,000 aggregate	
Additional Insurance Requirements			
☐	Property Insurance Builders Risk. <u>Additional Coverage:</u>	<u>Limits:</u> Buildings - Completed value of Contract. "All Risk" coverage on latest ISO for or its equivalent. Permission granted to occupy. Owner named as insured AIMA	If Agreement requires handling or installation of Owner's equipment, coverage should be furnished on "All Risk" form, including transit and Owner shall be named.
☐	Professional Liability	<u>Limits:</u> Coverage - \$1,000,000	
☐	Installation Floater (IT)	<u>Limits:</u> Coverage - \$ <u>To be determined.</u>	
☐	Contractor Pollution Liability	<u>Limits:</u> Coverage - \$1,000,000	
☐	Errors and Omissions	<u>Limits:</u> Coverage - \$1,000,000	
☐	Umbrella Policy	<u>Limits:</u> Coverage – \$ <u>To be determined.</u>	
☐	Payment and Performance Bond Required	<u>Limits:</u> Coverage - Equal to amount of Contract.	
☐	City Manager waives Payment and Performance Bond for work under \$100,000.00.		
☐	Unless otherwise required by law, City Manager waives Insurance for FOB goods under \$25,000.00.		

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

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

14. Modifications or Changes to this Contract

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

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

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

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

15. Sovereign Immunity. The City expressly retains all rights, benefits and immunities of sovereign immunity in accordance with Section 768.28, Florida Statutes. Notwithstanding anything set forth in any section of this Contract

to the contrary, nothing in this Contract shall be deemed as a waiver of immunity or limits of liability of the City beyond any statutory limited waiver of immunity or limits of liability which may have been adopted by the Florida Legislature or may be adopted by the Florida Legislature and the cap on the amount and liability of the City for damages regardless of the number or nature of claims in tort or equity shall not exceed the dollar amount set by the legislature for tort. Nothing in this Contract shall inure to the benefit of any third party for the purpose of allowing any claim against the City which would otherwise be barred under the Doctrine of Sovereign Immunity or operation of law.

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

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

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

18. Inspection

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

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

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

19. Liability for Loss or Damage.

(a) Contractor shall be liable for any loss of, or damage to, City property caused by the negligence,

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

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

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

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

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

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

21. Disputes. The City Manager, who shall reduce his decision to writing and mail or otherwise furnish a copy thereof to Contractor, shall decide disputes with respect to this Agreement. The decision by the City Manager shall be final and binding unless, within five (5) business days from the date of delivery of the decision of the City Manager, appeal is made to the City Council in writing and delivered to the City Clerk, Robin L. Fenwick, MMC. The decision of the City Council shall be final and binding unless set aside by a court of competent jurisdiction as fraudulent, capricious, arbitrary, or so grossly erroneous as necessary to imply bad faith, or not to be supported by any evidence.

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

23. Controlling Law. **THIS AGREEMENT CONTAINS IMPORTANT MATTERS AFFECTING LEGAL RIGHTS AND IS ACCEPTED AND ENTERED INTO IN FLORIDA AND ANY QUESTION REGARDING ITS VALIDITY, CONSTRUCTION, ENFORCEMENT, OR PERFORMANCE SHALL BE GOVERNED BY FLORIDA LAW. ANY**

LEGAL PROCEEDING ARISING FROM OR IN ANY WAY REGARDING THE AGREEMENT SHALL HAVE ITS VENUE LOCATED EXCLUSIVELY IN THE CIRCUIT COURT OF VOLUSIA COUNTY, FLORIDA, AND THE PARTIES HEREBY EXPRESSLY CONSENT AND SUBMIT THEMSELVES TO THE PERSONAL JURISDICTION AND VENUE OF THE COURT.

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

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

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

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

Copy to: City of Port Orange
Attention: James Hicks, Information Technology Manager
1000 City Center Circle
Port Orange, Florida 32129
(386) 506-5545

Contractor: _____
Attention: _____

() - - Telephone
@ .com

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

27. *Contract Construction*

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

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

[Remainder of this page intentionally left blank]

Witnesses:

Printed Name: _____

Printed Name: _____

By: _____

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

Date: _____

STATE OF _____
COUNTY OF _____

The foregoing instrument was acknowledged before me by means of ____ physical presence or ____ online notarization, this ____ day of _____, 2021, by _____, as _____ of _____, a _____ corporation. He/She is ____ personally known or ____ produced _____ as identification.

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

Witnesses:

CITY OF PORT ORANGE

Printed Name: _____

By: _____
Jamie L. Miller, Interim City Manager

Printed Name: _____

Date: _____

STATE OF FLORIDA
COUNTY OF VOLUSIA

The foregoing instrument was acknowledged before me by means of ____ physical presence or ____ online notarization, this ____ day of _____, 2021, by Jamie L. Miller, as Interim City Manager of the City of Port Orange, a Florida municipal corporation, on behalf of the city. She is ____ personally known or ____ produced _____ as identification.

Notary Public, State of Florida

Printed, typed or stamped name, commission and expiration:

Witnesses:

ATTEST:

Printed Name: _____

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

Printed Name: _____

Date: _____

STATE OF FLORIDA
COUNTY OF VOLUSIA

The foregoing instrument was acknowledged before me, by means of ____ physical presence or ____ online notarization, this ____ day of _____, 2021, by Robin L. Fenwick, as City Clerk of the City of Port Orange, a Florida municipal corporation, on behalf of the city. She is ____ personally known or ____ produced _____ as identification.

Notary Public, State of Florida

Printed, typed or stamped name, commission and expiration:



End of Solicitation Documents

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**THE E-VERIFY
MEMORANDUM OF UNDERSTANDING
FOR WEB SERVICES EMPLOYERS**

**ARTICLE I
PURPOSE AND AUTHORITY**

The parties to this Agreement are the Department of Homeland Security (DHS) and Charter Communications (Web Services Employer). The purpose of this agreement is to set forth terms and conditions which the Web Services Employer will follow while participating in E-Verify.

A Web Services Employer is an Employer who verifies employment authorization for its newly hired employees using a Web Services interface.

E-Verify is a program that electronically confirms a newly hired employee's authorization to work in the United States after completion of the Form I-9, Employment Eligibility Verification (Form I-9). This MOU explains certain features of the E-Verify program and describes specific responsibilities of the Web Services Employer, DHS, and the Social Security Administration (SSA).

For purposes of this MOU, the "E-Verify browser" refers to the website that provides direct access to the E-Verify system: <https://e-verify.uscis.gov/emp/>. You may access E-Verify directly free of charge via the E-Verify browser.

Authority for the E-Verify program is found in Title IV, Subtitle A, of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA), Pub. L. 104-208, 110 Stat. 3009, as amended (8 U.S.C. § 1324a note). The Federal Acquisition Regulation (FAR) Subpart 22.18, "Employment Eligibility Verification" and Executive Order 12989, as amended, provide authority for Federal contractors and subcontractors (Federal contractor) to use E-Verify to verify the employment eligibility of certain employees working on Federal contracts.

Before accessing E-Verify using Web Services access, the Web Services Employer must meet certain technical requirements. This will require the investment of significant amounts of resources and time. If the Web Services Employer is required to use E-Verify prior to completion and acceptance of its Web Services interface, then it must use the E-Verify browser until it is able to use its Web Services interface. The Web Services Employer must also maintain ongoing technical compatibility with E-Verify.

DHS accepts no liability relating to the Web Services Employer's development or maintenance of any Web Services access system.

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ARTICLE II RESPONSIBILITIES

A. RESPONSIBILITIES OF THE WEB SERVICES EMPLOYER

1. By enrolling in E-Verify and signing the applicable MOU, the Web Services Employer asserts that it is a legitimate company which intends to use E-Verify for legitimate purposes only and in accordance with the laws, regulations, and DHS policies and procedures relating to the use of E-Verify.
2. The Web Services Employer agrees to display the following notices supplied by DHS in a prominent place that is clearly visible to prospective employees and all employees who are to be verified through the system:
 - a. Notice of E-Verify Participation
 - b. Notice of Right to Work
3. The Web Services Employer agrees to provide to the SSA and DHS the names, titles, addresses, and telephone numbers of the Web Services Employer representatives to be contacted about E-Verify. The Web Services Employer also agrees to keep such information current by providing updated information to SSA and DHS whenever the representatives' contact information changes.
4. The Web Services Employer agrees to grant E-Verify access only to current employees who need E-Verify access. Web Services Employers must promptly terminate an employee's E-Verify access if the employer is separated from the company or no longer needs access to E-Verify.
5. The Web Services Employer agrees to become familiar with and comply with the most recent version of the E-Verify User Manual. The Web Services Employer will ensure that outdated manuals are promptly replaced with the new version of the E-Verify User Manual when it becomes available.
6. The Web Services Employer agrees that any person accessing E-Verify on its behalf is trained on the most recent E-Verify policy and procedures.
7. The Web Services Employer agrees that any of its representatives who will create E-Verify cases will complete the E-Verify Tutorial before creating any cases.
 - a. The Web Services Employer agrees that all of its representatives will take the refresher tutorials when prompted by E-Verify in order to continue using E-Verify. Failure to complete a refresher tutorial will prevent the Employer Representative from continued use of E-Verify.
8. The Web Services E-Verify Employer Agent agrees to obtain the necessary equipment to use E-Verify as required by the E-Verify rules and regulations as modified from time to time.
9. The Web Services E-Verify Employer Agent agrees to, consistent with applicable laws, regulations, and policies, commit sufficient personnel and resources to meet the requirements of this MOU.
10. The Web Services Employer agrees to comply with current Form I-9 procedures, with two

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exceptions:

- a. If an employee presents a "List B" identity document, the Web Services Employer agrees to only accept "List B" documents that contain a photo. (List B documents identified in 8 C.F.R. § 274a.2(b)(1)(B)) can be presented during the Form I-9 process to establish identity.) If an employee objects to the photo requirement for religious reasons, the Web Services Employer should contact E-Verify at 888-464-4218.
- b. If an employee presents a DHS Form I-551 (Permanent Resident Card), Form I-766 (Employment Authorization Document), or U.S. Passport or Passport Card to complete Form I-9, the Web Services Employer agrees to make a photocopy of the document and to retain the photocopy with the employee's Form I-9. The Web Services Employer will use the photocopy to verify the photo and to assist DHS with its review of photo mismatches that employees contest. DHS may in the future designate other documents that activate the photo screening tool.

Note: Subject only to the exceptions noted previously in this paragraph, employees still retain the right to present any List A, or List B and List C, document(s) to complete the Form I-9.

11. The Web Services Employer agrees to record the case verification number on the employee's Form I-9 or to print the screen containing the case verification number and attach it to the employee's Form I-9.
12. The Web Services Employer agrees that, although it participates in E-Verify, the Web Services Employer has a responsibility to complete, retain, and make available for inspection Forms I-9 that relate to its employees, or from other requirements of applicable regulations or laws, including the obligation to comply with the antidiscrimination requirements of section 274B of the INA with respect to Form I-9 procedures.
 - a. The following modified requirements are the only exceptions to a Web Services Employer's obligation to not employ unauthorized workers and comply with the anti-discrimination provision of the INA: (1) List B identity documents must have photos, as described in paragraph 6 above; (2) When a Web Services Employer confirms the identity and employment eligibility of newly hired employee using E-Verify procedures, it establishes a rebuttable presumption that it has not violated section 274A(a)(1)(A) of the Immigration and Nationality Act (INA) with respect to the hiring of that employee; (3) If the Web Services Employer receives a final nonconfirmation for an employee, but continues to employ that person, the Web Services Employer must notify DHS and the Web Services Employer is subject to a civil money penalty between \$550 and \$1,100 for each failure to notify DHS of continued employment following a final nonconfirmation; (4) If the Web Services Employer continues to employ an employee after receiving a final nonconfirmation, then the Web Services Employer is subject to a rebuttable presumption that it has knowingly employed an unauthorized alien in violation of section 274A(a)(1)(A); and (5) no E-Verify participant is civilly or criminally liable under any law for any action taken in good faith based on information provided through the E-Verify.
 - b. DHS reserves the right to conduct Form I-9 compliance inspections, as well as any other enforcement or compliance activity authorized by law, including site visits, to ensure proper use of

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E-Verify.

13. The Web Services Employer is strictly prohibited from creating an E-Verify case before the employee has been hired, meaning that a firm offer of employment was extended and accepted and Form I-9 was completed. The Employer agrees to create an E-Verify case for new employees within three Employer business days after each employee has been hired (after both Sections 1 and 2 of Form I-9 have been completed), and to complete as many steps of the E-Verify process as are necessary according to the E-Verify User Manual. If E-Verify is temporarily unavailable, the three-day time period will be extended until it is again operational in order to accommodate the Employer's attempting, in good faith, to make inquiries during the period of unavailability. If, however, the Web Services interface is unavailable due to no fault of E-Verify, then the three day time period is not extended. In such a case, the Web Services Employer must use the E-Verify browser during the outage.

14. The Web Services Employer agrees not to use E-Verify for pre-employment screening of job applicants, in support of any unlawful employment practice, or for any other use that this MOU or the E-Verify User Manual does not authorize.

15. The Web Services Employer must use E-Verify for all new employees. The Web Services Employer will not verify selectively and will not verify employees hired before the effective date of this MOU. Employers who are Federal contractors may qualify for exceptions to this requirement as described in Article II.B of this MOU.

16. The Web Services Employer agrees to follow appropriate procedures (see Article III below) regarding tentative nonconfirmations. The Web Services Employer must promptly notify employees in private of the finding and provide them with the notice and letter containing information specific to the employee's E-Verify case. The Web Services Employer agrees to provide both the English and the translated notice and letter for employees with limited English proficiency to employees. The Web Services Employer agrees to provide written referral instructions to employees and instruct affected employees to bring the English copy of the letter to the SSA. The Web Services Employer must allow employees to contest the finding, and not take adverse action against employees if they choose to contest the finding, while their case is still pending. Further, when employees contest a tentative nonconfirmation based upon a photo mismatch, the Employer must take additional steps (see Article III.B below) to contact DHS with information necessary to resolve the challenge.

17. The Web Services Employer agrees not to take any adverse action against an employee based upon the employee's perceived employment eligibility status while SSA or DHS is processing the verification request unless the Employer obtains knowledge (as defined in 8 C.F.R. § 274a.1(l)) that the employee is not work authorized. The Web Services Employer understands that an initial inability of the SSA or DHS automated verification system to verify work authorization, a tentative nonconfirmation, a case in continuance (indicating the need for additional time for the government to resolve a case), or the finding of a photo mismatch, does not establish, and should not be interpreted as, evidence that the employee is not work authorized. In any of such cases, the employee must be provided a full and fair opportunity to contest the finding, and if he or she does so, the employee may not be terminated or suffer any adverse employment consequences based upon the employee's perceived employment

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eligibility status (including denying, reducing, or extending work hours, delaying or preventing training, requiring an employee to work in poorer conditions, withholding pay, refusing to assign the employee to a Federal contract or other assignment, or otherwise assuming that he or she is unauthorized to work) until and unless secondary verification by SSA or DHS has been completed and a final nonconfirmation has been issued. If the employee does not choose to contest a tentative nonconfirmation or a photo mismatch or if a secondary verification is completed and a final nonconfirmation is issued, then the Web Services Employer can find the employee is not work authorized and terminate the employee's employment. Employers or employees with questions about a final nonconfirmation may call E-Verify at 1-888-464-4218 (customer service) or 1-888-897-7781 (worker hotline).

18. The Web Services Employer agrees to comply with Title VII of the Civil Rights Act of 1964 and section 274B of the INA as applicable by not discriminating unlawfully against any individual in hiring, firing, employment eligibility verification, or recruitment or referral practices because of his or her national origin or citizenship status, or by committing discriminatory documentary practices. The Web Services Employer understands that such illegal practices can include selective verification or use of E-Verify except as provided in part D below, or discharging or refusing to hire employees because they appear or sound "foreign" or have received tentative nonconfirmations. The Web Services Employer further understands that any violation of the immigration-related unfair employment practices provisions in section 274B of the INA could subject the Web Services Employer to civil penalties, back pay awards, and other sanctions, and violations of Title VII could subject the Web Services Employer to back pay awards, compensatory and punitive damages. Violations of either section 274B of the INA or Title VII may also lead to the termination of its participation in E-Verify. If the Web Services Employer has any questions relating to the anti-discrimination provision, it should contact OSC at 1-800-255-8155 or 1-800-237-2515 (TDD).

19. The Web Services Employer agrees that it will use the information it receives from E-Verify only to confirm the employment eligibility of employees as authorized by this MOU. The Web Services Employer agrees that it will safeguard this information, and means of access to it (such as PINS and passwords), to ensure that it is not used for any other purpose and as necessary to protect its confidentiality, including ensuring that it is not disseminated to any person other than employees of the Web Services Employer who are authorized to perform the Web Services Employer's responsibilities under this MOU, except for such dissemination as may be authorized in advance by SSA or DHS for legitimate purposes.

20. The Web Services Employer agrees to notify DHS immediately in the event of a breach of personal information. Breaches are defined as loss of control or unauthorized access to E-Verify personal data. All suspected or confirmed breaches should be reported by calling 1-888-464-4218 or via email at E-Verify@dhs.gov. Please use "Privacy Incident – Password" in the subject line of your email when sending a breach report to E-Verify.

21. The Web Services Employer acknowledges that the information it receives from SSA is governed by the Privacy Act (5 U.S.C. § 552a(i)(1) and (3)) and the Social Security Act (42 U.S.C. 1306(a)). Any person who obtains this information under false pretenses or uses it for any purpose other than as provided for in this MOU may be subject to criminal penalties.

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22. The Web Services Employer agrees to cooperate with DHS and SSA in their compliance monitoring and evaluation of E-Verify, which includes permitting DHS, SSA, their contractors and other agents, upon reasonable notice, to review Forms I-9 and other employment records and to interview it and its employees regarding the Employer's use of E-Verify, and to respond in a prompt and accurate manner to DHS requests for information relating to their participation in E-Verify.

a. The Web Services Employer agrees to cooperate with DHS if DHS requests information about the Web Services Employer's interface, including requests by DHS to view the actual interface operated by the Web Services Employer as well as related business documents. The Web Services Employer agrees to demonstrate for DHS the functionality of its interface to E-Verify upon request.

23. The Web Services Employer shall not make any false or unauthorized claims or references about its participation in E-Verify on its website, in advertising materials, or other media. The Employer shall not describe its services as federally-approved, federally-certified, or federally-recognized, or use language with a similar intent on its website or other materials provided to the public. Entering into this MOU does not mean that E-Verify endorses or authorizes your E-Verify services and any claim to that effect is false.

24. The Web Services Employer shall not state in its website or other public documents that any language used therein has been provided or approved by DHS, USCIS or the Verification Division, without first obtaining the prior written consent of DHS.

25. The Web Services Employer agrees that E-Verify trademarks and logos may be used only under license by DHS/USCIS (see M-795 (Web)) and, other than pursuant to the specific terms of such license, may not be used in any manner that might imply that the Employer's services, products, websites, or publications are sponsored by, endorsed by, licensed by, or affiliated with DHS, USCIS, or E-Verify.

26. The Web Services Employer agrees to complete its Web Services interface no later than six months after the date the Web Services Employer signs this MOU. E-Verify considers the interface to be complete once it has been built pursuant to the Interface Control Agreement (ICA), submitted to E-Verify for testing, and approved for system access.

27. The Web Services Employer agrees to perform sufficient maintenance on the Web Services interface in accordance with the requirements listed in the ICA. These requirements include, but are not limited to, updating the Web Services interface to ensure that any updates or enhancements are incorporated no later than six months after the issuance of an ICA. Web Services Employers should be aware that this will require the investment of time and resources. Compliance with the requirements of the ICA must be carried out to the satisfaction of DHS and or its assignees.

28. The Web Services Employer agrees that any system or interface it develops will follow the steps for creating E-Verify cases and processing tentative nonconfirmations, as laid out in the ICA, this MOU and the User Manual, including but not limited to allowing an employer to close an invalid case where appropriate, allowing an employer to refer a tentative nonconfirmation only when an employee chooses to contest a tentative nonconfirmation (no automatic referrals), and referring a tentative nonconfirmation

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to the appropriate agency at the time the employer prints the referral letter and provides the letter to the employee. The Web Services Employer understands that any failure to make its system or interface consistent with proper E-Verify procedures can result in DHS terminating the Web Services Employer's agreement and access.

29. The Web Services Employer understands that if it uses E-Verify procedures for any purpose other than as authorized by this MOU, the Web Services Employer may be subject to appropriate legal action and termination of its participation in E-Verify according to this MOU.

B. EMPLOYERS THAT ARE FEDERAL CONTRACTORS WITH THE FAR E-VERIFY CLAUSE

NOTE: If you do not have any Federal contracts at this time, this section does not apply to your company. In the future, if you are awarded a Federal contract that contains the FAR E-Verify clause, then you must comply with each provision in this Section. See 48 C.F.R. 52.222.54 for the text of the FAR E-Verify clause and the E-Verify Supplemental Guide for Federal Contractors for complete information.

1. If the Web Services Employer is a Federal contractor with the FAR E-Verify clause subject to the employment verification terms in Subpart 22.18 of the FAR, it will become familiar with and comply with the most current version of the E-Verify User Manual for Federal Contractors as well as the E-Verify Supplemental Guide for Federal Contractors.
2. In addition to the responsibilities of every employer outlined in this MOU, the Web Services Employer understands that if it is a Federal contractor subject to the employment verification terms in Subpart 22.18 of the FAR it must verify the employment eligibility of any "employee assigned to the contract" (as defined in FAR 22.1801). Once an employee has been verified through E-Verify by the Web Services Employer, the Employer may not create a second case for the employee through E-Verify.
 - a. A Web Services Employer that is not enrolled in E-Verify as a Federal contractor at the time of a contract award must enroll as a Federal contractor in the E-Verify program within 30 calendar days of contract award and, within 90 days of enrollment, begin to verify employment eligibility of new hires using E-Verify. The Web Services Employer must verify those employees who are working in the United States, whether or not they are assigned to the contract. Once the Web Services Employer begins verifying new hires, such verification of new hires must be initiated within three business days after the hire date. Once enrolled in E-Verify as a Federal contractor, the Web Services Employer must begin verification of employees assigned to the contract within 90 calendar days after the date of enrollment or within 30 days of an employee's assignment to the contract, whichever date is later.
 - b. Web Services Employers enrolled in E-Verify as a Federal contractor for 90 days or more at the time of a contract award must use E-Verify to begin verification of employment eligibility for new hires of the Employer who are working in the United States, whether or not assigned to the contract, within three business days after the date of hire. If the Web Services Employer is enrolled in E-Verify as a Federal contractor for 90 calendar days or less at the time of contract award, the Web Services Employer must, within 90 days of enrollment, begin to use E-Verify to initiate

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verification of new hires of the contractor who are working in the United States, whether or not assigned to the contract. Such verification of new hires must be initiated within three business days after the date of hire. A Web Services Employer enrolled as a Federal contractor in E-Verify must begin verification of each employee assigned to the contract within 90 calendar days after date of contract award or within 30 days after assignment to the contract, whichever is later.

c. Federal contractors that are institutions of higher education (as defined at 20 U.S.C. 1001(a)), state or local governments, governments of Federally recognized Indian tribes, or sureties performing under a takeover agreement entered into with a Federal agency under a performance bond may choose to only verify new and existing employees assigned to the Federal contract. Such Federal contractors may, however, elect to verify all new hires, and/or all existing employees hired after November 6, 1986. Web Services Employers in this category must begin verification of employees assigned to the contract within 90 calendar days after the date of enrollment or within 30 days of an employee's assignment to the contract, whichever date is later.

d. Upon enrollment, Web Services Employers who are Federal contractors may elect to verify employment eligibility of all existing employees working in the United States who were hired after November 6, 1986, instead of verifying only those employees assigned to a covered Federal contract. After enrollment, Web Services Employers must elect to verify existing staff following DHS procedures and begin E-Verify verification of all existing employees within 180 days after the election.

e. The Web Services Employer may use a previously completed Form I-9 as the basis for creating an E-Verify case for an employee assigned to a contract as long as:

- i. That Form I-9 is complete (including the SSN) and complies with Article II.A.6,
- ii. The employee's work authorization has not expired, and
- iii. The Web Services Employer has reviewed the Form I-9 information either in person or in communications with the employee to ensure that the employee's Section 1, Form I-9 attestation has not changed (including, but not limited to, a lawful permanent resident alien having become a naturalized U.S. citizen).

f. The Web Services Employer shall complete a new Form I-9 consistent with Article II.A.10 or update the previous Form I-9 to provide the necessary information if:

- i. The Web Services Employer cannot determine that Form I-9 complies with Article II.A.10,
- ii. The employee's basis for work authorization as attested in Section 1 has expired or changed, or
- iii. The Form I-9 contains no SSN or is otherwise incomplete.

Note: If Section 1 of Form I-9 is otherwise valid and up-to-date and the form otherwise complies with Article II.A.10, but reflects documentation (such as a U.S. passport or Form I-551) that expired after completing Form I-9, the Web Services Employer shall not require the production of additional documentation, or use the photo screening tool described in Article II.A.5, subject to any additional or superseding instructions that may be provided on this subject in the E-Verify User Manual.

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g. The Web Services Employer agrees not to require a second verification using E-Verify of any assigned employee who has previously been verified as a newly hired employee under this MOU or to authorize verification of any existing employee by any Web Services Employer that is not a Federal contractor based on this Article.

3. The Web Services Employer understands that if it is a Federal contractor, its compliance with this MOU is a performance requirement under the terms of the Federal contract or subcontract, and the Web Services Employer consents to the release of information relating to compliance with its verification responsibilities under this MOU to contracting officers or other officials authorized to review the Employer's compliance with Federal contracting requirements.

C. RESPONSIBILITIES OF SSA

1. SSA agrees to allow DHS to compare data provided by the Web Services Employer against SSA's database. SSA sends DHS confirmation that the data sent either matches or does not match the information in SSA's database.

2. SSA agrees to safeguard the information the Web Services Employer provides through E-Verify procedures. SSA also agrees to limit access to such information, as is appropriate by law, to individuals responsible for the verification of Social Security numbers or responsible for evaluation of E-Verify or such other persons or entities who may be authorized by SSA as governed by the Privacy Act (5 U.S.C. § 552a), the Social Security Act (42 U.S.C. 1306(a)), and SSA regulations (20 CFR Part 401).

3. SSA agrees to provide case results from its database within three Federal Government work days of the initial inquiry. E-Verify provides the information to the Web Services Employer.

4. SSA agrees to update SSA records as necessary if the employee who contests the SSA tentative nonconfirmation visits an SSA field office and provides the required evidence. If the employee visits an SSA field office within the eight Federal Government work days from the date of referral to SSA, SSA agrees to update SSA records, if appropriate, within the eight-day period unless SSA determines that more than eight days may be necessary. In such cases, SSA will provide additional instructions to the employee. If the employee does not visit SSA in the time allowed, E-Verify may provide a final nonconfirmation to the employer.

Note: If a Web Services Employer experiences technical problems, or has a policy question, the Web Services Employer should contact E-Verify at 1-888-464-4218.

D. RESPONSIBILITIES OF DHS

1. After SSA verifies the accuracy of SSA records for employees through E-Verify, DHS agrees to provide the Web Services Employer access to selected data from DHS databases to enable the Web Services Employer to conduct, to the extent authorized by this MOU:

- a. Automated verification checks on employees by electronic means, and
- b. Photo verification checks (when available) on employees.

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2. DHS agrees to provide to the Web Services Employer appropriate assistance with operational problems that may arise during the Web Services Employer's participation in the E-Verify program. DHS agrees to provide the Web Services Employer names, titles, addresses, and telephone numbers of DHS representatives to be contacted during the E-Verify process.
3. DHS agrees to make available to the Web Services Employer at the E-Verify Web site (www.dhs.gov/E-Verify) and on the E-Verify Web browser (<https://e-verify.uscis.gov/emp/>), instructional materials on E-Verify policies, procedures and requirements for both SSA and DHS, including restrictions on the use of E-Verify. DHS agrees to provide training materials on E-Verify.
4. DHS agrees to provide to the Web Services Employer a notice that indicates the Web Services Employer's participation in the E-Verify program. DHS also agrees to provide to the Web Services Employer anti-discrimination notices issued by the Office of Special Counsel for Immigration-Related Unfair Employment Practices (OSC), Civil Rights Division, U.S. Department of Justice.
5. DHS agrees to issue the Web Services Employer a user identification number and password that permits the Employer to verify information provided by its employees with DHS.
6. DHS agrees to safeguard the information provided to DHS by the Web Services Employer, and to limit access to such information to individuals responsible for the verification of employees' employment eligibility and for evaluation of the E-Verify program, or to such other persons or entities as may be authorized by applicable law. Information will be used only to verify the accuracy of Social Security Numbers and employment eligibility, to enforce the Immigration and Nationality Act (INA) and Federal criminal or anti-discrimination laws, and to administer Federal contracting requirements.
7. DHS agrees to provide a means of automated verification that is designed (in conjunction with SSA verification procedures) to provide confirmation or tentative nonconfirmation of employees' employment eligibility within three Federal Government work days of the initial inquiry.
8. DHS agrees to provide a means of secondary verification (including updating DHS records as necessary) for employees who contest DHS tentative nonconfirmations and photo non-match tentative nonconfirmations that is designed to provide final confirmation or nonconfirmation of the employees' employment eligibility within 10 Federal Government work days of the date of referral to DHS, unless DHS determines that more than 10 days may be necessary. In such cases, DHS will provide additional verification instructions.
9. DHS agrees to provide the Web Services Employer with an Interface Control Agreement (ICA). This document will provide technical requirements that the Web Services Employer must meet to create and maintain a Web Services interface to the Verification Information System (VIS). VIS is a composite information system that provides immigration status verification for government agencies and verification of employment authorization for employers participating in E-Verify.
10. DHS agrees to provide periodic system enhancements to improve the ease and accuracy of E-Verify, as needed. DHS will also provide E-Verify enhancements to comply with applicable laws and regulations. As enhancements occur, Web Services Employers must update their Web Services

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interface to reflect system changes within the timelines specified in Article V.A.1. DHS will provide the Web Services Employer with an ICA to support the E-Verify release whenever system enhancements are required.

11. DHS agrees to provide to the Web Services Employer guidance on breach notification and a means by which the Web Services Employer can report any and all suspected or confirmed breaches of owned or used systems or data spills related to E-Verify cases. At this time, if the Employer encounters a suspected or confirmed breach or data spill, it should contact E-Verify at 1-888-464-4218.

12. In the event the Web Services Employer is subject to penalties, DHS will issue a Notice of Adverse Action that describes the specific violations if it intends to suspend or terminate the employer's Web Services interface access. The Web Services Employer agrees that DHS shall not be liable for any financial losses to the Web Services Employer, its employees, or any other party as a result of your account suspension or termination and agrees to hold DHS harmless from any such claims.

ARTICLE III

REFERRAL OF INDIVIDUALS TO SSA AND DHS

A. REFERRAL TO SSA

1. If the Web Services Employer receives a tentative nonconfirmation issued by SSA, the Web Services Employer must print the notice and promptly provide it to the employee so that the employee may determine whether he or she will contest the tentative nonconfirmation. The Web Services Employer must review the tentative nonconfirmation with the employee in private. After the notice has been signed, the Web Services Employer must give a copy of the signed notice to the employee and attach a copy to the employee's Form I-9.

2. The Web Services Employer will refer employees to SSA field offices only as directed by the automated system based on a tentative nonconfirmation, and only after the Web Services Employer records the case verification number, reviews the input to detect any transaction errors, and determines that the employee contests the tentative nonconfirmation. The Web Services Employer will transmit the Social Security Number to SSA for verification again if this review indicates a need to do so. The Web Services Employer will determine whether the employee contests the tentative nonconfirmation as soon as possible after the Employer receives it.

3. If the employee contests an SSA tentative nonconfirmation, the Web Services Employer will provide the employee with a system-generated referral letter and instruct the employee to visit an SSA office within eight Federal Government work days. SSA will electronically transmit the result of the referral to the Web Services Employer within 10 Federal Government work days of the referral unless it determines that more than 10 days is necessary. The Employer agrees to check the E-Verify system regularly for case updates.

4. The Web Services Employer agrees not to ask the employee to obtain a printout from the Social Security Number database (the Numident) or other written verification of the Social Security Number from the SSA.

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B. REFERRAL TO DHS

1. If the Web Services Employer receives a tentative nonconfirmation issued by DHS, the Web Services Employer must promptly notify employees in private of the finding and provide them with the notice and letter containing information specific to the employee's E-Verify case. The Web Services Employer also agrees to provide both the English and the translated notice and letter for employees with limited English proficiency to employees. The Web Services Employer must allow employees to contest the finding, and not take adverse action against employees if they choose to contest the finding, while their case is still pending.
2. The Web Services Employer agrees to obtain the employee's response about whether he or she will contest the tentative nonconfirmation as soon as possible after the Web Services Employer receives the tentative nonconfirmation. Only the employee may determine whether he or she will contest the tentative nonconfirmation.
3. The Web Services Employer agrees to refer individuals to DHS only when the employee chooses to contest a tentative nonconfirmation.
4. If the employee contests a tentative nonconfirmation issued by DHS, the Web Services Employer will instruct the employee to contact DHS through its toll-free hotline (as found on the referral letter) within eight Federal Government work days.
5. If the Web Services Employer finds a photo mismatch, the Web Services Employer must provide the photo mismatch tentative nonconfirmation notice and follow the instructions outlined in paragraph 1 of this section for tentative nonconfirmations, generally.
6. The Web Services Employer agrees that if an employee contests a tentative nonconfirmation based upon a photo mismatch, the Web Services Employer will send a copy of the employee's Form I-551, Form I-766, U.S. Passport, or passport card to DHS for review by:
 - a. Scanning and uploading the document, or
 - b. Sending a photocopy of the document by express mail (furnished and paid for by the employer).
7. The Web Services Employer understands that if it cannot determine whether there is a photo match/mismatch, the Employer must forward the employee's documentation to DHS as described in the preceding paragraph. The Employer agrees to resolve the case as specified by the DHS representative who will determine the photo match or mismatch.
8. DHS will electronically transmit the result of the referral to the Web Services Employer within 10 Federal Government work days of the referral unless it determines that more than 10 days is necessary.
9. While waiting for case results, the Web Services Employer agrees to check the E-Verify system regularly for case updates.
10. DHS agrees to provide the Web Services Employer with an Interface Control Agreement (ICA).

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This document will provide technical requirements that the Web Services Employer must meet to create and maintain a Web Services interface to the Verification Information System (VIS). VIS is a composite information system that provides immigration status verification for government agencies and verification of employment authorization for employers participating in E-Verify.

11. DHS agrees to provide periodic system enhancements to improve the ease and accuracy of E-Verify, as needed. DHS will also provide E-Verify enhancements to comply with applicable laws and regulations. As enhancements occur, Web Services Employers must update their Web Services interface to reflect system changes within the timelines specified in Article V.A.1. DHS will provide the Web Services Employer with an ICA to support the E-Verify release whenever system enhancements are required.

ARTICLE IV SERVICE PROVISIONS

A. NO SERVICE FEES

1. SSA and DHS will not charge the Employer or the Web Services E-Verify Employer Agent for verification services performed under this MOU. The Employer is responsible for providing equipment needed to make inquiries. To access E-Verify, an Employer will need a personal computer with Internet access.

ARTICLE V SYSTEM SECURITY AND MAINTENANCE

A. DEVELOPMENT REQUIREMENTS

1. Software developed by Web Services Employers must comply with federally-mandated information security policies and industry security standards to include but not limited to:

- a. Public Law 107-347, "E-Government Act of 2002, Title III, Federal Information Security Management Act (FISMA)," December 2002.
- b. Office of Management and Budget (OMB) Memorandum (M-10-15), "FY 2010 Reporting Instructions for the Federal Information Security Management Act and Agency Privacy Management," April 2010.
- c. National Institute of Standards and Technology (NIST) Special Publication (SP) and Federal Information Processing Standards Publication (FIPS).
- d. International Organization for Standardization/International Electrotechnical Commission (ISO/IEC) 27002, Information Technology — Security Techniques — Code of Practice for Information Security Management.

2. The Web Services Employer agrees to update its Web Services interface to the satisfaction of DHS or its assignees to reflect system enhancements within six months from the date DHS notifies the Web Services User of the system update. The Web Services User will receive notice from DHS in the form

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of an Interface Control Agreement (ICA). The Web Services Employer agrees to institute changes to its interface as identified in the ICA, including all functionality identified and all data elements detailed therein.

3. The Web Services Employer agrees to demonstrate progress of its efforts to update its Web Services interface if and when DHS requests such progress reports.
4. The Web Services Employer acknowledges that if its system enhancements are not completed to the satisfaction of DHS or its assignees within six months from the date DHS notifies the Web Services Employer of the system update, then the Web Services Employer's E-Verify account may be suspended, and support for previous releases of E-Verify may no longer be available to the Web Services Employer. The Web Services Employer also acknowledges that DHS may suspend its account after the six-month period has elapsed.
5. The Web Services Employer agrees to incorporate error handling logic into its development or software to accommodate and act in a timely fashion should an error code be returned.
6. The Web Services Employer agrees to complete the technical requirements testing which is confirmed upon receiving approval of test data and connectivity between the Web Services Employer and DHS.
7. DHS will not reimburse any Web Services Employer or software developer who has expended resources in the development or maintenance of a Web Services interface if that party is unable, or becomes unable, to meet any of the requirements set forth in this MOU.
8. Housing, development, infrastructure, maintenance, and testing of the Web Services applications may take place outside the United States and its territories, but testing must be conducted to ensure that the code is correct and secure.
9. If the Web Services Employer includes an electronic Form I-9 as part of its interface, then it must comply with the standards for electronic retention of Form I-9 found in 8 CFR 274a.2(e).

B. INFORMATION SECURITY REQUIREMENTS

Web Services Employers performing verification services under this MOU must ensure that information that is shared between the Web Services Employer and DHS is appropriately protected comparable to the protection provided when the information is within the DHS environment [OMB Circular A-130 Appendix III].

To achieve this level of information security, the Web Services Employer agrees to institute the following procedures:

1. Conduct periodic assessments of risk, including the magnitude of harm that could result from the unauthorized access, use, disclosure, disruption, modification, or destruction of information and information systems that support the operations and assets of the DHS, SSA, and the Web Services Employer;

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2. Develop policies and procedures that are based on risk assessments, cost-effectively reduce information security risks to an acceptable level, and ensure that information security is addressed throughout the life cycle of each organizational information system;
3. Implement subordinate plans for providing adequate information security for networks, facilities, information systems, or groups of information systems, as appropriate;
4. Conduct security awareness training to inform the Web Services Employer's personnel (including contractors and other users of information systems that support the operations and assets of the organization) of the information security risks associated with their activities and their responsibilities in complying with organizational policies and procedures designed to reduce these risks;
5. Develop periodic testing and evaluation of the effectiveness of information security policies, procedures, practices, and security controls to be performed with a frequency depending on risk, but no less than once per year;
6. Develop a process for planning, implementing, evaluating, and documenting remedial actions to address any deficiencies in the information security policies, procedures, and practices of the organization;
7. Implement procedures for detecting, reporting, and responding to security incidents;
8. Create plans and procedures to ensure continuity of operations for information systems that support the operations and assets of the organization;
9. In information-sharing environments, the information owner is responsible for establishing the rules for appropriate use and protection of the subject information and retains that responsibility even when the information is shared with or provided to other organizations [NIST SP 800-37].
10. DHS reserves the right to restrict Web Services calls from certain IP addresses.
11. DHS reserves the right to audit the Web Services Employer's application.
12. Web Services Employers agree to cooperate willingly with the DHS assessment of information security and privacy practices used by the company to develop and maintain the software.

C. DATA PROTECTION AND PRIVACY REQUIREMENTS

1. Web Services Employers must practice proper Internet security; this means using HTTP over SSL/TLS (also known as HTTPS) when accessing DHS information resources such as E-Verify [NIST SP 800-95]. Internet security practices like this are necessary because Simple Object Access Protocol (SOAP), which provides a basic messaging framework on which Web Services can be built, allows messages to be viewed or modified by attackers as messages traverse the Internet and is not independently designed with all the necessary security protocols for E-Verify use.
2. In accordance with DHS standards, the Web Services Employer agrees to maintain physical, electronic, and procedural safeguards to appropriately protect the information shared under this MOU

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against loss, theft, misuse, unauthorized access, and improper disclosure, copying use, modification or deletion.

3. Any data transmission requiring encryption shall comply with the following standards:

- Products using FIPS 197 Advanced Encryption Standard (AES) algorithms with at least 256-bit encryption that has been validated under FIPS 140-2.
- NSA Type 2 or Type 1 encryption.

4. User ID Management (Set Standard): All information exchanged between the parties under this MOU will be done only through authorized Web Services Employer representatives identified above.

5. The Web Services Employer agrees to use the E-Verify browser instead of its own interface if it has not yet upgraded its interface to comply with the Federal Acquisition Regulation (FAR) system changes. In addition, Web Services Employers whose interfaces do not support the Form I-9 from 2/2/2009 or 8/7/2009 agree to use the E-Verify browser until the system upgrade is completed.

6. The Web Services Employer agrees to use the E-Verify browser instead of its own interface if it has not completed updates to its system to the satisfaction of DHS or its assignees within six months from the date DHS notifies the Web Services Employer of the system update. The Web Services Employer can resume use of its interface once it is up-to-date, unless the Web Services Employer has been suspended or terminated from continued use of the system.

D. COMMUNICATIONS

1. The Web Services Employer agrees to develop an electronic system that is not subject to any agreement or other requirement that would restrict access and use by an agency of the United States.

2. The Web Services Employer agrees to develop effective controls to ensure the integrity, accuracy and reliability of its electronic system.

3. The Web Services Employer agrees to develop an inspection and quality assurance program that regularly (at least once per year) evaluates the electronic system, and includes periodic checks of electronically stored information. The Web Services Employer agrees to share the results of its regular inspection and quality assurance program with DHS upon request.

4. The Web Services Employer agrees to develop an electronic system with the ability to produce legible copies of applicable notices, letters, and other written, photographic and graphic materials.

5. All information exchanged between the parties under this MOU will be in accordance with applicable laws, regulations, and policies, including but not limited to, information security guidelines of the sending party with respect to any information that is deemed Personally Identifiable Information (PII), including but not limited to the employee or applicant's Social Security number, alien number, date of birth, or other information that may be used to identify the individual.

6. Suspected and confirmed information security breaches must be reported to DHS according to Article V.C.1. Reporting such breaches does not relieve the Web Services Employer from further

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requirements as directed by state and local law. The Web Services Employer is subject to applicable state laws regarding data protection and incident reporting in addition to the requirements herein.

E. SOFTWARE DEVELOPMENT RESTRICTIONS

1. DHS reserves the right to terminate the access of any software developer with or without notice who creates or uses an interface that does not comply with E-Verify procedures.
2. Employers are prohibited from Web Services Software development unless they also create cases in E-Verify to verify their new hires' work authorization. Those pursuing software development without intending to use E-Verify are not eligible to receive an ICA. At this time, E-Verify does not permit Web Services software development without also being a Web Services Employer or Web Services E-Verify Employer Agent.

F. PENALTIES

1. The Web Services Employer agrees that any failure on its part to comply with the terms of the MOU may result in account suspension, termination, or other adverse action.
2. DHS is not liable for any financial losses to Web Services Employer, its clients, or any other party as a result of account suspension or termination.

ARTICLE VI MODIFICATION AND TERMINATION

A. MODIFICATION

1. This MOU is effective upon the signature of all parties and shall continue in effect for as long as the SSA and DHS operates the E-Verify program unless modified in writing by the mutual consent of all parties.
2. Any and all E-Verify system enhancements by DHS or SSA, including but not limited to E-Verify checking against additional data sources and instituting new verification policies or procedures, will be covered under this MOU and will not cause the need for a supplemental MOU that outlines these changes.

B. TERMINATION

1. The Web Services Employer may terminate this MOU and its participation in E-Verify at any time upon 30 days prior written notice to the other parties.
2. Notwithstanding Article V, part A of this MOU, DHS may terminate this MOU, and thereby the Web Services Employer's participation in E-Verify, with or without notice at any time if deemed necessary because of the requirements of law or policy, or upon a determination by SSA or DHS that there has been a breach of system integrity or security by the Web Services Employer, or a failure on the part of either party to comply with established E-Verify procedures and/or legal requirements. The Web Services Employer understands that if it is a Federal contractor, termination of this MOU by any party

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for any reason may negatively affect the performance of its contractual responsibilities. Similarly, the Web Services Employer understands that if it is in a state where E-Verify is mandatory, termination of this by any party MOU may negatively affect the Web Services Employer's business.

3. A Web Services Employer that is a Federal contractor may terminate this MOU when the Federal contract that requires its participation in E-Verify is terminated or completed. In such cases, the Web Services Employer must provide written notice to DHS. If the Web Services Employer fails to provide such notice, then that Web Services Employer will remain an E-Verify participant, will remain bound by the terms of this MOU that apply to non-Federal contractor participants, and will be required to use the E-Verify procedures to verify the employment eligibility of all newly hired employees.

4. The Web Services Employer agrees that E-Verify is not liable for any losses, financial or otherwise, if the Web Services Employer or the Employer is terminated from E-Verify.

ARTICLE VII

PARTIES

A. Some or all SSA and DHS responsibilities under this MOU may be performed by contractor(s), and SSA and DHS may adjust verification responsibilities between each other as necessary. By separate agreement with DHS, SSA has agreed to perform its responsibilities as described in this MOU.

B. Nothing in this MOU is intended, or should be construed, to create any right or benefit, substantive or procedural, enforceable at law by any third party against the United States, its agencies, officers, or employees, or against the Web Services Employer, its agents, officers, or employees.

C. The Web Services Employer may not assign, directly or indirectly, whether by operation of law, change of control or merger, all or any part of its rights or obligations under this MOU without the prior written consent of DHS, which consent shall not be unreasonably withheld or delayed. Any attempt to sublicense, assign, or transfer any of the rights, duties, or obligations herein is void.

D. Each party shall be solely responsible for defending any claim or action against it arising out of or related to E-Verify or this MOU, whether civil or criminal, and for any liability wherefrom, including (but not limited to) any dispute between the Web Services Employer and any other person or entity regarding the applicability of Section 403(d) of IIRIRA to any action taken or allegedly taken by the Web Services Employer.

E. The Web Services Employer understands that its participation in E-Verify is not confidential information and may be disclosed as authorized or required by law and DHS or SSA policy, including but not limited to, Congressional oversight, E-Verify publicity and media inquiries, determinations of compliance with Federal contractual requirements, and responses to inquiries under the Freedom of Information Act (FOIA).

F. The individuals whose signatures appear below represent that they are authorized to enter into this MOU on behalf of the Web Services Employer and DHS respectively. The Web Services Employer understands that any inaccurate statement, representation, data or other information provided to DHS

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may subject the Web Services Employer, its subcontractors, its employees, or its representatives to: (1) prosecution for false statements pursuant to 18 U.S.C. 1001 and/or; (2) immediate termination of its MOU and/or; (3) possible debarment or suspension.

G. The foregoing constitutes the full agreement on this subject between DHS and the Web Services Employer.

Approved by:

Web Services Employer Charter Communications	
Name (Please Type or Print) Jeffrey R Vanhook	Title
Signature Electronically Signed	Date 10/07/2009
Department of Homeland Security – Verification Division	
Name (Please Type or Print) USCIS Verification Division	Title
Signature Electronically Signed	Date 10/07/2009

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Information Required for the E-Verify Program

Information relating to your Company:

Company Name	Charter Communications
Company Facility Address	12405 Powerscourt Drive Saint Louis, MO 63131
Company Alternate Address	
County or Parish	SAINT LOUIS
Employer Identification Number	841496755
North American Industry Classification Systems Code	517
Parent Company	
Number of Employees	10,000 and over
Number of Sites Verified for	623

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Are you verifying for more than 1 site? If yes, please provide the number of sites verified for in each State:

ALABAMA	2 site(s)
ARIZONA	2 site(s)
CALIFORNIA	106 site(s)
COLORADO	7 site(s)
DIST OF COL	2 site(s)
GEORGIA	1 site(s)
HAWAII	6 site(s)
IDAHO	1 site(s)
ILLINOIS	3 site(s)
INDIANA	8 site(s)
KANSAS	4 site(s)
KENTUCKY	50 site(s)
MASSACHUSETTS	7 site(s)
MARYLAND	1 site(s)
MAINE	16 site(s)
MISSOURI	6 site(s)
NORTH CAROLINA	54 site(s)
NEBRASKA	9 site(s)
NEW HAMPSHIRE	5 site(s)
NEW JERSEY	1 site(s)
NEW YORK	101 site(s)
OHIO	98 site(s)
PENNSYLVANIA	8 site(s)
SOUTH CAROLINA	18 site(s)
TENNESSEE	5 site(s)
TEXAS	74 site(s)
VIRGINIA	4 site(s)
WASHINGTON	1 site(s)
WISCONSIN	21 site(s)
WEST VIRGINIA	2 site(s)

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Information relating to the Program Administrator(s) for your Company on policy questions or operational problems:

Name Towers - Watson
Phone Number (215) 246 - 6347
Fax Number (215) 246 - 4484
Email Address chris.heslin@towerswatson.com

Name Ivan - Epps
Phone Number (347) 427 - 9130
Fax Number
Email Address ivan.epps@towerswatson.com

Name Magdalena - Huffman
Phone Number (704) 206 - 6662
Fax Number
Email Address magdalena.huffman@charter.com

Name David - Lee
Phone Number (704) 206 - 2670
Fax Number
Email Address david.lee3@charter.com

Name Chad - Bumgardner
Phone Number (704) 206 - 5136
Fax Number
Email Address chad.bumgardner@charter.com

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CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
1/5/2021

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Marsh USA, INC. 701 Market Street, Suite 1100 St. Louis, MO 63101		CONTACT NAME: Scott Sanders PHONE (A/C No. Ext.): 314.394.9843 FAX (A/C No.): EMAIL ADDRESS: scott.sanders@charter.com											
INSURED Charter Communications, Inc. 400 Atlantic Street Stamford, CT 06901		INSURER(S) AFFORDING COVERAGE <table border="1"> <tr> <td>COMPANY A. National Union Fire Ins Co Pittsburgh PA</td> <td>NAIC # 19445</td> </tr> <tr> <td>COMPANY B. Commerce and Industry Insurance Company</td> <td>19410</td> </tr> <tr> <td>COMPANY C. Ace Property & Casualty Insurance Company</td> <td>20699</td> </tr> <tr> <td>COMPANY D. New Hampshire Insurance Company</td> <td>23841</td> </tr> <tr> <td>COMPANY E. AIG Insurance Company</td> <td>19399</td> </tr> </table>		COMPANY A. National Union Fire Ins Co Pittsburgh PA	NAIC # 19445	COMPANY B. Commerce and Industry Insurance Company	19410	COMPANY C. Ace Property & Casualty Insurance Company	20699	COMPANY D. New Hampshire Insurance Company	23841	COMPANY E. AIG Insurance Company	19399
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COMPANY D. New Hampshire Insurance Company	23841												
COMPANY E. AIG Insurance Company	19399												

COVERAGES CERTIFICATE NUMBER: 369390 REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	NAIC	SUM WGT	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
B	COMMERCIAL GENERAL LIABILITY ☒ CLAIMS-MADE ☒ OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: ☒ POLICY ☐ PROJECT ☐ LOC OTHER:			GL 3629906	1/1/2021	1/1/2022	EACH OCCURRENCE \$ \$1,000,000 DAMAGE TO RENTED PREMISES (Per occurrence) \$ \$500,000 MED EXP (Any one person) \$ \$10,000 PERSONAL & ADV INJURY \$ \$1,000,000 GENERAL AGGREGATE \$ \$3,000,000 PRODUCTS - COMPROP AGG \$ \$1,000,000
A A A	AUTOMOBILE LIABILITY ☒ ANY AUTO ☐ OWNED AUTOS ONLY ☐ SCHEDULED AUTOS ☐ HIRED AUTOS ONLY ☐ NON-OWNED AUTOS ONLY ☐ OTHER:			CA 1921838 (AL, AZ, CA, CO, CT, DC, FL, GA, HI, ID, IL, IN, KS, KY, LA, ME, MI, MN, MO, MT, NC, NE, NH, NJ, NV, NY, OH, OR, PA, SC, TN, TX, VT, WA, WI, WV, WY) CA 1921839 (MA) CA 1921840 (VA)	1/1/2021 1/1/2021 1/1/2021	1/1/2022 1/1/2022 1/1/2022	COMBINED SINGLE LIMIT (Per accident) \$ \$1,000,000 BODILY INJURY (Per person) \$ \$1,000,000 BODILY INJURY (Per accident) \$ \$1,000,000 PROPERTY DAMAGE (Per accident) \$ \$1,000,000
C	UMBRELLA LIAB ☒ EXCESS LIAB ☐ DED ☐ RETENTION \$			G28119616 006	1/1/2021	1/1/2022	EACH OCCURRENCE \$ \$1,000,000 AGGREGATE \$ \$1,000,000
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) (If yes, describe under DESCRIPTION OF OPERATIONS below)	Y/N		See second page for specific policy information.	1/1/2021 1/1/2021 1/1/2021	1/1/2022 1/1/2022 1/1/2022	☒ PER STATUTE ☐ OTHER E.L. EACH ACCIDENT \$ \$5,000,000 E.L. DISEASE - EA EMPLOYEE \$ \$5,000,000 E.L. DISEASE - POLICY LIMIT \$ \$5,000,000
A	Excess WC OH (\$5M Retention)			XWC 4595566 (OH)	1/1/2021	1/1/2022	Employers Liability \$5,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

Please see page 2 for additional insureds and any additional language.

CERTIFICATE HOLDER Charter Communications Operating, LLC 12405 Powerscourt Drive St. Louis, MO 63131	CANCELLATION SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. AUTHORIZED REPRESENTATIVE Joseph M. Lee
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ACORD 25 (2016/03)

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Spectrum Enterprise

Fiber Internet Access Service Level Agreement

This document outlines the Service Level Agreement (“SLA”) for Fiber Internet Access (“FIA”) fiber-based service (the “Service”).

This SLA is a part of, and hereby incorporated by reference into the Spectrum Enterprise Service Agreement (including the terms and conditions, attachments, and Service Orders described therein, the “Agreement”). To the extent any provision of this SLA conflicts with the Agreement, this SLA shall control. All SLA Targets in the table below are measured from Customer’s Service Location to the location where Spectrum Enterprise has local access to the Internet (the Spectrum Enterprise “Point of Presence” or “POP”) at the individual circuit or service level, and any applicable credits are issued only for the affected FIA circuit or service (the “Affected Service”). Capitalized words used, but not defined herein, shall have the meanings given to them in the Agreement.

I. SLA Targets for FIA Services:

Service Availability	Mean Time To Restore (“MTTR”)	Latency / Frame Delay (Roundtrip)	Jitter / Frame Delay Variation	Packet Loss / Frame Loss
End to End: 99.99%	Priority 1 Outages within 4 hours	45ms	<2ms	<0.1%

II. Priority Classification:

A “Service Disruption” is defined as an outage, disruption, or severe degradation, other than an Excluded Disruption, that interferes with the ability of a Spectrum Enterprise network hub to: (i) transmit and receive network traffic on Customer’s dedicated access port at the Spectrum Enterprise network hub; or (ii) exchange network traffic with another Spectrum Enterprise network hub. The Service Disruption period begins when Customer reports a Service Disruption using Spectrum Enterprise’s trouble ticketing system by contacting Customer Care, Spectrum Enterprise acknowledges receipt of such trouble ticket, Spectrum Enterprise validates that the Service is affected, and Customer releases the Service for testing. The Service Disruption ends when the affected Service has been restored.

“Service Degradation” means a degradation of the Service that is not a Service Disruption or a result of an Excluded Disruption, such as failure of the Service to achieve the SLA Targets for Latency / Frame Delay, Jitter / Frame Delay Variation, or Packet / Frame Loss.

“Excluded Disruptions” means (i) planned outages, (ii) routine or urgent maintenance, (iii) time when Spectrum Enterprise is unable to gain access to Customer’s Service Location, if necessary, (iv) service issues arising from acts of omissions of Customer or Customer’s representatives or agents, (v) Customer equipment failures, (vi) Customer is not prepared to release the Service for testing, and (vii) Force Majeure Events.

Spectrum Enterprise will classify Service problems as follows:

Priority	Criteria
Priority 1	Each a "Priority 1 Outage": - Service Disruption resulting in a total loss of Service; or - Service Degradation to the point where Customer is unable to use the Service and is prepared to release it for immediate testing
Priority 2	Service Degradation where Customer is able to use the Service and is not prepared to release it for immediate testing.
Priority 3	- A service problem that does not impact the Service; or - A single non-circuit specific quality of Service inquiry.

III. Service Availability

"Service Availability" is calculated as the total number of minutes in a calendar month less the number of minutes that the FIA Service is unavailable due to a Priority 1 Outage ("Downtime"), divided by the total number of minutes in a calendar month.

The following table contains examples of the percentage of Service Availability translated into minutes of Downtime for the 99.99% Service Availability Target:

Percentage by Days Per Month	Total Minutes / Month	Downtime Minutes
99.99% for 31 Days	44,640	4.5
99.99% for 30 Days	43,200	4.3
99.99% for 29 Days	41,760	4.2
99.99% for 28 Days	40,320	4

IV. Mean Time to Restore ("MTTR")

The MTTR measurement for Priority 1 Outages is the average time to restore Priority 1 Outages during a calendar month calculated as the cumulative length of time it takes Spectrum Enterprise to restore an FIA Service following a Priority 1 Outage in a calendar month divided by the corresponding number of trouble tickets for Priority 1 Outages opened during the calendar month for the FIA Service.

MTTR per calendar month is calculated as follows:

Cumulative length of time to restore Priority 1 Outage(s) per FIA Service
Total number of Priority 1 Outage trouble tickets per FIA Service

V. Latency / Frame Delay

Latency or Frame Delay is the average roundtrip network delay, measured every 5 minutes during a calendar month, unless measurement is not possible as a result of an Excluded Disruption, to adequately determine a consistent average monthly performance level for frame delay for each FIA Service. The roundtrip delay is expressed in milliseconds (ms).

Latency is calculated as follows:

$$\text{Latency/Frame Delay} = \frac{\text{Sum of the roundtrip delay measurements for an FIA Service}}{\text{Total \# of measurements for an FIA Service}}$$

VI. Packet Loss / Frame Loss Ratio

Packet Loss or Frame Loss Ratio is defined as the percentage of frames that are not successfully received compared to the total frames that are sent in a calendar month, except where any packet or frame loss is the result of an Excluded Disruption. The percentage calculation is based on frames that are transmitted from a network origination point and received at a network destination point.

Packet Loss / Frame Loss Ratio is calculated as follows:

$$\text{Packet Loss / Frame Loss (\%)} = 100 (\%) - \text{Frames Received (\%)}$$

VII. Jitter / Frame Delay Variation

Jitter or Frame Delay Variation is defined as the variation in delay for two consecutive frames that are transmitted (one-way) from a network origination point and received at a network destination point. Spectrum Enterprise measures a sample set of frames every 5 minutes during a calendar month, unless measurement is not possible as a result of an Excluded Disruption, and determines the average delay between consecutive frames within each sample set. The monthly Jitter / Frame Delay Variation is calculated as the average of all of the frame delay variation measurements during such calendar month and is expressed in milliseconds (ms).

Jitter / Frame Delay Variation is calculated as follows:

$$\text{Jitter / Frame Delay Variation} = \frac{\text{Sum of the Frame Delay Variation measurements for an FIA Service}}{\text{Total \# of measurements for an FIA Service}}$$

VIII. Network Maintenance

Maintenance Notice:

Customer understands that from time to time, Spectrum Enterprise will perform network maintenance for network improvements and preventive maintenance. In some cases, Spectrum Enterprise will need to perform urgent network maintenance, which will usually be conducted within the routine maintenance windows. Spectrum Enterprise will use reasonable efforts to provide advance notice of the approximate time, duration, and reason for any urgent maintenance outside of the routine maintenance windows.

Maintenance Windows:

Routine maintenance may be performed Monday – Friday 12 a.m. – 6 a.m. Local Time.

IX. Remedies

Service Credits:

If the actual performance of an FIA Service during any calendar month is less than the SLA Targets and Customer is in compliance with the terms of the Agreement and this SLA, then Customer may request credit equal to the corresponding percentage of monthly recurring charges for the Affected Service as set forth in the table below. Any credit to be applied will be off-set against amounts due from Customer to Spectrum Enterprise in the billing cycle following the date Spectrum Enterprise makes its credit determination. Credit requests must be submitted to Spectrum Enterprise within thirty (30) days of the calendar month in which the SLA Target was missed. Spectrum Enterprise will exercise commercially reasonable efforts to respond to such credit requests within thirty (30) days of receipt thereof.

Service Availability	Mean Time To Restore ("MTTR")	Latency / Frame Delay (Roundtrip)	Jitter / Frame Delay Variation	Packet Loss / Frame Loss
30%	> 4 hours ≤ 7:59:59 hours	4%	5%	5%
	> 8 hours	10%		

All SLA Targets are monthly measurements, and Customer may request only one credit per SLA Target per month for the Affected Service. Should one event impact more than one SLA hereunder, Customer shall receive the single highest of the qualifying credits only. Except as set forth below, the credits described in this SLA shall constitute Customer's sole and exclusive remedy, and Spectrum Enterprise's sole and exclusive liability, with respect to any missed SLA Targets. Service Credits hereunder shall not be cumulative per Service.

Chronic Priority 1 Outages:

If Customer experiences and reports three (3) separate Priority 1 Outages where the Downtime exceeds four (4) hours during each Priority 1 Outage within three (3) consecutive calendar months, then Customer may terminate the Affected Service without charge or liability by providing at least thirty (30) days written notice to Spectrum Enterprise; provided, however, that (i) Customer may only terminate the Affected Service; (ii) Customer must exercise its right to terminate the Affected Service by providing written notice to Spectrum Enterprise within thirty (30) days after the event giving rise to Customer's termination right; (iii) Customer shall have paid Spectrum Enterprise all amounts due at the time of such termination for all Services provided by Spectrum Enterprise pursuant to the Agreement, and (iv) the foregoing termination right provides the sole and exclusive remedy of Customer and the sole and exclusive liability of Spectrum Enterprise for chronic Priority 1 Outages and Customer shall not be eligible for any additional credits. Termination will be effective forty-five (45) days after Spectrum Enterprise's receipt of such written notice of termination.



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Foreign Limited Liability Company

CHARTER COMMUNICATIONS OPERATING, LLC

Filing Information

Document Number	M18000001623
FEVEIN Number	43-1843260
Date Filed	02/15/2018
State	DE
Status	ACTIVE

Principal Address

12405 POWERSCOURT DRIVE
ST LOUIS, MO 63131

Mailing Address

12405 POWERSCOURT DRIVE
Legal Department
ST LOUIS, MO 63131

Changed: 02/08/2021

Registered Agent Name & Address

CORPORATION SERVICE COMPANY
1201 HAYS STREET
TALLAHASSEE, FL 32301-2525

Authorized Person(s) Detail

Name & Address

Title MGR

CHARTER COMMUNICATIONS, INC.
400 ATLANTIC STREET
STAMFORD, CT 06901



CITY OF PORT ORANGE

PURCHASING DIVISION
1000 CITY CENTER CIRCLE
PORT ORANGE, FLORIDA 32129
TELEPHONE 386-506-5717
purchdiv@port-orange.org

ADDENDUM NO. # 1

June 30, 2021

RFP 21-07 INTERNET &VoIP SERVICES

To All Bidders:

The following changes, clarifications and additions are hereby made part of the proposal and specifications for the above referenced project dated June 7, 2021 and prepared by the City of Port Orange Purchasing Division as fully and completely as if the same were fully set forth therein. It is the sole responsibility of proposer to confirm that all addenda have been received prior to submitting proposal and acknowledge such in the proposal documents.

A. CLARIFICATIONS:

None

B. CHANGES TO SPECIFICATIONS:

None

C. QUESTIONS AND ANSWERS:

Question No.1: Is the city entertaining the idea of replacing the existing Cisco Call Manager for a hosted or cloud solution?

ANSWER: Not at this time.

Question No.2: Please confirm that this is RFP is only looking to procure potential data services and SIP trunks to feed the Call Manager and associated long-distance and DID charges, but nothing more?

ANSWER: Confirmed

Question No.3: Is there a requirement for the Internet (up to 10G Access) and the VOIP services to be provisioned as Voice/Data on the same Internet circuit?

ANSWER: Voice and Data can be on separate circuits.

Question No.4: Would City of Port Orange consider the Internet and VOIP services to be solutioned using separate Internet circuits?

ANSWER: Data must be a dedicated circuit. We do not want a bundled solution for data

Question No.5: What is the reason for the release of the RFP, were there problems or is the equipment old?

ANSWER: The City released the last RFP in 2016 and the current contract has no available renewals from the current provider.

Question No.6: Who is the current provider?

ANSWER: Spectrum Enterprise

Question No.7: Any reason why the term has been reduced to two years?

ANSWER: Based on pricing, the City does not want to get locked for a long term if the prices start to go down.

Question No.8: Is proof of insurance due at bid due date or after award?

ANSWER: All required insurance documents are due after the Notice of Intent to Award is published.

Question No.9: For 1Gbps what type of handoff would be expected from the chosen respondent? (i.e. RJ45, 1G Optical, 10G Optical, etc...)

ANSWER: 1G Optical

Question No.10: For speeds over 1Gbps, what type of handoff would be expected from the chosen respondent? (i.e. Multiple 1G in LAG, 10G Single-Mode with LC connector, etc...)

ANSWER: 10G Single mode. Any connector is fine, but LC would be preferred.

Question No.11: Page 10 of the RFP states that a Battery Backup is required. Please clarify how long of a duration the backup power is required to last in the event of a power failure.

ANSWER: At least 3 minutes would be acceptable.

Question No.12: Is the hand off from the City's APC unit to its generator unit?

ANSWER: The hand off is from the APC unit which powers the entire data center.

Question No.13: Is the service in the same room located on the second floor of City Hall?

ANSWER: Yes

Question No.14: Page 10 of the RFP indicates a need for the Battery Backup under the "Internet Access" section, but this requirement is not listed under the "Telephony Service" section. Does the equipment used for the delivery of the Telephony Service have the same need for Battery Backup? If yes, can the same Battery Backup device be used to provide backup power for both the Internet equipment and the Telephony equipment?

ANSWER: Yes, the equipment also needs backup power and yes, the same battery backup can be used for both items assuming it can provide battery power for at least 3 minutes.

Question No 15: Who is your voice content provider?

ANSWER: The City's VOIP provider is Spectrum and the City's phone service is Cisco Call Manager.

Question No.16: In the Pre-Proposal conference, it was mentioned that there was a need for a battery backup system (UPS) in the equipment room, with a reserve long enough for the emergency generator to turn on. How long does the emergency generator take to turn on?

ANSWER: Usually within a few seconds.

Question No.17: Will this UPS need to be sized to accommodate only the equipment we are proposing?

ANSWER: Yes.

Question No.18: Is there other equipment in the room that the City would also like to be protected? If so, please provide the power draw of other hardware you wish to cover?

ANSWER: No.

Question No.19: Due to the upcoming holiday, we kindly ask that there is a 14-day extension to the due date for this bid due to the compressed timeline and holiday.

ANSWER: No.

Question No.20: Will City of Port Orange be providing the CE router or Firewall to terminate the Internet circuit into?

ANSWER: Yes.

Question No.21: Will City of Port Orange be providing the SBC for the SIP service? If so, what make/model?

ANSWER: Cisco ISR 4451-X

Question No.22: Do you plan to use the proposed Internet circuit for the SIP service, or are you requesting a private IPVPN circuit for the SIP service?

ANSWER: Separate circuit for SIP.

Question No.23: Will you be using Cisco Emergency Responder for 911?

ANSWER: Yes

Question No.24: Who owns the existing Class C block IP address range of 75.112.90.130 through 75.112.90.254?

ANSWER: Spectrum Enterprise

In all other respects, except as specifically stated herein, the subject RFP 21-07 Internet and VoIP Services remains the same.

END OF ADDENDUM NO. #1

Joseph Castro

Buyer

jcastro@port-orange.org



CITY OF PORT ORANGE

PURCHASING DIVISION
1000 CITY CENTER CIRCLE
PORT ORANGE, FLORIDA 32129
TELEPHONE 386-506-5717
purchdiv@port-orange.org

ADDENDUM NO. # 2

July 1, 2021

RFP 21-07 INTERNET &VoIP SERVICES

To All Bidders:

The following changes, clarifications and additions are hereby made part of the proposal and specifications for the above referenced project dated June 7, 2021 and prepared by the City of Port Orange Purchasing Division as fully and completely as if the same were fully set forth therein. It is the sole responsibility of proposer to confirm that all addenda have been received prior to submitting proposal and acknowledge such in the proposal documents.

A. **CLARIFICATIONS:**

None

B. **CHANGES TO SPECIFICATIONS:**

None

C. **QUESTIONS AND ANSWERS:**

A prospective proposer has submitted the following question regarding Addendum No.1:

"Is it a requirement to propose separate circuits; internet (1Gb) and an additional circuit dedicated and sized appropriately for the SIP service? #3 says they CAN be on separate circuits, while #22 seems to REQUIRE separate circuits".

ANSWER: The City would prefer separate circuits but if proposer cannot provide that, The City can do with a single circuit. It would just take reconfiguration to the City's Edge network by City staff.

In all other respects, except as specifically stated herein, the subject RFP 21-07 Internet and VoIP Services remains the same.

END OF ADDENDUM NO. #2

Joseph Castro
Buyer
jcastro@port-orange.org



CITY COUNCIL AGENDA ITEM

COUNCIL MEETING DATE 4/5/2022

SUBJECT: (C11b) Request to waive formal bid requirements for Parks & Recreation uniforms until April 1, 2023

DEPARTMENT: Parks & Recreation

GOAL: 5 - Fiscal Sustainability

RECOMMENDED MOTION: Move to approve the waiver of formal bidding requirements and purchasing threshold for uniforms until April 1, 2023, and authorize the City Manager to execute any necessary documents.

SUMMARY: The Parks & Recreation Department had a multi-year contract with Cubco for all programs and Staff uniforms, which expired in October of 2021. Prior to the expiration, the Purchasing Division put out a formal solicitation (ITB #21-22) which was ultimately canceled as no bids were submitted. Parks and Recreation Staff then had to obtain quotes to purchase youth soccer uniforms for the Fall 2021 season.

Staff asked the companies that submitted quotes for youth soccer uniforms why they didn't submit a formal bid for ITB #21-22. Most of the uniform companies stated that with the rising material costs and limited supply, they didn't want to be locked into a contract. (The initial term of ITB #21-22 was 2 years.)

Department Staff reached out to other local Parks & Recreation Departments to see who they used for their uniforms to possibly piggyback an existing contract. When we reached out to the companies providing service to our neighbors, they could not accommodate the quantity needed for our sports programs. Our neighbors have numbers from 100-500 children and our numbers are 500-700 children.

As a department, Parks and Recreation decided to conduct a re-bid and worked with Purchasing to revise the scope of work with longer delivery times and shortened initial contract term (from 2 years to 1 year). The second bid (ITB #22-04) was concluded on January 27, 2022. Three out-of-state companies submitted bids, and all were deemed non-responsive and incomplete by the Purchasing Division. Therefore, all bids were rejected.

Parks and Recreation was then forced to get quotes once again, this time for the Spring Youth Baseball/Softball season. Although roughly a dozen companies have been asked to submit quotes, we typically receive quotes from the same three companies. (Cubco, Big Frog, and Swing Swag) After submitting the paperwork for the purchase order to the company with the low quote, that company came back and stated they could not get the

uniform they quoted and the uniform they could get was \$1.50 more per shirt. This increase caused their quote to be higher than the second lowest quote. The company with the second lowest quote was Cubco and we already used them for Fall Baseball/softball and flag football this year to our satisfaction. However, this baseball uniform order would increase the fiscal year expenditure for this company, pushing it over the \$25,000 bid requirement threshold, which would be inconsistent with our purchasing policy.

Uniforms for our four larger sports seasons (Fall & Spring Baseball/softball, Soccer, Flag Football/ Basketball) historically would cost between \$11,000 and \$16,000. This presents a potential problem due to the bid requirement threshold, which is \$25,000 per company per fiscal year. If the same company were to submit the lowest quote for two of those seasons, the total amount would exceed this threshold. The department cannot exceed \$25,000 in purchases for one vendor in the fiscal year without a formal solicitation approved by Council or a waiver of formal bidding requirements approved by Council.

When Parks and Recreation staff met with Purchasing Staff to discuss alternatives, Purchasing Staff provided names of several companies on The Interlocal Purchasing System (T.I.P.S.) Co-op contract and requested review as to whether or not these companies could meet the City's needs. After exploring this option, Staff learned that none of these companies could meet our timeframe for delivery.

Staff is requesting Council waive the formal bidding requirements for one year for the purchase of uniforms for sports and recreation programs and Staff uniforms, allowing us to exceed the purchasing limit per supplier until such a time that the market will be conducive for a new solicitation. Staff will continue to solicit three quotes from companies to provide these uniforms before purchasing them. Staff anticipates issuing a new solicitation in the next 9-12 months. If Staff is unsuccessful in obtaining a formal contract for these services by April 1, 2023, Staff will update the Council and ask to extend the waiver of formal bids.

PRESENTER: Susan Lovallo

ATTACHMENTS:

Susan Lovallo	Created/Initiated - 3/15/2022
Susan Lovallo	Approved - 3/15/2022
Robin Burris	Approved - 3/16/2022
John McKinney	Approved - 3/17/2022
Matthew Jones	Approved - 3/25/2022
Wayne Clark	Approved - 3/25/2022
Robin Fenwick	Final Approval - 3/25/2022



CITY COUNCIL AGENDA ITEM

COUNCIL MEETING DATE 4/5/2022

SUBJECT: (C11c) Approval of the Intent to Award ITB #21-17 to Simpson Environmental Services, LLC for Police Department Duct/HVAC Mold Remediation

DEPARTMENT: Public Works

GOAL: 2 - Infrastructure

RECOMMENDED MOTION: Move to approve Intent to Award ITB 21-17 Police Department Duct/HVAC Mold Remediation to Simpson Environmental Services, LLC for \$132,000.00, and authorize Mayor and City Clerk to execute all necessary documents.

SUMMARY: During routine service of the police department air conditioning system in 2021, a black residue was evident at various AC vents. Upon further investigation by a professional firm, it was discovered to be mold. A complete report was received with recommendations to remediate the mold from the air conditioning system. This is an unplanned project but required to maintain the building.

The City received three (3) bids for ITB #21-17, Police Department Duct/HVAC Mold Remediation. After careful review, Simpson Environmental Services, LLC was deemed the lowest, responsive, and responsible bidder with a bid of \$132,000. In addition, due to the location and type of work, staff is budgeting an additional \$10,000 for unforeseen conditions (Contingency) that might exist in the duct system.

The Standard Contract for Services will be executed and work is to commence upon issuance of a written Notice to Proceed and shall be substantially complete in ninety (90) days, with final completion thirty (30) days thereafter. The Standard Contract for Services will require a Payment & Performance Bond (P&P).

PRESENTER: Lynn Stevens

ATTACHMENTS:

1.	Simpson Environmental Services, LLC ITB 21-17 Duct-HVAC Mold Remediation Standard Contract for Services	Simpson Environmental Services, LLC ITB 21-17 Duct-HVAC Mold Remediation Standard Contract for Services.pdf
2.	Dept Justification Memo - Award ITB 21-17 (2) as of 3,24,22	Dept Justification Memo - Award ITB 21- 17 (2) as of 3,24,22.docx

3.	ITB 21-17 Notice of Intent to Award Final (3.4.2022)	ITB 21-17 Notice of Intent to Award Final (3.4.2022).pdf
4.	ITB 21-17 FINAL BID PACKAGE POLICE DEPT DUCT HVAC MOLD REMEDIATION (11.19.2021)	ITB 21-17 FINAL BID PACKAGE POLICE DEPT DUCT HVAC MOLD REMEDIATION (11.19.2021).pdf
5.	ITB 21-17 Addendum No.1 OF 3 FINAL (12.16.2021)	ITB 21-17 Addendum No.1 OF 3 FINAL (12.16.2021).pdf
6.	ITB 21-17 ADDENDUM No. 2 OF 3 FINAL (12.27.2021)	ITB 21-17 ADDENDUM No. 2 OF 3 FINAL (12.27.2021).pdf
7.	ITB 21-17 Addendum No.3 OF 3 FINAL (1.3.2022)	ITB 21-17 Addendum No.3 OF 3 FINAL (1.3.2022).pdf
8.	ITB 21-17 Bid Tabulation FINAL (2.14.2022)	ITB 21-17 Bid Tabulation FINAL (2.14.2022).pdf

Julia Wiggins	Created/Initiated - 3/10/2022
Julia Wiggins	Approved - 3/10/2022
Tom DiEulio	Approved - 3/11/2022
Ronny Buttrum	Approved - 3/14/2022
Lynn Stevens	Approved - 3/17/2022
Robin Burris	Approved - 3/21/2022
John McKinney	Approved - 3/21/2022
Matthew Jones	Approved - 3/25/2022
Wayne Clark	Approved - 3/25/2022
Robin Fenwick	Final Approval - 3/25/2022



CITY OF PORT ORANGE STANDARD CONTRACT FOR SERVICES

This Standard Contract for Services ("Contract") is entered into this ____ day of _____, 2022, 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 **SIMPSON ENVIRONMENTAL SERVICES, LLC**, a Florida limited liability corporation whose principal address is 21310 US Highway 98 North, Trilby, Florida 33593 ("Contractor"). The City and Contractor are collectively referred to herein as the "Parties."

1. Provision of Services

(a) The Contractor hereby agrees to provide Police Department Duct/HVAC Mold Remediation Services, and as more specifically described in Intent to Bid 21-17 ("ITB 21-17"). This Contract together with ITB 21-17, Addendum No. 1, Addendum No. 2, Addendum No. 3, and Contractor's proposal, all of which may be referred to as the "Contract" and all of which are made a part hereof by reference shall constitute the formal written Contract between the City and Contractor. For convenience, Section 3, Scope of Services, of ITB 21-17 and the Bid Tabulation as submitted by Contractor in Contractor's Proposal are attached hereto as Exhibit "1." A complete copy of ITB 21-17, Addendum No. 1, Addendum No. 2, Addendum No. 3, and Contractor's Proposal, is available in the Office of the City Clerk. Contractor represents that they are familiar with the documents that make up the Contract, as referenced hereinabove.

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

Term: This Contract shall become effective on the last date the Contract is signed by the Parties ("Effective Date"). Work shall commence upon issuance of a written Notice to Proceed executed by the City and shall be substantially complete within Ninety (90) days and final completion Thirty (30) days thereafter ("Term").

Manner and Place: The work shall be in accordance with and in a manner as required by all current federal, state, county, fire, building and land development codes, laws, ordinances and regulations, and with applicable permits and licenses per the City Code of Ordinances.

Time and Essence: Contractor acknowledges that time is of the essence for this Contract.

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

2. City Obligations. In return for the services identified above, the City agrees to compensate Contractor at the prices set forth in Exhibit "1" attached hereto, subject to a limit up to but not to exceed One Hundred Thirty-Two Thousand and 00/100 Dollars (\$132,000.00). All payments shall be governed by the Local Government Prompt Payment Act as set forth in Sections 218.70 through 218.79, Florida Statutes, as amended.

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

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

4. Contract Administration. The Public Works and Utilities Director, Lynn Stevens, shall perform contract administration of this Contract. The City may change the contract administrator, from time to time and at any time, upon written notice to Contractor. For notice provisions, see the paragraph below entitled "Notice."

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

6. Termination for Convenience of the City

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

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

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

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

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

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

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

- (i) With respect to all Contract performance prior to the effective date of Notice of Termination, the total of:
 - (1) the cost of work performed or supplies delivered;
 - (2) the cost of settling and paying any reasonable claims as provided in paragraph (c) (iv), above;
 - (3) a sum as profit on (a) determined by the Finance Director to be fair and reasonable.
- (ii) The total sum to be paid under (i) above shall not exceed the contract price, as further reduced by the contract price of work or supplies not terminated.

(g) In the event that the Contractor is not satisfied with any payments which the Finance Director shall determine to be due under this clause, the Contractor may appeal any claim to the City Council in accordance with Paragraph 23 of this contract concerning disputes.

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

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

9. Examination of Records

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

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

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

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

- (a) Keep and maintain public records required by the City to perform the service.

(b) Upon request from the City's custodian of public records, provide the City with a copy of the requested record or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in Section 119, Florida Statutes, or as otherwise provided by law.

(c) Ensure that public records that are exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the Contract term and following completion of the Contract if the Contractor does not transfer the records to the City.

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

If Contractor does not comply with a public records request, the City shall deem the non-compliance a breach of this Contract, and the Contractor may be subject to penalties under Section 119.0701, Florida Statutes.

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

11. Termination for Non-Appropriation of Funds

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

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

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

Policies other than Workers' Compensation shall be issued by insurers licensed and/or duly authorized under Florida Law to do business in the State of Florida and all insuring companies are required to have a minimum rating of "A-" in the "Best Key Rating Guide" published by A.M. Best & Company, Inc. Contractor shall not commence work under this Contract until the City has received a certificate or certificates of insurance with endorsement evidencing the required insurance. Insurer shall provide the City written notice of cancellation, nonrenewal or any other changes in coverage no later than thirty (30) days prior to the effective date of the change and shall provide notice to the City

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

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

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

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

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

Standard Insurance Requirements											
	Insurance	Standards	Additional Requirements								
☒	<u>Workers' Compensation</u> The Contractor shall maintain coverage for its employees with statutory workers' compensation limits, and no less than the limits indicated in the Schedule of Limits for Employers' Liability. Said coverage shall include a waiver of subrogation in favor of the City. The City will not accept elective exemptions. Any contractor using an employee leasing company shall complete the Leased Employee Affidavit (Exhibit A).	<table><tr><td><u>Contract Amount</u></td><td><u>Limits</u></td></tr><tr><td>Up to \$10 million</td><td>Statutory/\$500,000</td></tr><tr><td>\$10 - \$20 million</td><td>Statutory/\$1,000,000</td></tr><tr><td colspan="2">Contracts over \$20 million To Be Determined by the City.</td></tr></table>	<u>Contract Amount</u>	<u>Limits</u>	Up to \$10 million	Statutory/\$500,000	\$10 - \$20 million	Statutory/\$1,000,000	Contracts over \$20 million To Be Determined by the City.		☐ If Contract requires work on or about navigable waters, Longshoreman's and Harbor Workers' Coverage required. ☐ If vessels involved, Jones Act coverage with limits of \$500,000 required.
<u>Contract Amount</u>	<u>Limits</u>										
Up to \$10 million	Statutory/\$500,000										
\$10 - \$20 million	Statutory/\$1,000,000										
Contracts over \$20 million To Be Determined by the City.											
☒	Comprehensive General Liability (including Completed Operations and Contractual Liability)	<u>Limits:</u> Combined Single Limit Bodily Injury and Property damage \$1,000,000 occurrence \$1,000,000 aggregate	☐ When work is on or under Railroad rights of way or properties, the Contractor shall take out and maintain during the life of the Contract, Railroad protective liability and property damage insurance in amounts as requested by the Railroad.								

☒	Comprehensive Business, Automobile Liability to include all owned, hired and non-owned automobiles.	Limits: Auto Liability Body Injury and Property Damage: \$1,000,000 each occurrence \$1,000,000 aggregate	
Additional Insurance Requirements			
☐	Property Insurance Builders Risk. <u>Additional Coverage:</u>	Limits: Buildings - Completed value of Contract. "All Risk" coverage on latest ISO for or its equivalent. Permission granted to occupy. Owner named as insured AIMA	If Agreement requires handling or installation of Owner's equipment, coverage should be furnished on "All Risk" form, including transit and Owner shall be named.
☐	Professional Liability	Limits: Coverage - \$1,000,000	
☐	Installation Floater (IT)	Limits: Coverage - \$ <u>To be determined.</u>	
☒	Contractor Pollution Liability	Limits: Coverage - \$1,000,000	
☐	Errors and Omissions	Limits: Coverage - \$1,000,000	
☐	Umbrella Policy	Limits: Coverage - \$ <u>To be determined.</u>	
☒	Payment and Performance Bond Required	Limits: Coverage - Equal to amount of Contract.	
☐	City Manager waives Payment and Performance Bond for work under \$25,000.00.		
☐	Unless otherwise required by law, City Manager waives Insurance for FOB goods.		

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

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

15. Modifications or Changes to this Contract

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

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

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

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

16. Sovereign Immunity. The City expressly retains all rights, benefits and immunities of sovereign immunity in accordance with Section 768.28, Florida Statutes. Notwithstanding anything set forth in any section of this Contract

to the contrary, nothing in this Contract shall be deemed as a waiver of immunity or limits of liability of the City beyond any statutory limited waiver of immunity or limits of liability which may have been adopted by the Florida Legislature or may be adopted by the Florida Legislature and the cap on the amount and liability of the City for damages regardless of the number or nature of claims in tort or equity shall not exceed the dollar amount set by the legislature for tort. Nothing in this Contract shall inure to the benefit of any third party for the purpose of allowing any claim against the City which would otherwise be barred under the Doctrine of Sovereign Immunity or operation of law.

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

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

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

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

20. Inspection

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

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

(c) The inspection and test by the City of any supplies or lots thereof does not relieve Contractor from any responsibility regarding defects or other failures to meet the Contract requirements, which may be discovered

prior to acceptance. Except as otherwise provided in this Contract, acceptance shall be conclusive except as regards latent defects, fraud, or such gross mistakes as amount to fraud.

21. Liability for Loss or Damage.

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

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

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

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

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

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

23. Disputes. The City Manager, who shall reduce his decision to writing and mail or otherwise furnish a copy thereof to Contractor, shall decide disputes with respect to this Agreement. The decision by the City Manager shall be final and binding unless, within five (5) business days from the date of delivery of the decision of the City Manager, appeal is made to the City Council in writing and delivered to the City Clerk, Robin L. Fenwick, MMC. The decision of the City Council shall be final and binding unless set aside by a court of competent jurisdiction as fraudulent, capricious, arbitrary, or so grossly erroneous as necessary to imply bad faith, or not to be supported by any evidence.

24. Force Majeure. Neither party shall be liable for any delay in performance or failure to perform any obligation hereunder if, and to the extent that, such failure or delay is caused by an event of Force Majeure. Force Majeure shall mean any act, event or condition that is beyond the party's reasonable control, that materially and adversely

affects the party's ability to perform its obligations hereunder, and that is not the result of the party's willful neglect, error, omission or failure to exercise reasonable due diligence.

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

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

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

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

City:	City of Port Orange Attention: City Manager 1000 City Center Circle Port Orange, Florida 32129 (386) 506-5501
Copy to:	City of Port Orange Attention: Lynn Stevens, Public Works and Utilities Director 1000 City Center Circle Port Orange, Florida 32129 (386) 506-5575
Contractor:	Simpson Environmental Services, LLC Attention: Shawn Brigham, Vice President 21310 US Highway 98 North Trilby, Florida 33593 (352) 583-2509 – Telephone (352) 583-3371 – Facsimile E-Mail: SBrigham@Simpsonenv.com P.O. Box 735 Trilby, Florida 33593

Any notice or other communication given under the Contract will be in writing and delivered by hand, sent by facsimile (provided acknowledgement of receipt thereof is delivered to the sender), sent by certified, registered mail, or sent by any nationally recognized overnight courier service to the addresses provided herein. The parties may,

from time to time and at any time, change their respective addresses and each will have the right to specify as its address any other address by at least 10 days written notice to the other party.

29. Contract Construction

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

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

[Remainder of this page intentionally left blank]

Witnesses:

SIMPSON ENVIRONMENTAL SERVICES, LLC

Printed Name:_____

By:_____
Shawn Brigham, Vice President

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

Printed Name:_____

Date:_____

STATE OF FLORIDA
COUNTY OF PASCO

The foregoing instrument was acknowledged before me by means of ___ physical presence or ___ online notarization, this _____ day of _____, 2022, by Shawn Brigham, as Vice President of Simpson Environmental Services, LLC, a Florida limited liability corporation. He ___ personally known or ___ produced _____ as identification.

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

Witnesses:

CITY OF PORT ORANGE

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

Date: _____
Printed Name: _____

STATE OF FLORIDA
COUNTY OF VOLUSIA

The foregoing instrument was acknowledged before me by means of __ physical presence or __online notarization, this __day of _____, 2022, by Donald O. Burnette, as Mayor, of the City of Port Orange, a Florida municipal corporation, on behalf of the city. He is ____ personally known or ____ produced _____ as identification.

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

Witnesses:

ATTEST:

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

Date: _____
Printed Name: _____

STATE OF FLORIDA
COUNTY OF VOLUSIA

The foregoing instrument was acknowledged before me, by means of ____ physical presence or __online notarization, this __day of _____, 2022, by Robin L. Fenwick, as City Clerk of the City of Port Orange, a Florida municipal corporation, on behalf of the city. He is ____ personally known or ____ produced _____ as identification.

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

EXHIBIT “1”

Contractor's Quote

Consisting of 8 Pages

BID COST/FEE PROPOSAL:

 (ATTACHMENT 1) ITB SCHEDULE OF UNIT PRICING BID FORM CITY OF PORT ORANGE ITB #21-17				
Police Department Duct/HVAC Mold Remediation				
Completed (Attachment 1) ITB Schedule of Unit Pricing form MUST be included with Bid Submission				
Instruction to save Attachment from DemandStar website: Perform "File Save As" and save spreadsheet to your computer. Fill in pricing in highlighted cells, preferably electronically.				
Bidders are required to complete all fields shaded in green. All other fields will be automatically calculated.				
(ATTACHMENT 1) ITB SCHEDULE OF UNIT PRICING MUST BE SIGNED				
NAME OF BUSINESS:	Simpson Environmental Services, LLC			
CONTACT PERSON:	Shawn Brigham			
EMAIL ADDRESS:	Shawnebrigham@gmail.com			
AUTHORIZED SIGNATURE:				
ALL UNIT PRICING IN ACCORDANCE WITH SECTION 3 SCOPE OF WORK/SPECIFICATIONS				
ITEM #	DESCRIPTION	QTY	UNIT	TOTAL BID PRICE
1	General demolition, hazardous material remediation, HVAC cleaning, water extraction and remediation of the Police Department building	1	LS	\$ 132,000.00

This document must be completed and returned with your Submittal

[Remainder of this page left intentionally blank]

SECTION 3 - SCOPE OF WORK/SPECIFICATIONS

SCOPE OF WORK:

The City of Port Orange is seeking bid proposals for a lump sum contract to remediate mold from the air conditioning system at the Port Orange Police Department building at 4545 Clyde Morris Blvd. The two-story building was constructed in 2009.

SPECIFICATIONS

Bidders will determine the system components to be serviced to include linear feet of each type of duct work, air handler units, diffusers, grills, registers, power induction units, etc. This determination will be done using the building drawings and a mandatory site visit.

1. The Mold Remediation Contractor shall be responsible to accurately develop the measurements of all ducts, number of air handler units, diffusers, grills, registers, power induction units, etc. in order to develop an accurate proposal. Bidder shall provide all measurements and counts lists as stated in Form 7.1. Plans furnished to the contractor are provided as a convenience to the contractor. The Mold Remediation Contractor acknowledges to the City that he/she has accurately measured, counted and obtained the necessary information to provide a bid for this project.

Refer to sheets:

- a. A1.101 Floor Plan Level 1
- b. M2.101 First Floor Plan Mechanical
- c. A1.102 Floor Plan Level 2
- d. M2.102 Second Floor Plan Mechanical
- e. LS1.101 Life Safety Plan Level 1

The LS1.101 Life Safety Plan Level 1 is to compensate for the view that cannot be seen on Plan A1.101 Floor Plan Level 1.

2. Clean and remediate mold in entire first and second floor HVAC system.
3. All air handling units and associated components to be cleaned along with the following:
 - a. All supply and return line duct work.
 - b. Internal airside components including evaporator coil, drain pan and drain lines, blower wheel and housing, and heating components, VAV boxes, blower, blower housing and blower wheels.
 - c. All air diffusers, grills, and registers
4. The Mold Remediation Contractor shall perform all work based on the standards and guidelines from the National Air Duct Cleaners Association, The Environmental Protection Agency, and the Indoor Air Quality Association.
5. The Mold Remediation Contractor shall perform all work under the direction of a Licensed Indoor Environmentalist or Certified Air Duct Cleaning Specialist held under a licensed mechanical contractor.
6. The Mold Remediation Contractor shall pay a Certified Indoor Air Quality Inspector for all applicable testing to comply with all the requirements of Section 3 Scope of Work/Specifications. The fees charged by the Certified Indoor Air Quality Inspector are to be paid by the awarded Mold Remediation Contractor and included in the Contractor's lump sum pricing.
7. The Certified Indoor Air Quality Inspector shall provide all testing results to the City directly upon testing completion.
8. Awarded Bidder guarantees a successful post remediation test by a third party Certified Indoor Air Quality Inspector following remediation work and should testing by the Certified Indoor Air Quality Inspector return negative results, the awarded Bidder shall redress the project and remediation recommendations of the Certified Indoor Air Quality Inspector. Following completion of the recommended additional work, awarded Bidder shall pay the Certified Indoor Air Quality Inspector to administer a second post remediation test. Such testing shall continue until the Certified Indoor Air Quality Inspector returns a satisfactory test result to the City.
9. City staff will conduct visual inspections of work daily.

10. The Mold Remediation Contractor shall provide the City all Before and After photographs of duct work at each diffuser, vent, or grill to verify cleaning effectiveness.
11. Any service openings created shall be covered using galvanized metal (using self-tapping screws), equal to or greater than the gauge it is applied to.
12. Bidders must provide a list of all cleaners, coatings, etc., used in the performance of the specifications as stated on Form 7.1. All products must meet the National Air Duct Cleaners Association, The Environmental Protection Agency, and the Indoor Air Quality Association standards.
13. Cleaning methods and/or products shall not cause damage to any component.
14. The Mold Remediation Contractor will be responsible for the proper disposal of any/all materials.
15. All Bidders shall provide the City with their safety protocols for this type of job and include these with their bid submittal.
16. All work must be done in sections to ensure the facility remains in operation during work being conducted.
17. Since this facility will remain in full operation during this work, the Contractor will completely clean up the area surrounding the day's work prior to leaving the jobsite for the day.
18. All workers must wear a company uniform, have company identification, pass a background check, and be escorted by City personnel whenever performing work within the building.
19. Potable water will be provided by the City.
20. Bathroom facilities inside the building will be available to workers.
21. City staff will be responsible to move and/or cover any furniture.
22. The Mold Remediation Contractor shall possess and demonstrate a minimum of 5-years of previous experience in duct mold remediation of similar sized buildings (Include experience in duct mold remediation of similar sized buildings in Form 7.7 Statement of Bidder's Qualifications. Item L).
23. The Mold Remediation Contractor shall provide 3 references of work of a similar nature. (Form 7.7 Item L)

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Port Orange
Police Station

City of Port Orange
Port Orange, FL

architect



CT HSI ASSOCIATES, P.A.
1201 E. Highway 1
Orlando, FL 32813
Tel: 407.433.0988 Fax: 407.423.8792

Seal/Signature
Consultants

NOTICE
This is the current complete set of drawings for the project. It is the responsibility of the user to ensure that all drawings are up to date and that all drawings are used in accordance with the project requirements. The user is responsible for any errors or omissions in the drawings.

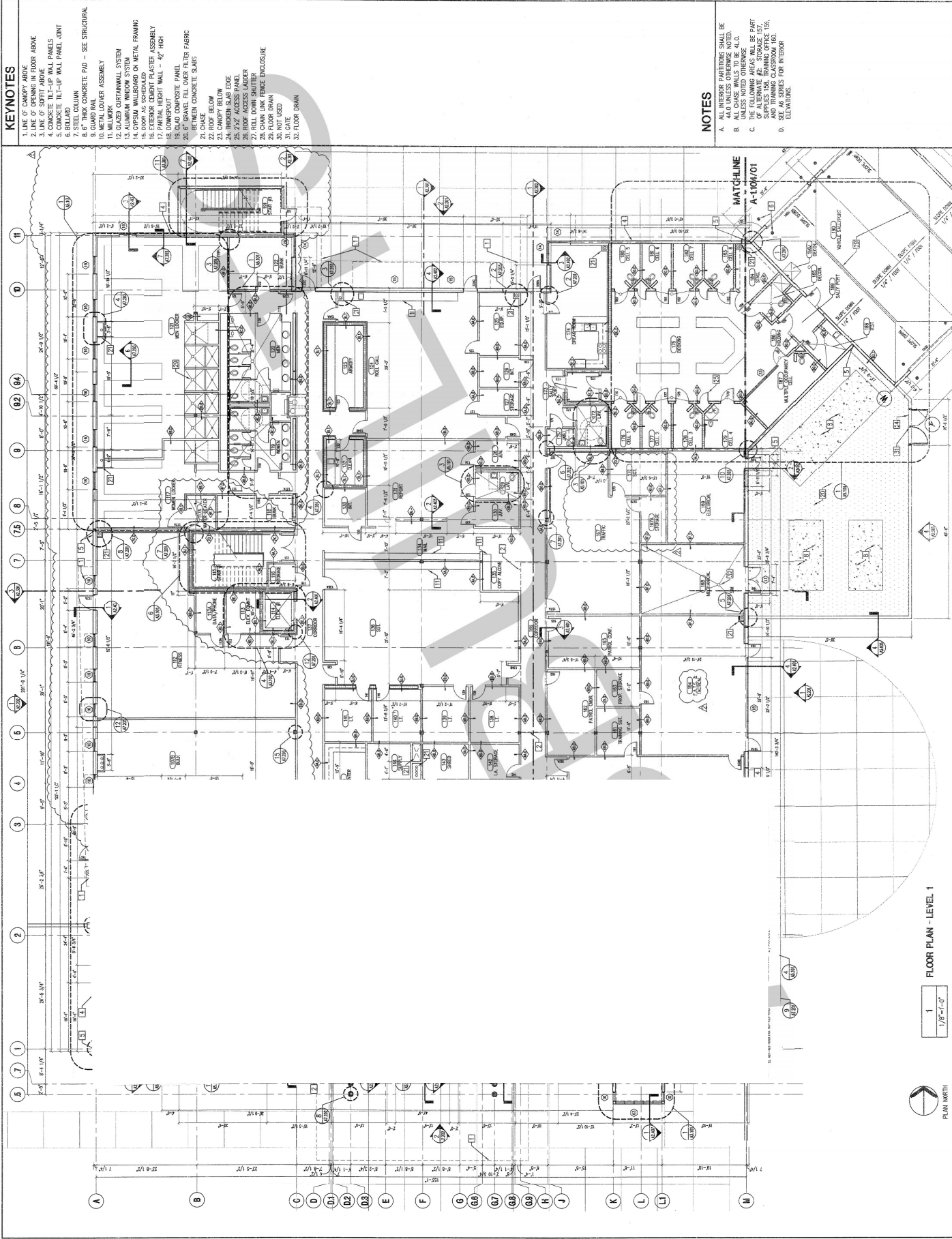
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Job No. 0800.01
Date: APRIL 9, 2008
Scale 1/8" = 1'-0"
File A1101

A1101

Sheet No.



KEYNOTES

1. LINE OF CONCRETE ABOVE
2. LINE OF CONCRETE ABOVE
3. LINE OF CONCRETE ABOVE
4. CONCRETE TIL-UP WALL PANELS
5. CONCRETE TIL-UP WALL PANELS
6. CONCRETE TIL-UP WALL PANELS
7. CONCRETE TIL-UP WALL PANELS
8. 6" THICK CONCRETE PAD - SEE STRUCTURAL
9. GUARD RAIL
10. METAL LOWER ASSEMBLY
11. METAL LOWER ASSEMBLY
12. GLAZED CURTAINWALL SYSTEM
13. ALUMINUM WINDOW SYSTEM
14. ALUMINUM WINDOW SYSTEM
15. ALUMINUM WINDOW SYSTEM
16. EXTERIOR COMFORT ELASTIC ASSEMBLY
17. PARTIAL HEIGHT WALL - 42" HIGH
18. DOWNSPOUT
19. CLAD COMPOSITE PANELS WITH FABRIC
20. BETWEEN CONCRETE SLABS
21. CHASE
22. ROOF BELOW
23. CONCRETE BEAM
24. CONCRETE BEAM
25. 24" ACCESS PANEL
26. ROOF ACCESS LADDER
27. ROLL DOWN SHUTTER
28. ROLL DOWN SHUTTER
29. FLOOR DRAIN
30. NOT USED
31. GATE
32. FLOOR DRAIN

NOTES

- A. ALL INTERIOR PARTITIONS SHALL BE 4.0 UNLESS OTHERWISE NOTED.
- B. ALL CHASE WALLS TO BE 4.0.
- C. THE EXISTING AREAS TO BE PART OF ALTERNATE #2, SURFACE 57, SHALL REMAIN AS IS.
- D. SEE AS SERIES FOR INTERIOR ELEVATIONS.

FLOOR PLAN - LEVEL 1

1

1/8" = 1'-0"





**Port Orange
Police Station**

217 of Port Orange
Port Orange, FL

Architect



ATJ ASSOCIATES, P.A.
Architects
150 Irma Avenue
Orlando, FL 32803
Tel: 407.422.0988 Fax: 407.234.7953

Lead/Significant
Consultants

NOTES
1. This is the current approved preliminary site plan.
2. All dimensions are in feet and inches.
3. All dimensions are to the centerline of the building.
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Change Order Log
No. By Date Revision

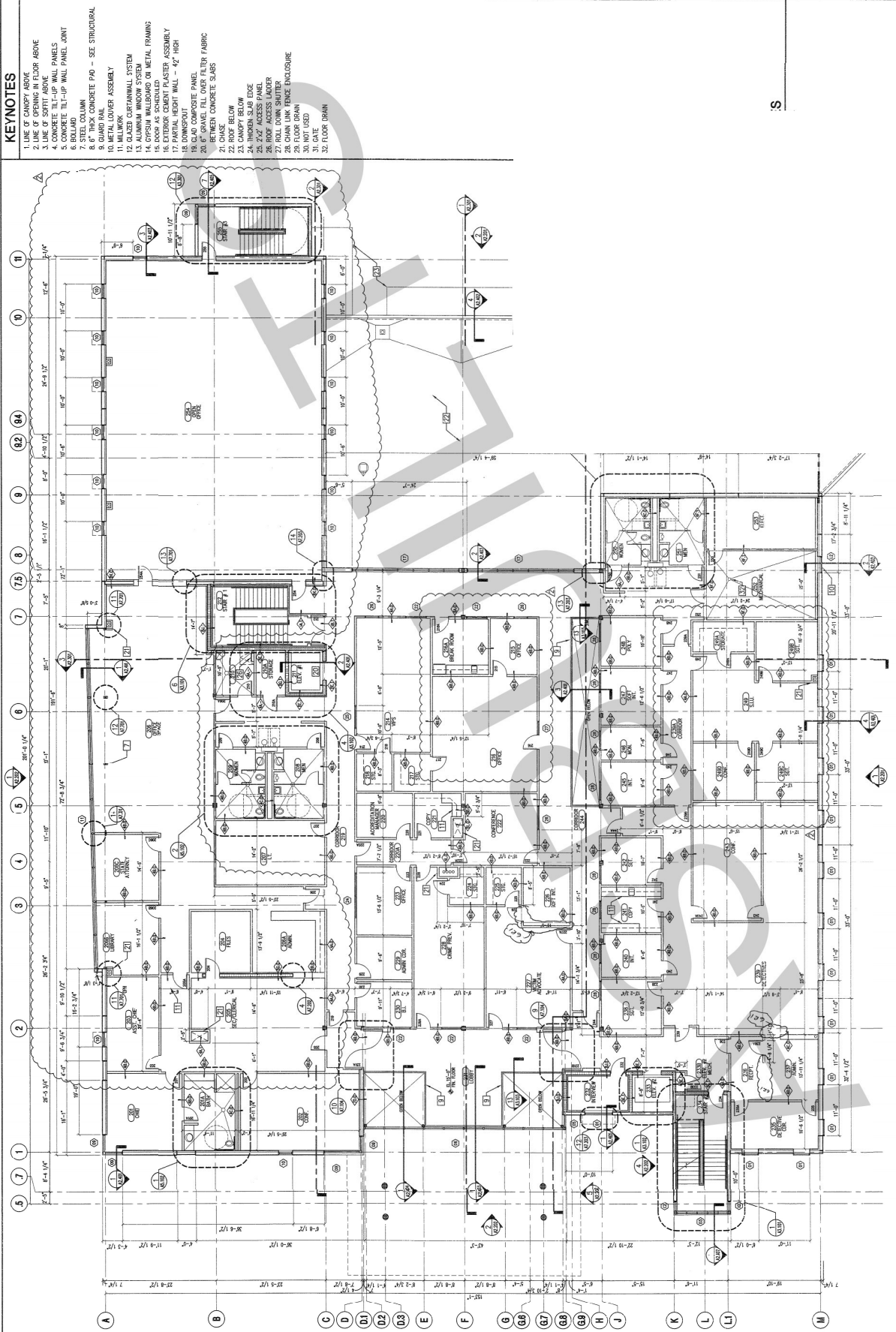
Approved For
No. By Date Issued for

**FLOOR PLAN
LEVEL 2**

Job No. 0800.01
Date APRIL 9, 2008
Scale 1/8" = 1'-0"
File A1.102

A1.102

Sheet No.



KEYNOTES

1. LINE OF CONCRETE ABOVE
2. LINE OF CONCRETE ABOVE
3. LINE OF CONCRETE ABOVE
4. CONCRETE TILT-UP WALL PANELS
5. CONCRETE TILT-UP WALL PANEL JOINT
6. STEEL COLUMN
7. STEEL COLUMN
8. 8" THICK CONCRETE PAD - SEE STRUCTURAL
9. GUARD RAIL
10. METAL LOUVER ASSEMBLY
11. METAL LOUVER ASSEMBLY
12. GLAZED CURTAINWALL SYSTEM
13. ALUMINUM WINDOW SYSTEM
14. CURTAIN WALLBOARD ON METAL FRAMING
15. EXTERIOR CHASE PLASTER ASSEMBLY
16. EXTERIOR CHASE PLASTER ASSEMBLY
17. PARTIAL HEIGHT WALL - 42" HIGH
18. DOWNSPOUT
19. 6" COMPACT PANEL
20. 6" COMPACT PANEL
21. CHASE
22. ROOF BELOW
23. THICKNESS SLAB EDGE
24. THICKNESS SLAB EDGE
25. 2" ACCESS LADDER
26. ROOF ACCESS LADDER
27. ROLL DOWN SHUTTER
28. ROLL DOWN SHUTTER
29. FLOOR DRAIN
30. FLOOR DRAIN
31. DATE
32. FLOOR DRAIN

GRAPHIC NO.
PROJECT: PORT ORANGE POLICE STATION
PROJECT NUMBER: 01
DESIGNED BY: ATJ
CHECKED BY: ATJ
DATE: 4/9/08
REFERENCE: 1/1/07

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PROJECT NUMBER: 01
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PROJECT NUMBER: 01
DESIGNED BY: ATJ
CHECKED BY: ATJ
DATE: 4/9/08
REFERENCE: 1/1/07



Architect



C.T. HSU + ASSOCIATES, P.A.
ARCHITECTURE • PLANNING • INTERIOR DESIGN

8120 Irma Avenue
Orlando, FL 32803
Tel 407.423.0088 Fax 407.423.4793

Seal/Signature

HUGHES ASSOCIATES, INC.
FIRE PROTECTION ENGINEERS
CODE CONSULTANTS

303 East Pear Street
Orlando, FL 32804
Phone 407-647-3737
FAX 407-647-4829
www.hafire.com

Project No.: P-100

HAI Inc.
FB-0007927

HAMID BAHADORI, PE

7/28/08
FL 45138

N O T I C E

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820 Irma Avenue, Orlando, Florida 32803
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C. T. HSU + ASSOCIATES

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No.	By	Date	Revision	
	1	4/9/08	Confirmed Set	
No.	By	Date	Issued for	

Job No. 0600.01
Date APRIL 9, 2008
Scale 3/32" = 1'-0"
File LS1.101

LS1.101

Sheet No.

ITB 21-17 POLICE DEPARTMENT DUCT/HVAC MOLD REMEDIATION

Page 14 of 77

Page 601 of

Plot Date: Jul 24, 2008 - 3:56pm - LS-101.dwg



Port Orange
Police Station

Owner
City of Port Orange
Port Orange, FL

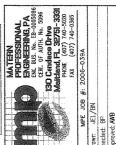
Architect



CTM ASSOCIATES, P.A.
2501 Irvine Avenue
Irvine, FL 32603
Tel. 407.433.0095 Fax 407.433.4953

Seal/Signature
Consultants

BRADLEY W. BURGESS
P.E. 4046



NOTICE
The State of Florida has approved the use of this seal for the purpose of certifying that the holder is a duly licensed Professional Engineer in the State of Florida.
Any person using this seal for any other purpose is guilty of a crime under the laws of the State of Florida.
C. L. HEDGECOCK, III
C. L. HEDGECOCK, III
C. L. HEDGECOCK, III

2. 2,000.00 Change Order Add.

No. By Date

Revisions

1. 4/9/08 Confirmed Set

No. By Date

Revisions

FIRST FLOOR PLAN
MECHANICAL

Job No. 040331
Issue 3, 2008
Scale 1/8" = 1'-0"
File

M2.101

Sheet No.

- GENERAL NOTES
1. REFER TO GENERAL NOTES FOR THIS PROJECT.
 2. REFER TO SPECIFICATIONS.
 3. ALL SEWERS NOT NECESSARILY SHOWN ON ALL SHEETS.
 4. REFER TO THE PORT ORANGE WATER TREATMENT PLANT (TPW) FOR ALL INFORMATION REGARDING THE TREATMENT PROCESS AND ALL REGULATIONS REGARDING DISCHARGE AND THE TREATMENT PROCESS.
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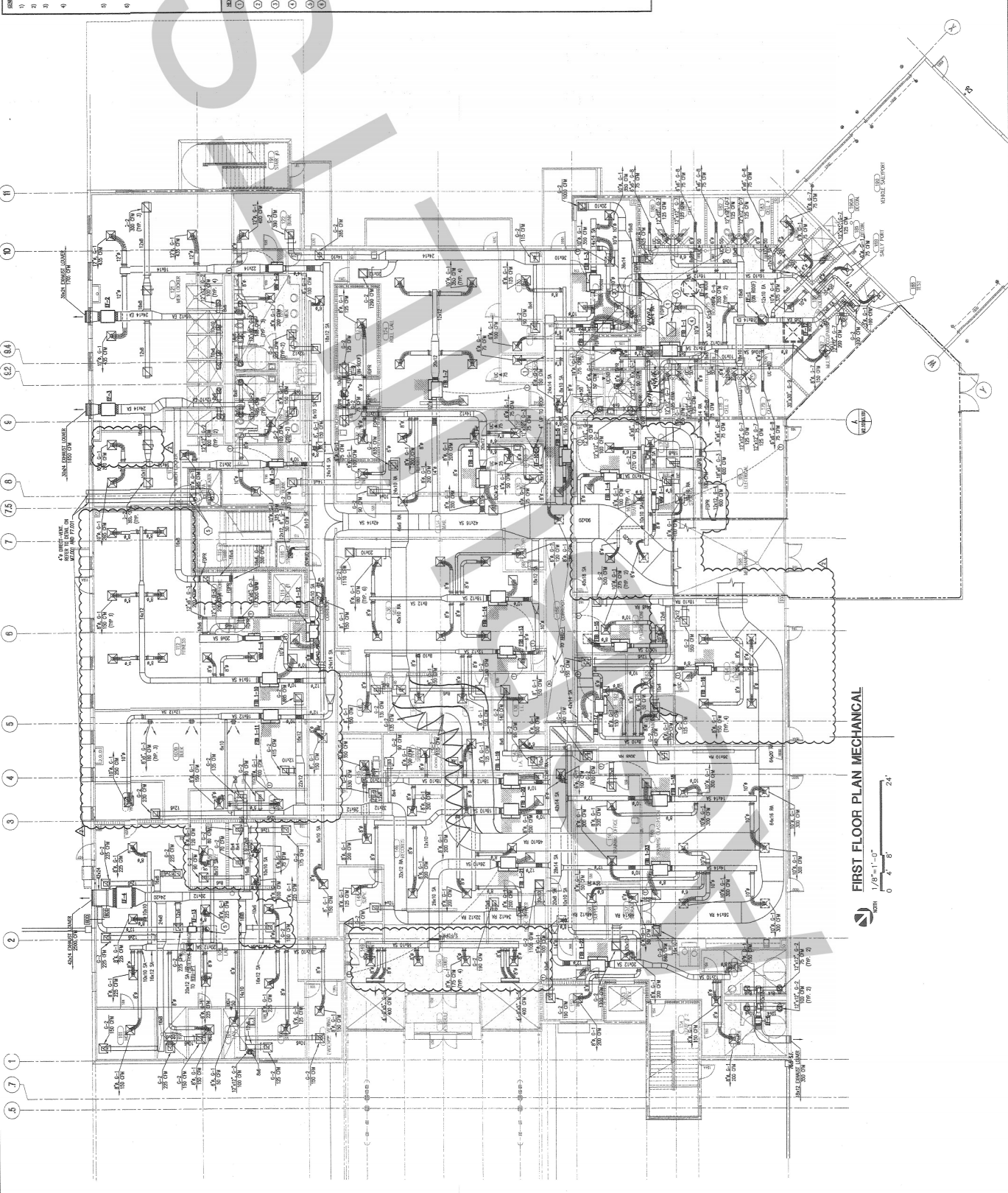
TN

TO

TP

TR

TS



FIRST FLOOR PLAN MECHANICAL

1/8" = 1'-0"
0 4' 8'



Port Orange
Police Station

Owner
City of Port Orange
Port Orange, FL



Architect
C.T. HSU ASSOCIATES, P.A.
250 First Avenue
Orlando, FL 32803
Tel: 407-423-0088 Fax: 407-423-4793

Seal/Signature
Consultants

BRADLEY W. TROST
P.E. & M.D.



NOTICE
The data on this drawing was prepared by the engineer at the time of the original design. It is the responsibility of the engineer to verify the accuracy of the data on this drawing. Any person using this drawing for any purpose other than that intended by the engineer assumes all liability for the results. This notice is not intended to constitute a contract. C. T. HSU & ASSOCIATES

2. 2,000.00 Change Order Add.
Rev. By Date Revision

1. 4/2/08 Confirmed Set
Rev. By Date Issued for
Sheet Title

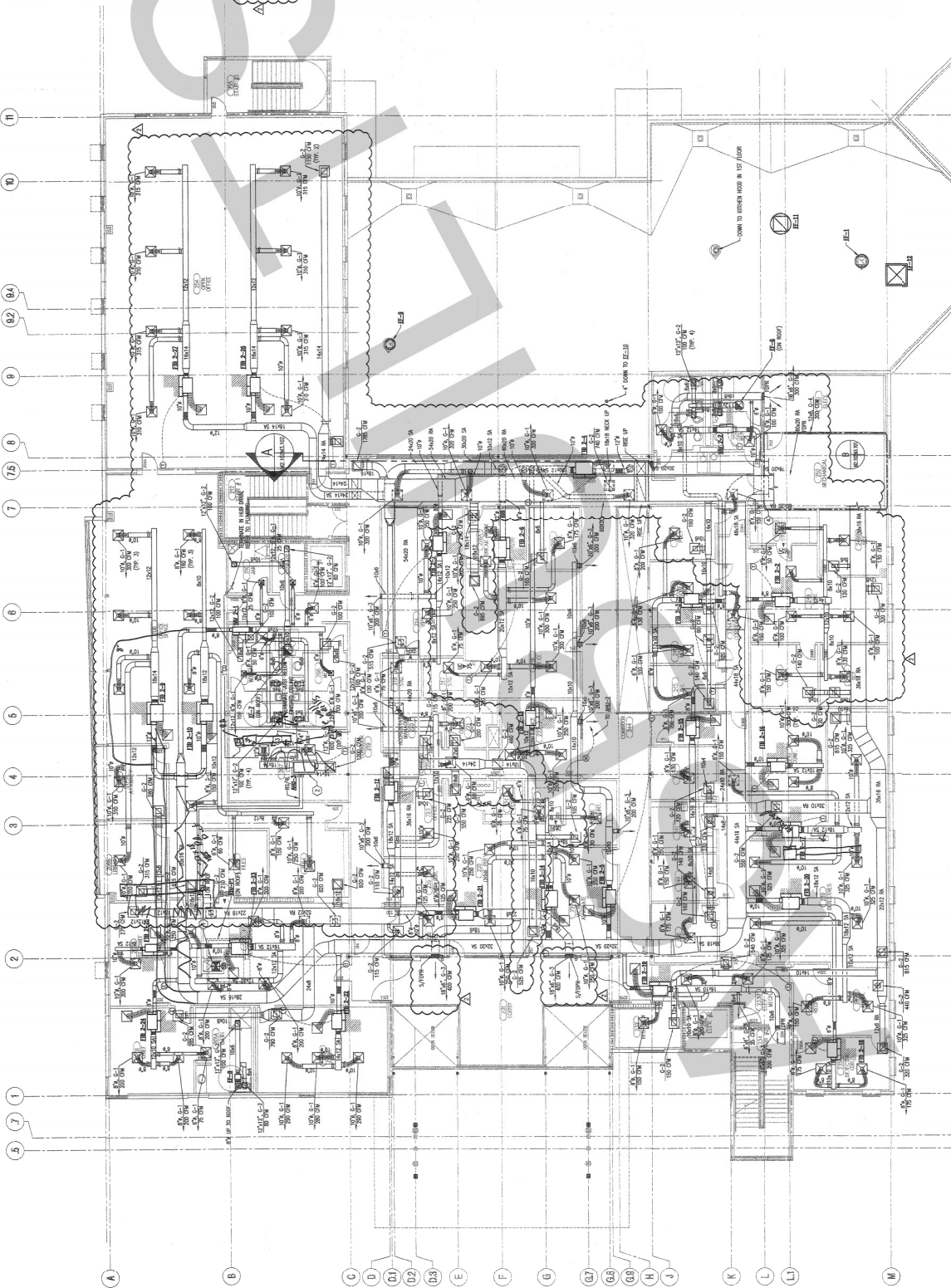
SECOND FLOOR PLAN
MECHANICAL

Job No. 080001
Drawing No. 10008
Scale 1/8" = 1'-0"
File

M2.102
Sheet No.

- GENERAL NOTES
- 1) REFER TO GENERAL NOTES FOR THE BUILDING.
 - 2) REFER TO PREPARATIONS.
 - 3) ALL NEW NOTES NOT NECESSARY REED ON ALL SHEETS.
 - 4) FOR THE 2008 FLORIDA MECHANICAL CODE (FMC-2008) REQUIRE THE HANGERS OF ALL AIR HANDLING UNITS, COILS, CONDENSERS, AND ALL DUCTS BE LOCATED BEFORE STARTING ANY FINE.
 - 5) ALL DUCTWORK, GRILLS, REGISTER, ETC., TO BE LOCATED WITHIN THE ROOMS. REFER TO THE GENERAL NOTES FOR THE BUILDING.
 - 6) PROVIDE PANDA, C-3 DUCT AND A MINIMUM OF 6" OF AIR LEAK DUCT OFF BRAC OF ALL FAN EXHAUST DUCTS.

- MECHANICAL
- 1) COILS, CONDENSERS, AND ALL AIR HANDLING UNITS, COILS, CONDENSERS, AND ALL DUCTS BE LOCATED BEFORE STARTING ANY FINE.
 - 2) PROVIDE DUCT PANDA, C-3 DUCT AND A MINIMUM OF 6" OF AIR LEAK DUCT OFF BRAC OF ALL FAN EXHAUST DUCTS.
 - 3) ALL DUCTWORK, GRILLS, REGISTER, ETC., TO BE LOCATED WITHIN THE ROOMS. REFER TO THE GENERAL NOTES FOR THE BUILDING.



SECOND FLOOR PLAN MECHANICAL

1/8" = 1'-0"
0 4' 8' 24'

EXHIBIT "2"

Payment and Performance Bond

Consisting of 4 Pages

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

PAYMENT AND PERFORMANCE BOND

(Public Works)

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

BOND NO. _____

PRINCIPAL:

Developer or Contractor: Simpson Environmental Services, LLC
Principal Business Address: 21310 US Highway 98 North
Trilby, Florida 33593
Contact Person Phone Number: (352) 583-2509

SURETY:

Address: _____

Contact Person: _____
Phone Number: _____

OWNER:

City of Port Orange, Florida, a chartered municipal corporation
1000 City Center Circle
Port Orange, Florida 32129-4144
Contact Person: City Manager
Phone Number: (386) 506-5501

Amount: \$132,000.00

City Case/ ITB 21-17 Police Department Duct/HVAC Mold Remediation

Description of Work: ITB 21-17 Police Department Duct/HVAC Mold Remediation

Project Location: City of Port Police Department, 4545 Clyde Morris Blvd., Port Orange, Volusia County, Florida.

Legal Description: Portions of Parcel ID #: 6307-00-00-0012.
*See Attached **Exhibit "A"***

Front Page

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

[MTR/sal 2015-02-10]
[CA ____]

**City of Port Orange Police Department
4545 Clyde Morris Boulevard, Port Orange, FL 32127**

Full Parcel ID:
07-16-33-00-00-0012

Short Parcel ID:
6307-00-00-0012

Legal Description:
A portion of the Parcel ID listed above.

EXHIBIT "A"

SIMPSON ENVIRONMENTAL SERVICES, LLC

ITB 21-17 PD Duct/HVAC Mold Remediation

Bond No. _____

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

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

BY THIS BOND, We, Simpson Environmental Services LLC, as Principal, and _____, a corporation, as Surety, are bound to **CITY OF PORT ORANGE, FLORIDA**, a Florida municipal corporation, herein called "Owner" or sometimes referred to as "City," in the sum of **One Hundred Thirty-Two Thousand AND 00/100 DOLLARS (\$132,000.00)**, for payment of which we bind ourselves, our heirs, personal representatives, successors, and assigns, jointly and severally.

THE CONDITION OF THIS BOND is that if Principal:

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

Notice of Nonpayment and Time Limitations

Any action instituted by a claimant under this bond for payment must be in accordance with the notice and time limitation provisions in Sections 255.05(2), (8) and (10), Florida Statutes.

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

IN WITNESS WHEREOF, this performance and payment bond is executed and shall be deemed an original, this _____, day of _____, 2022.

Attest:

Simpson Environmental Services, LLC

(Principal)

(As to Corporate Principal) Secretary

By: _____
Shawn Brigham, Vice President

(Witness to Principal)

(Corporate Seal)

(Surety)

(Witness to Surety)

By: _____
Name: _____
(Attorney-in-Fact)

(Corporate Seal)

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

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



City of Port Orange Public Works & Utilities Department

TO: Wayne Clark, City Manager

THRU: Lynn Stevens, Public Works & Utilities Director
Julia Wiggins, Business Manager

FROM: Ronny Buttrum, Deputy Director

DATE: March 8, 2022

SUBJECT: Award ITB 21-17 – Police Department Duct/HVAC Mold Remediation

REQUEST:

The Public Works & Utilities Department is requesting City Council approval to award ITB 21-17 to lowest, responsible, and responsive bidder.

PURPOSE:

The purpose of this request is to resolve the current issue at the Port Orange Police Department.

CONSIDERATION:

The City received three (3) bids for ITB #21-17, Police Department Duct/HVAC Mold Remediation. After careful review, Simpson Environmental Services, LLC was deemed lowest, responsive, and responsible bidder with a bid of \$132,000. Due to the location and type of work, staff is requesting an additional \$10,000 for unforeseen conditions that might exist in the duct system for a total amount of \$142,000.

The Standard Contract for Services will be executed and work is to commence upon issuance of a written Notice to Proceed and shall be substantially complete in ninety (90) days, with final completion thirty (30) days thereafter. The Standard Contract for Services will require a Payment & Performance Bond (P&P).

FUNDING:

Fund: 317
Fund Name: General Fund Capital Improvement
Cost Center: General Fund Capital Improvement
Program: Building Maintenance
Spend Category: Building Improvements – Interior Remodel
Additional Work Tag: Project OMI201

Budget Resolution: \$142,000
Actual: \$132,000
Contingency: \$10,000

RECOMMENDATION:

The Public Works & Utilities Department recommends City Council approve award of ITB 21-17 to lowest, responsible, and responsive bidder, Simpson Environmental Services, LLC.

ANTICIPATED SCHEDULE:

- a.) Council Approval: April 19, 2022
- b.) Executed Standard Contract for Services: April 20, 2022

ATTACHMENTS:

- a.) Bid Documents
- b.) Resolution Documents (prepared by Finance)



NOTICE OF INTENT TO AWARD

ITB # 21-17

POLICE DEPARTMENT DUCT/HVAC MOLD REMEDIATION

March 4, 2022

On January 10, 2022, Purchasing received three (3) submittals for ITB # 21-17 Police Department DUCT/HVAC Mold Remediation.

After review of the responses, City Staff has made a recommendation to award to the following firm:

Simpson Environmental Services, LLC

This recommendation of award will be presented to City Council for approval in the near future. Interested parties may review the City Council agenda at:
<https://www.port-orange.org/776/Agendas-and-Minutes>.

Joseph Castro,
Buyer

"Failure to file a protest within the time prescribed in section 120.57(3), Florida Statutes or failure to post the bond or other security required by law within the time allowed, shall constitute a waiver of proceedings under Chapter 120, Florida Statutes." The 72-hour posting requirement will elapse on March 9, 2022 at 5:00pm E.S.T.

CITY OF PORT ORANGE, FLORIDA

INVITATION TO BID

POLICE DEPARTMENT DUCT/HVAC MOLD REMEDIATION ITB #21-17



City of Port Orange Purchasing Division

Prepared by: Joseph Castro, Buyer

Release Date: November 24, 2021

Bid Due Date & Time: January 4, 2022 at 2:30 P.M.

City of Port Orange, Florida

1000 City Center Circle

Port Orange, FL 32129

(386) 506-5740

purchdiv@port-orange.org

www.port-orange.org



Legal Notice to Proposers

ITB #21-17

POLICE DEPARTMENT DUCT/HVAC MOLD REMEDIATION

Notice is hereby given that the City of Port Orange is soliciting bids for ITB #21-17 POLICE DEPARTMENT DUCT/HVAC MOLD REMEDIATION . Bids will be accepted in the City Clerk's Office, Port Orange City Hall, 1000 City Center Circle, Port Orange, Florida 32129 until **2:30 P.M. on January 4, 2022** which may be amended by addendum issued by the City. All untimely Bids will not be considered and will be returned to the Bidder unopened. All Bids will be evaluated to ensure they contain all required forms to deem the Bidder responsive or non-responsive. Bid will be opened and read aloud at 2:30 P.M. in Council Chambers.

There will be a Mandatory Pre-Bid Conference and Site Visit at 10:00 A.M. (local time) on December 9, 2021 for the project at City Hall, Council Chambers (1st floor), 1000 City Center Circle, Port Orange, Florida 32129. **All prospective Bidders must attend the meeting and site visit.** All attendees to the Pre-Bid Conference must sign in. The representative of each Bidder shall be an authorized employee of the Bidder and shall sign in accordingly. Bidders are urged to obtain Bid documents and familiarize themselves with the documents prior to the Pre-Bid meeting.

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

DESCRIPTION: *The City of Port Orange is soliciting sealed bids to acquire the services for general demolition, hazardous material remediation, HVAC cleaning, water extraction and remediation of the Police Department building located at 4545 S Clyde Morris Blvd, Port Orange, FL 32129.*

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

All Bids are solicited and shall be made pursuant to the Code of Ordinances, City of Port Orange, Chapter 2, Article VI, Division 2, Section 2-263, and all Bids will be evaluated in accordance with the provisions thereof. Code of Ordinances, City of Port Orange is on file in the Office of the City Clerk, City Hall, 1000 City Center Circle, Port Orange, Florida 32129, and at www.municode.com. Local Bidders may be given a local preference pursuant to the Code of Ordinances, City of Port Orange, Chapter 2, Article VI, Division 2, Section 2-275.

Copies of the Bid documents, requirements, scope of service and all other pertinent information necessary to submit a complete package may be obtained electronically from the City of Port Orange website at www.port-orange.org/bids.aspx and DemandStar via their website at www.demandstar.com.

All questions shall be directed **in writing** to the Buyer, Joseph Castro, jcastro@port-orange.org or purchdiv@port-orange.org and reference **"Questions on ITB #21-17 POLICE DEPARTMENT DUCT/HVAC MOLD REMEDIATION "** in the subject line. Last day for questions will be, **December 16, 2021 at 5:00 P.M.**

[Remainder of this page left intentionally blank]

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



SEALED BID • DO NOT OPEN	
SEALED BID NO.	ITB #21-17
BID TITLE:	POLICE DEPARTMENT DUCT/HVAC MOLD
	REMEDICATION
DUE DATE/TIME:	January 4, 2022 at 2:30 P.M.
SUBMITTED BY:	(Name of Company)
ADDRESS:	
DELIVER TO:	City of Port Orange Attn: Joseph Castro, Buyer Purchasing Division 1000 City Center Circle Port Orange, Florida 32129
DATE/TIME RECEIVED:	(To be stamped by Clerk's Office)

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SECTION 1 – PURPOSE AND OVERVIEW

The purpose for this Invitation to Bid (ITB) is to solicit competitive sealed bids from Firms or Companies (Bidders) to provide the services of general demolition, hazardous material remediation, HVAC cleaning, water extraction and remediation of the Police Department building located at 4545 S Clyde Morris Blvd, Port Orange, FL 32129.

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

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

[Remainder of this page left intentionally blank]

SECTION 2 – INSTRUCTIONS TO BIDDERS

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

TIMELINE (Local Time):

The City reserves the right to alter dates as needed.

Date of Distribution.....November 24, 2021
Mandatory Pre-Bid Conference and Site Visit.....December 9, 2021 at 10:00 A.M.
Deadline for QuestionsDecember 16, 2021 by 5:00P.M.
Final Addendum PostingDecember 27, 2021 by 5:00 P.M.
Bids Due..... January 4, 2022 by 2:30 P.M.

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

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

City of Port Orange City Clerk's Office
Attn: Joseph Castro, Buyer
Finance Department
1000 City Center Circle
Port Orange, Florida 32129

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

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

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

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

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

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

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

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

PRE-BID CONFERENCE AND SITE VISIT:

There will be a Mandatory Pre-Bid Conference and Site Visit for the project on the date and time referenced in the Timeline above at City Hall, Council Chambers (1st Floor), 1000 City Center Circle, Port Orange, Florida 32129. **All prospective Bidders must attend the meeting and site visit.** The representative of each Bidder shall be an authorized employee of the Bidder and shall sign in as proof of attendance.

QUESTIONS REGARDING THIS ITB:

All questions shall reference “**ITB #21-17 POLICE DEPARTMENT DUCT/HVAC MOLD REMEDIATION**” in the subject line. All questions concerning this ITB shall be submitted in writing no later than the date and time referenced in the Timeline above to:

Joseph Castro, Buyer
1000 City Center Circle
Port Orange, FL 32129
jcastro@port-orange.org or
purchdiv@port-orange.org

ADDENDA REGARDING THE INVITATION TO BID:

The City will issue responses to inquiries and any other corrections or amendments it deems necessary in written addenda issued prior to the Bid Due Date. Addenda will be provided via the City website www.port-orange.org/bids.aspx and DemandStar website www.demandstar.com. Bidders should not rely on any representations, statements or explanations other than those made in this ITB or in any addendum to this ITB. Where there appears to be a conflict between the ITB and any addenda issued, the last addendum issued will prevail. It is the Bidders responsibility to be sure all correct number of addenda were received by completing Form 7.3 Addendum and Change Order Procedure Acknowledgement.

CLARIFICATIONS:

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

MINIMUM QUALIFICATIONS:

Bidders shall be licensed to do business in the State of Florida and submit Sunbiz report showing their company registered as “Active”. Bidders must provide a minimum of three (3) verifiable references from similar scopes of work as identified in this ITB on the provided “Professional References” form. Failure to provide references that verify required experience will cause the Bidder to be deemed non-responsive. The City of Port Orange is not to be used as a reference.

NO LOBBYING

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

PRICING SHEETS:

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

EXCEPTIONS TO SPECIFICATIONS:

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

BID SUBMISSION AND WITHDRAWAL:

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

CORRECTION OF BIDS:

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

WITHDRAWAL OF BIDS:

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

OPENING OF BIDS:

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

LITIGATION HISTORY:

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

DEBARMENT HISTORY:

The City will consider a Bidder's debarment history information in its review and determination of responsibility. All Bidders are required to disclose to the City all cases of debarment filed, pending, or resolved by the City or other public entity during the last five (5) years prior to the solicitation response due date, whether such actions were brought by or against the Bidder, any parent or subsidiary of the Bidder, or any predecessor organization. If the Bidder is a joint venture, the information provided should encompass the joint venture (if it is not newly formed for purposes of responding to the solicitation) and each of the entities forming the joint venture. Although the review of a Bidder's debarment history is an issue of responsibility, the failure to provide debarment history on Form 7.12 as required in the ITB may result in a recommendation of non-responsive by the Purchasing Manager.

REJECTION OF BIDS:

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

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

- (a) Failure to update the information on file including address, product, service or business descriptions.
- (b) Failure to perform according to contract provisions.
- (c) Conviction in a court of law of any criminal offense in connection with the conduct of business.
- (d) Evidence of a violation of any federal or state anti-trust law based on the submission of bids or proposals, or the awarding of contracts.

- (e) Evidence that the Bidder has attempted to give a City employee a gratuity of any kind for the purpose of influencing a recommendation or decision in connection with any part of the Board's purchasing activity.
- (f) Other reasons deemed appropriate by the City.

OWNERSHIP OF DOCUMENTS:

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

AMERICANS WITH DISABILITIES ACT (ADA):

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

REQUIRED DOCUMENTS FOR AWARDED BIDDER:

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

[Remainder of this page left intentionally blank]

SECTION 3 - SCOPE OF WORK/SPECIFICATIONS

SCOPE OF WORK:

The City of Port Orange is seeking bid proposals for a lump sum contract to remediate mold from the air conditioning system at the Port Orange Police Department building at 4545 Clyde Morris Blvd. The two-story building was constructed in 2009.

SPECIFICATIONS

Bidders will determine the system components to be serviced to include linear feet of each type of duct work, air handler units, diffusers, grills, registers, power induction units, etc. This determination will be done using the building drawings and a mandatory site visit.

1. The Mold Remediation Contractor shall be responsible to accurately develop the measurements of all ducts, number of air handler units, diffusers, grills, registers, power induction units, etc. in order to develop an accurate proposal. Bidder shall provide all measurements and counts lists as stated in Form 7.1. Plans furnished to the contractor are provided as a convenience to the contractor. The Mold Remediation Contractor acknowledges to the City that he/she has accurately measured, counted and obtained the necessary information to provide a bid for this project.

Refer to sheets:

- a. A1.101 Floor Plan Level 1
- b. M2.101 First Floor Plan Mechanical
- c. A1.102 Floor Plan Level 2
- d. M2.102 Second Floor Plan Mechanical
- e. LS1.101 Life Safety Plan Level 1

The LS1.101 Life Safety Plan Level 1 is to compensate for the view that cannot be seen on Plan A1.101 Floor Plan Level 1.

2. Clean and remediate mold in entire first and second floor HVAC system.
3. All air handling units and associated components to be cleaned along with the following:
 - a. All supply and return line duct work.
 - b. Internal airside components including evaporator coil, drain pan and drain lines, blower wheel and housing, and heating components, VAV boxes, blower, blower housing and blower wheels.
 - c. All air diffusers, grills, and registers
4. The Mold Remediation Contractor shall perform all work based on the standards and guidelines from the National Air Duct Cleaners Association, The Environmental Protection Agency, and the Indoor Air Quality Association.
5. The Mold Remediation Contractor shall perform all work under the direction of a Licensed Indoor Environmentalist or Certified Air Duct Cleaning Specialist held under a licensed mechanical contractor.
6. The Mold Remediation Contractor shall pay a Certified Indoor Air Quality Inspector for all applicable testing to comply with all the requirements of Section 3 Scope of Work/Specifications. The fees charged by the Certified Indoor Air Quality Inspector are to be paid by the awarded Mold Remediation Contractor and included in the Contractor's lump sum pricing.
7. The Certified Indoor Air Quality Inspector shall provide all testing results to the City directly upon testing completion.
8. Awarded Bidder guarantees a successful post remediation test by a third party Certified Indoor Air Quality Inspector following remediation work and should testing by the Certified Indoor Air Quality Inspector return negative results, the awarded Bidder shall redress the project and remediation recommendations of the Certified Indoor Air Quality Inspector. Following completion of the recommended additional work, awarded Bidder shall pay the Certified Indoor Air Quality Inspector to administer a second post remediation test. Such testing shall continue until the Certified Indoor Air Quality Inspector returns a satisfactory test result to the City.
9. City staff will conduct visual inspections of work daily.

10. The Mold Remediation Contractor shall provide the City all Before and After photographs of duct work at each diffuser, vent, or grill to verify cleaning effectiveness.
11. Any service openings created shall be covered using galvanized metal (using self-tapping screws), equal to or greater than the gauge it is applied to.
12. Bidders must provide a list of all cleaners, coatings, etc., used in the performance of the specifications as stated on Form 7.1. All products must meet the National Air Duct Cleaners Association, The Environmental Protection Agency, and the Indoor Air Quality Association standards.
13. Cleaning methods and/or products shall not cause damage to any component.
14. The Mold Remediation Contractor will be responsible for the proper disposal of any/all materials.
15. All Bidders shall provide the City with their safety protocols for this type of job and include these with their bid submittal.
16. All work must be done in sections to ensure the facility remains in operation during work being conducted.
17. Since this facility will remain in full operation during this work, the Contractor will completely clean up the area surrounding the day's work prior to leaving the jobsite for the day.
18. All workers must wear a company uniform, have company identification, pass a background check, and be escorted by City personnel whenever performing work within the building.
19. Potable water will be provided by the City.
20. Bathroom facilities inside the building will be available to workers.
21. City staff will be responsible to move and/or cover any furniture.
22. The Mold Remediation Contractor shall possess and demonstrate a minimum of 5-years of previous experience in duct mold remediation of similar sized buildings (Include experience in duct mold remediation of similar sized buildings in Form 7.7 Statement of Bidder's Qualifications. Item L).
23. The Mold Remediation Contractor shall provide 3 references of work of a similar nature. (Form 7.7 Item L)

[Remainder of this page left intentionally blank]



Port Orange
Police Station

City of Port Orange
Port Orange, FL

architect



HSA ASSOCIATES, P.A.
1201 E. Highway 1
Orlando, FL 32813
Tel: 407.433.0988 Fax: 407.423.9792

Seal/Signature
Consultants

NOTICE
This plan is the current complete set of drawings for the project. It is the responsibility of the user to ensure that all drawings are up to date and that all drawings are used in accordance with the project requirements. The user is responsible for any errors or omissions in the drawings.

4/19/08 Change Order Add.
No. By Date Revision

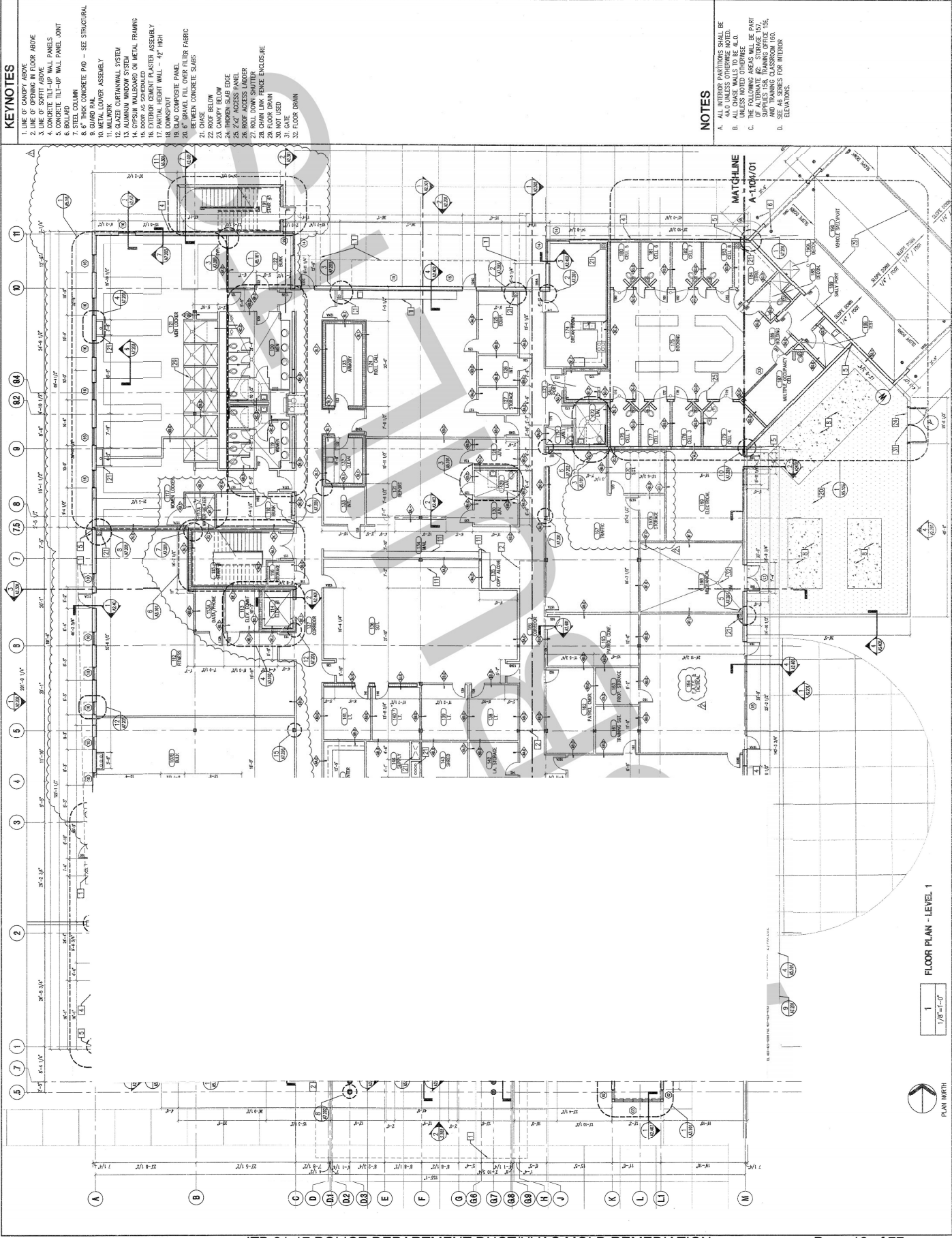
4/19/08
No. By Date

Sheet Title
FLOOR PLAN
LEVEL 1

Job No. 0800.01
Date APRIL 9, 2008
Scale 1/8" = 1'-0"
File A1101

A1101

Sheet No.





Port Orange
Police Station

City of Port Orange
Port Orange, FL

Architect



ATJ ASSOCIATES, P.A.
1500 1st Avenue
Orlando, FL 32803
Tel: 407.422.0988 Fax: 407.234.7793

Lead Architect

Lead/Significant

NOTES
1. This is the current approved preliminary site plan.
2. All dimensions are in feet and inches.
3. All dimensions are to the centerline of the building.
4. All dimensions are to the centerline of the building.
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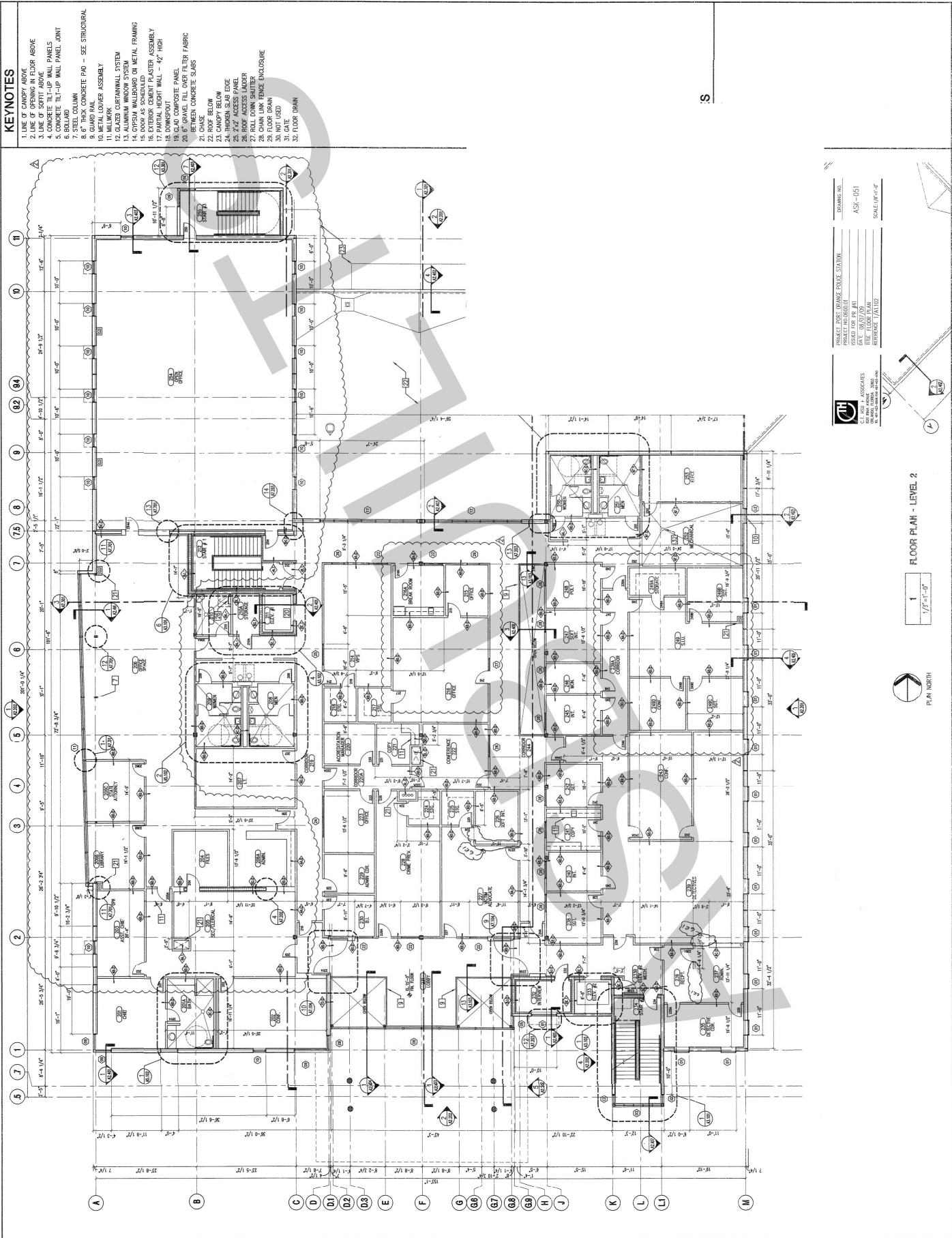
Change Order No. 1
By: [Signature]
Date: [Date]

Approved For
By: [Signature]
Date: [Date]

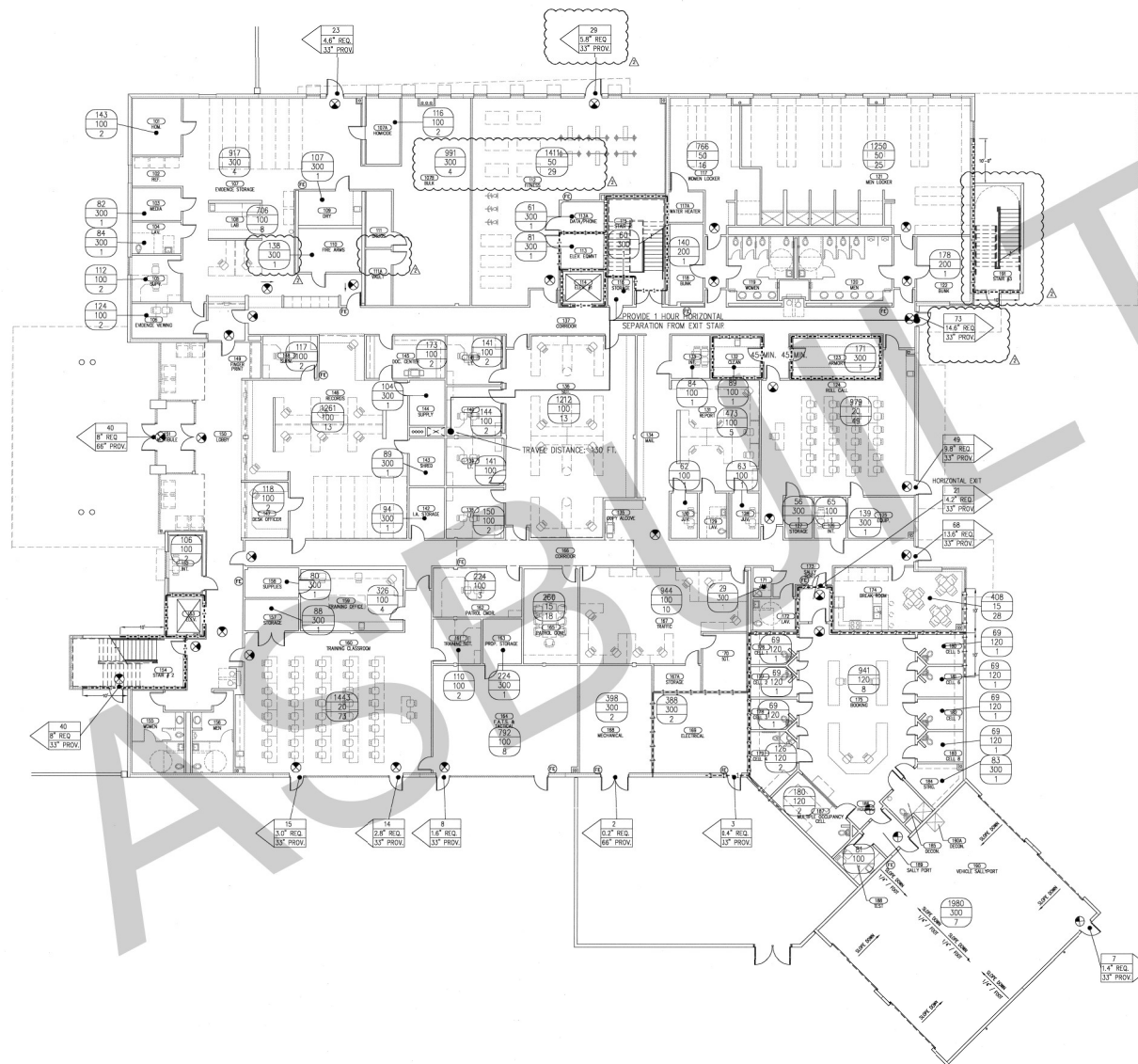
Job No. 0800.01
Date: April 9, 2008
Scale: 1/8" = 1'-0"
File: A1.102

A1.102

Sheet No.



Plot Date: Jul 24, 2008 - 3:56pm - LS-101.dwg



1 LIFE SAFETY PLAN- LEVEL 1
3/32"=1'-0"

KEYNOTES

EXIT SUMMARY

FIRST FLOOR OCCUPANT LOAD: 388 PERSONS
EXIT CAPACITY PROVIDED: 2640 PERSONS

SYMBOL LEGEND

XXX ROOM AREA (SQ.FT.)
XX OCCUPANT LOAD FACTOR
XXX REQUIRED EXIT WIDTH (INCHES)
XXX PROVIDED EXIT WIDTH (INCHES)

FE FIRE EXTINGUISHER
Z-A: 10-B-C

EXIT SIGN
DIRECTIONAL ARROW

WALL LEGEND

1 HOUR FIRE RESISTANCE RATING
60 MINUTE OPENING PROTECTION (ULN.O)
(SELF-CLOSING / AUTOMATIC CLOSING
DOORS)
2 HOUR FIRE RESISTANCE RATING
90 MINUTE OPENING PROTECTION (ULN.O)
(SELF-CLOSING / AUTOMATIC CLOSING
DOORS)



Port Orange Police Station

Owner:
City of Port Orange
Port Orange, FL

Architect



C.T. HSU + ASSOCIATES, P.A.
ARCHITECTURE + PLANNING + INTERIOR DESIGN
820 Irma Avenue Orlando, FL 32803
Tel 407-453-0088 Fax 407-453-4793

Seal/Signature
Consultants



HANID BAHADORI, P.E.
HBSHUBER ASSOCIATES, INC.
FIRE PROTECTION ENGINEERS
CODE CONSULTANTS
303 East Per Street
Orlando, FL 32804
Phone 407-641-5737
Fax 407-641-4029
www.hbshe.com
Project No: PA02

7/28/08
FL 45138

NOTICE

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C. T. HSU + ASSOCIATES
820 Irma Avenue, Orlando, Florida 32803
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part nor disclosed to others without the written consent of
C. T. HSU + ASSOCIATES

2 C08 7.30.08 Change Order Add.

No. By Date Revision

1 4/9/08 Confirmed Set

No. By Date Issued for

Sheet Title

LIFE SAFETY
PLAN
LEVEL 1

Job No. 0600.01
Date APRIL 9, 2008
Scale 3/32" = 1'-0"
File LSI.101

LS1.101

Sheet No.



Port Orange
Police Station

Owner
City of Port Orange
Port Orange, FL

Architect

OT HOV & ASSOCIATES, P.A.
250 Irvine Avenue
Irvine, FL 32033
Tel. 407.433.0095 Fax 407.433.4953

Seal/Signature
Consultants

DESIGN & CONSTRUCTION
P.L.L.C.



NOTICE
The State of Florida has approved the use of this seal for the purpose of certifying the work of the holder of the seal as a Professional Engineer in the State of Florida. Any person using this seal for any other purpose is in violation of the laws of the State of Florida and is subject to the penalties provided in the laws of the State of Florida.

2. 2,000.00 Change Order Add.
No. By Date
Revision

1. 4/9/08 Confirmed Set
No. By Date
Revision

FIRST FLOOR PLAN
MECHANICAL

Job No. 040331
Issue 3, 2008
Scale 1/8" = 1'-0"
File

M2.101

Sheet No.

- GENERAL NOTES
1. REFER TO GENERAL NOTES FOR THIS DIVISION.
 2. REFER TO SPECIFICATIONS.
 3. ALL SEWERS NOT NECESSARILY SHOWN ON ALL SHEETS.
 4. REFER TO THE PLANS FOR THE LOCATION OF ALL SEWERS. THE SEWERS ARE TO BE LOCATED IN THE CENTER OF THE STREET. THE SEWERS ARE TO BE LOCATED IN THE CENTER OF THE STREET. THE SEWERS ARE TO BE LOCATED IN THE CENTER OF THE STREET.
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SEE LIST

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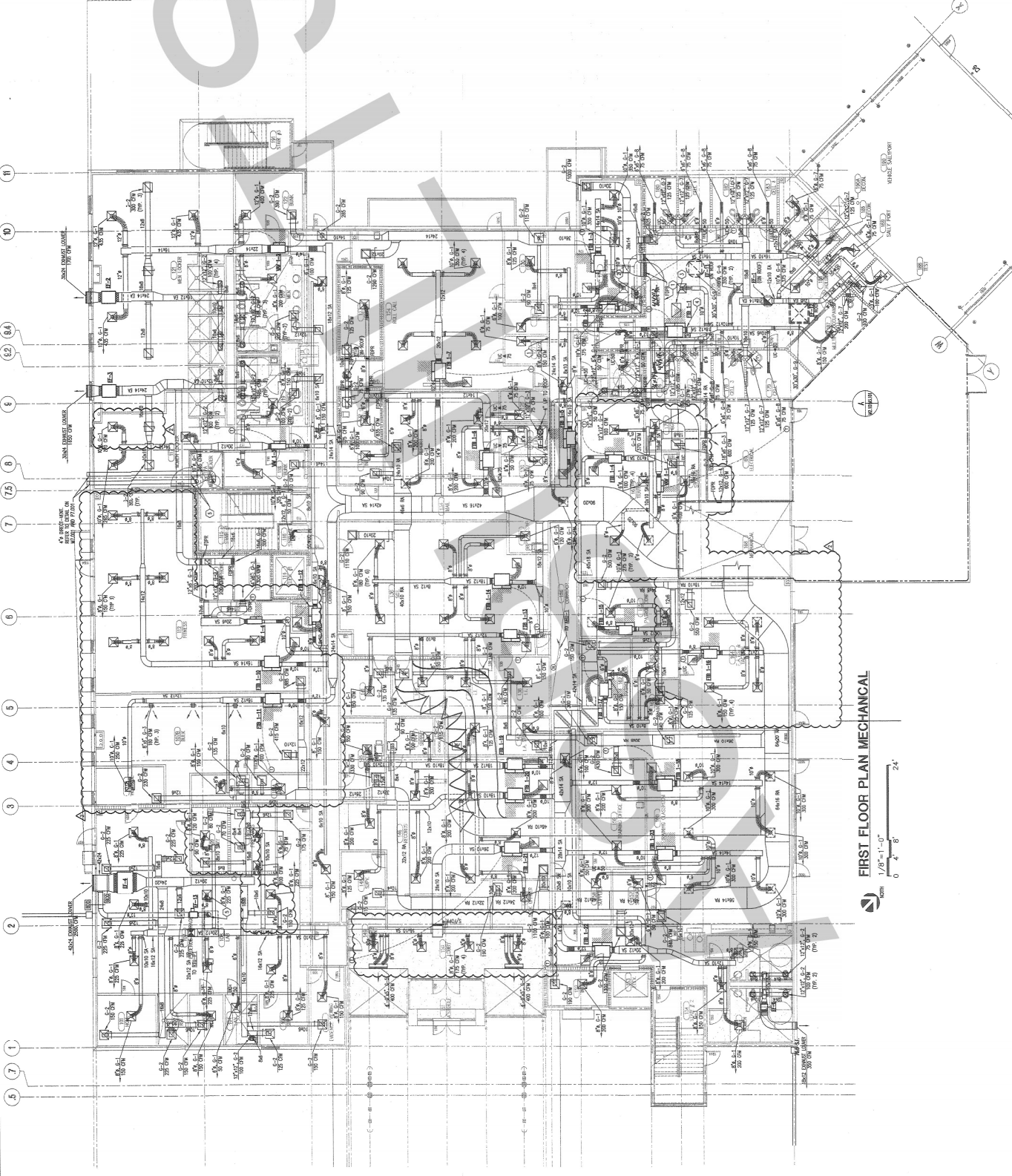
7. SEE LIST

8. SEE LIST

9. SEE LIST

10. SEE LIST

11. SEE LIST



FIRST FLOOR PLAN MECHANICAL

1/8" = 1'-0"

0 4' 8'



Port Orange
Police Station

Owner
City of Port Orange
Port Orange, FL



Architect
C.T. RSU ASSOCIATES, P.A.
820 First Avenue
Orlando, FL 32803
Tel: 407-423-0098 Fax: 407-423-4793

Seal/Signature
Consultants

BRADLEY W. TROST
P.E. & AIA



NOTICE
The data on this drawing was prepared by the undersigned at the time of its preparation and is true and correct to the best of his knowledge and belief. It is the responsibility of the user of this drawing to verify the accuracy of the data and to ensure that it is used for the purpose intended. The undersigned does not warrant or represent that the data is true and correct for any other purpose or for any other use. The undersigned shall not be held responsible for any errors or omissions in this drawing or for any consequences arising therefrom.

2. 2,000.00 Change Order Add.
Rev. By Date Revision

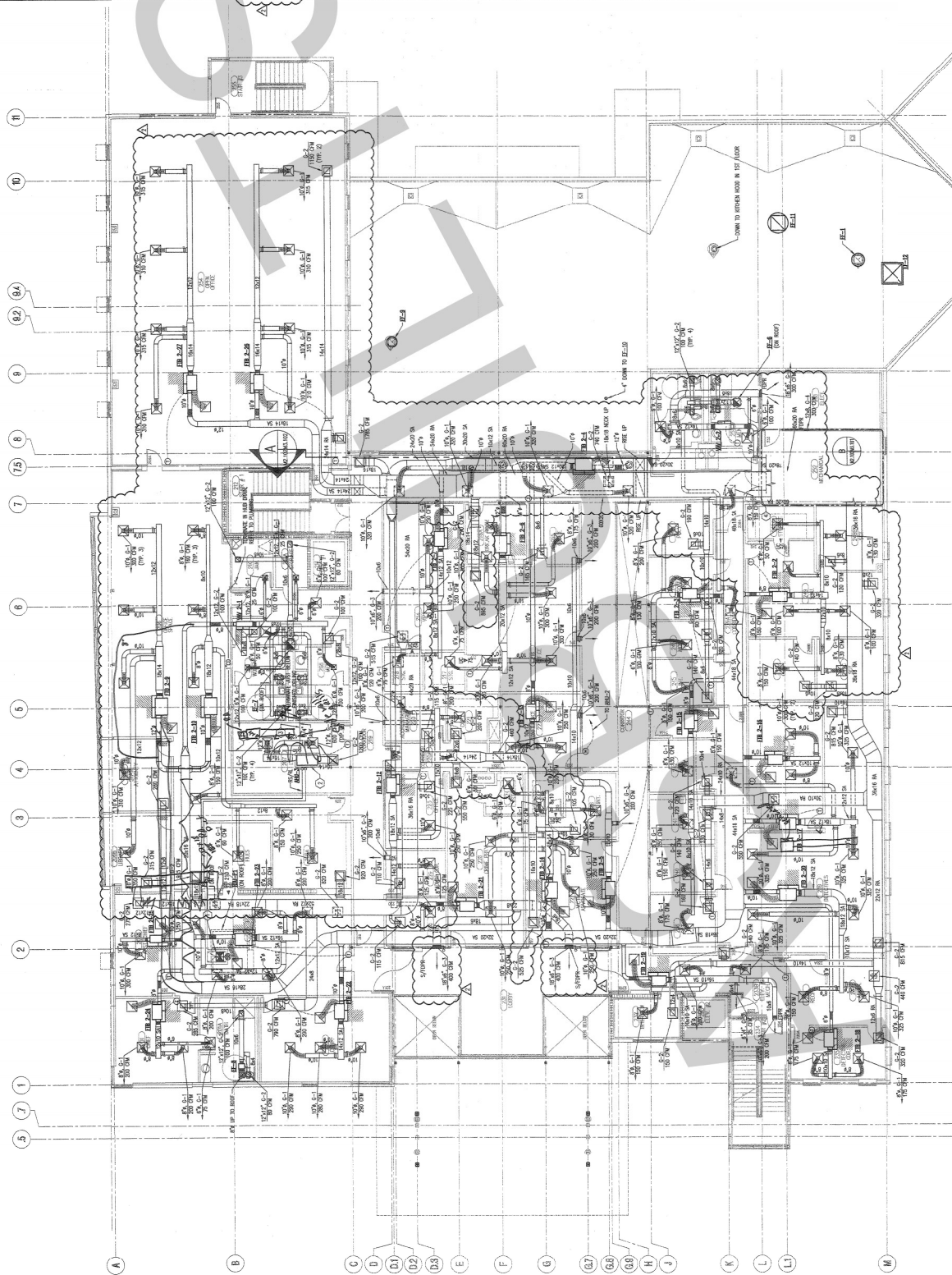
1. 4/2/08 Confirmed Set
Rev. By Date Issued for
Sheet Title
SECOND FLOOR PLAN
MECHANICAL

Job No. 080001
Drawing No. 02008
Scale 1/8" = 1'-0"
File

M2.102
Sheet No.

- GENERAL NOTES
- 1) REFER TO GENERAL NOTES FOR THE BUILDING.
 - 2) REFER TO PREPARATIONS.
 - 3) ALL NEW NOTES NOT NECESSARY REED ON ALL SHEETS.
 - 4) FOR THE 2008 FURNACE/BOILER CODE 905.2.3, REQUIRE THE MANUFACTURER'S INSTALLATION INSTRUCTIONS TO BE FOLLOWED. ALL INSTALLATIONS SHALL BE IN ACCORDANCE WITH THE 2008 FURNACE/BOILER CODE 905.2.3. ALL INSTALLATIONS SHALL BE IN ACCORDANCE WITH THE 2008 FURNACE/BOILER CODE 905.2.3. ALL INSTALLATIONS SHALL BE IN ACCORDANCE WITH THE 2008 FURNACE/BOILER CODE 905.2.3.
 - 5) ALL INSTALLATIONS SHALL BE IN ACCORDANCE WITH THE 2008 FURNACE/BOILER CODE 905.2.3. ALL INSTALLATIONS SHALL BE IN ACCORDANCE WITH THE 2008 FURNACE/BOILER CODE 905.2.3. ALL INSTALLATIONS SHALL BE IN ACCORDANCE WITH THE 2008 FURNACE/BOILER CODE 905.2.3.
 - 6) PROVIDE PUMP, C-3 DRAINAGE AND A MINIMUM OF 6" OF 1/2" SLOPE DRAIN OFF EACH OF ALL FURNACE/BOILER UNITS.

- MECHANICAL
- 1) PROVIDE DRAIN PUMP AND C-3 DRAINAGE FOR ALL FURNACE/BOILER UNITS.
 - 2) PROVIDE DRAIN PUMP AND C-3 DRAINAGE FOR ALL FURNACE/BOILER UNITS.
 - 3) PROVIDE DRAIN PUMP AND C-3 DRAINAGE FOR ALL FURNACE/BOILER UNITS.
 - 4) PROVIDE DRAIN PUMP AND C-3 DRAINAGE FOR ALL FURNACE/BOILER UNITS.
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 - 8) PROVIDE DRAIN PUMP AND C-3 DRAINAGE FOR ALL FURNACE/BOILER UNITS.
 - 9) PROVIDE DRAIN PUMP AND C-3 DRAINAGE FOR ALL FURNACE/BOILER UNITS.
 - 10) PROVIDE DRAIN PUMP AND C-3 DRAINAGE FOR ALL FURNACE/BOILER UNITS.
 - 11) PROVIDE DRAIN PUMP AND C-3 DRAINAGE FOR ALL FURNACE/BOILER UNITS.
 - 12) PROVIDE DRAIN PUMP AND C-3 DRAINAGE FOR ALL FURNACE/BOILER UNITS.
 - 13) PROVIDE DRAIN PUMP AND C-3 DRAINAGE FOR ALL FURNACE/BOILER UNITS.
 - 14) PROVIDE DRAIN PUMP AND C-3 DRAINAGE FOR ALL FURNACE/BOILER UNITS.
 - 15) PROVIDE DRAIN PUMP AND C-3 DRAINAGE FOR ALL FURNACE/BOILER UNITS.
 - 16) PROVIDE DRAIN PUMP AND C-3 DRAINAGE FOR ALL FURNACE/BOILER UNITS.
 - 17) PROVIDE DRAIN PUMP AND C-3 DRAINAGE FOR ALL FURNACE/BOILER UNITS.
 - 18) PROVIDE DRAIN PUMP AND C-3 DRAINAGE FOR ALL FURNACE/BOILER UNITS.
 - 19) PROVIDE DRAIN PUMP AND C-3 DRAINAGE FOR ALL FURNACE/BOILER UNITS.
 - 20) PROVIDE DRAIN PUMP AND C-3 DRAINAGE FOR ALL FURNACE/BOILER UNITS.



SECOND FLOOR PLAN MECHANICAL

1/8" = 1'-0"
0 4' 8' 24'

SECTION 4 – STANDARD PURCHASING DEFINITIONS

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

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

specifications and pricing of a product and/or service which has been advertised for replies in a newspaper.

25. **Issues** means points, matters, or concerns to be addressed during negotiations.
26. **Lead Negotiator** is the negotiator responsible for leading and facilitating the formal negotiation discussions and selecting other required negotiation team members. Is often the “driver of change” and seeks alternatives/options.
27. **Lowest Responsible Bid** means the responsive Bid meeting all requirements of the specifications, terms, and conditions of the Invitation to Bid resulting in the lowest cost to the City in a total cost concept or based solely on price, taking into consideration the financial and practical ability of the Bidder to perform the Contract, past performance of the Bidder, and compliance with all City ordinances concerning the purchasing process.
28. **Lowest Responsible Bidder** means the Bidder submitting lowest responsive and responsible Bid.
29. **Negotiation Team** is a temporary group of City personnel who are responsible for negotiations as part of an Invitation to Negotiate (ITN).
30. **Negotiator** is a member of the negotiation team.
31. **Non-Professional Services** are services performed that are not of a professional nature such as lawn care, security, janitorial, etc.
32. **Offer** means a complete signed Response submitted to the City in response to a Solicitation including, but not limited to, a Bid submitted in response to an Invitation to Bid, a Proposal submitted in response to a Request for Proposal, a Quote submitted in response to a Request for Quotation, a Statement of Qualifications and interest submitted in response to a Request for Statements of Qualifications, or a Reply submitted in response to an Invitation to Negotiate.
33. **DemandStar** is the official online repository for all City competitive solicitations.
34. **Outlier** is a bid, offer, or proposal which is determined by the Purchasing Director or Manager to be significantly dissimilar to or inconsistent with, competing bids or offers.
35. **Pre-Bid/Proposal/Statement/Reply Conference** means a meeting conducted by the Purchasing Office, held in order to allow Vendors to ask questions about the proposed Contract and particularly the Contract specifications with the City department requesting the goods/services.
36. **Price Analysis** is an evaluation of the total cost of a contract in order to determine if the price is reasonable.
37. **Procurement (Process)** is a term used in the governmental sector for the combined functions of acquiring (purchasing) needed goods and/or services, receiving and inspection, inventory management, contract administration, and disposal/surplus.
38. **Professional Services** means those services within the scope of the practice of architecture, professional engineering, landscape architecture, or registered surveying and mapping, as defined by the laws of the state, or those performed by any architect, professional engineer, landscape architect, or registered surveyor and mapper in connection with his or her professional employment or practice.
39. **Protest** is a formalized process by which respondents have an opportunity to challenge a procurement practice or contract award.
40. **Proposal** is a complete, properly signed Response to a Request for Proposal, based on performance that is offered rather than on that of price alone, which if accepted, would bind the Vendor to perform the resultant Contract.
41. **Purchase Order** is an order placed by the Purchasing Division for the purchase of Goods or Services written on the City’s standard Purchase Order form and which, when accepted by the Bidder, becomes a contract. The Purchase Order is the Bidder’s authority to deliver and invoice the City for Goods or Services specified, and the City’s commitment to accept the Goods or Services for an agreed upon price.
42. **Request for Proposal (RFP)** means a formal request to prospective vendors requesting qualifications of the vendor and pricing for a specified Good or Service which has been advertised for Proposal in a newspaper.
43. **Request for Statement of Qualifications (RFSQ)** means a formal request to prospective vendors requesting statements of qualifications pursuant to Florida Statute 287.055 “Consultant’s Competitive Negotiation Act” which has been advertised for Statement in a newspaper.
44. **Respondent** means an entity that has (or will, i.e. “prospective respondents”) submitted a response to a competitive solicitation conducted to create a contractual relationship for the provision of commodities

or services.

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

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SECTION 5 – GENERAL TERMS AND CONDITIONS

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

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

1. ACCEPTANCE BY CITY

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

2. ADDENDUM

The City shall issue responses to inquiries and any other corrections or amendments it deems necessary in written addenda issued prior to the Solicitation Response Due Date. When specifications are revised, the City of Port Orange Purchasing Division will issue an addendum addressing the nature of the change. Bidders shall acknowledge all addenda by completing Form 7.3 Addendum and Change Order Procedure Acknowledgement and include it in the returned Response package. Failure to acknowledge the correct number of addenda issued may result in rejection of the Response. All Addenda shall be posted by the CITY on www.demandstar.com and City of Port Orange website, www.port-orange.org/bids.aspx

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

3. ADDITIONAL GOODS

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

4. ANTI-COLLUSION STATEMENT

By submitting this Response to a Formal Solicitation, the Bidder affirms that this Response is without previous understanding, agreement, or connection with any person, business, or corporation submitting a Response for the same materials, supplies, or equipment, and that this response is in all respects fair, and without collusion or fraud. Additionally, Bidder agrees to abide by all conditions of this Solicitation and certifies that they are authorized to sign this Response for the Bidder. In submitting a Response to the City of Port Orange, the Bidder offers and agrees that if

the Response is accepted, the Bidder shall convey, sell, assign or transfer to the City of Port Orange all rights, title and interest in and to all causes of action it may now or hereafter acquire under the Anti-trust laws of the United States and the State of Florida for price fixing relating to the particular commodities or services purchased or acquired by the City of Port Orange. At the City's discretion, such assignment shall be made and become effective at the time the City tenders final payment to the Bidder.

5. **APPLICABLE LAWS**

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

6. **ASSIGNMENT**

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

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

A Florida corporation or partnership is required to provide evidence with its response that the Bidder is authorized to transact business in Florida and is in good standing with the Florida Department of State. If not with the response from the successful bidder, such evidence must be submitted to the City no later than five (5) business days from request of the Purchasing Manager. A foreign (out-of-state) corporation or partnership is required to provide evidence with its response that the Bidder is authorized to transact business in Florida and is in good standing with the Florida Department of State. If not with the response from the successful bidder, such evidence must be submitted to the City no later than five (5) business days from request of the Purchasing Manager. A joint venture is required to provide evidence with its response that the joint venture, or at least one of the joint venture partners, is authorized to transact business in Florida and is in good standing with the Florida Department of State. If not with its response, such evidence must be submitted to the City no later than five (5) business days from request of the Purchasing Manager. However, the joint venture is required to provide evidence prior to contract execution that the joint venture is authorized to transact business in Florida and provide the City with a copy of the joint venture Agreement. A joint venture is also required to provide with its response a Statement of Authority indicating that the individual submitting the joint venture's proposal has the legal authority to bind the joint venture. If not with its response, such evidence must be submitted to the City no later than five (5) business days from the request of the Purchasing Manager.

8. **AWARDS**

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

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

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

9. AWARD AND EXECUTION OF CONTRACT:

When a bid received has been determined to be satisfactory, a Contract will be awarded, or Purchase Order issued to the LOWEST Responsible and Responsive Bidder within the time designated in the Contract Documents. The Bidder(s) to whom the award is made shall execute the Contract(s) and return, together with the properly executed bonds and insurance certificates to the office of the Owner, within the time specified.

10. BID RETURNS

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

11. BID PROTEST

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

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

12. BID/PROPOSAL TABULATION

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

13. BONDS

If this Solicitation requires submission of bid guarantee and performance bonds, there will be a separate page explaining those requirements. Responses submitted without the required bid bond

or certified check shall be deemed non-responsive. When the Purchasing Manager deems it necessary, bid bonds/deposits shall be prescribed and are advertised in the public notices inviting bids. Normally, if a bid bond/deposit is requested, it is in the amount of five percent (5%) of the bid amount. Payment and Performance Bonds requested for construction projects shall be in an amount equal to one hundred percent (100%) of the total contract amount. Upon award, the successful Bidder may also be required to furnish and pay for a satisfactory contract one hundred percent (100%) Payment and Performance Bond which will be recorded by the City, at the Bidder's sole cost and expense, with the Clerk of the Circuit Court, Volusia County, Florida, and to enter into a written contract with the City of Port Orange. After recording, the City will furnish to the Contractor the recording information for the bond to evidence that the Contractor has met the requirements of Florida law. The City will bill the cost of recording to the Contractor. Payment and Performance Bonds shall also be recorded at the Bidder's expense in the Office of the Clerk of the Circuit Court, Volusia County, Florida. All bonds no matter which kind, are advertised in the Solicitation which appears in the newspaper. Unsuccessful Bidders are entitled to the return of their surety where the Purchasing Manager has required such. A successful Bidder shall forfeit any surety required by the Purchasing Manager upon failure on the part of the Bidder to enter into a contract within the time specified after the award of bid.

14. CERTIFICATE OF INSURANCE

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

15. CHANGE ORDERS

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

16. CHANGE ORDER REQUEST NOTIFICATION

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

17. CLEAN UP

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

18. CONDUCT OF BIDDERS

All Bidders or individuals acting on behalf of a Bidder are hereby prohibited from lobbying or otherwise attempting to persuade or influence any member of the City Council members, or City staff at any time during the course of the solicitation process. All Bidders or individuals acting on behalf of a Bidder are further prohibited from contacting or otherwise attempting to communicate with any member of the staff or City Council members regarding the pending solicitation or its outcome until after the issuance of the written recommendation of the most qualified Bidder. The solicitation process shall end upon issuance of the written Notice of Intended Action containing

the recommendation of award to the Bidder. Until such recommendation is issued in writing, any questions regarding the pending solicitation shall be submitted to the Purchasing Manager. Failure to comply with this procedure shall result in rejection/disqualification of said submittal without exception. Contact with staff, City Council members during a public meeting shall not be considered a violation of this requirement.

19. CONE OF SILENCE

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

Exceptions to the Cone of Silence:

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

20. CONFLICT OF INTEREST

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

21. CONFLICT OF INSTRUCTIONS

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

22. CONTRACT

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

23. CONTRACT OBLIGATION

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

24. CONTRACT RENEWALS

Renewals may be made ONLY by written agreement between the City of Port Orange and the

Contractor. Any price escalations are limited to those stated by the Contractor on the original response.

25. COOPERATIVE PURCHASING

The City Manager may elect to purchase through or join with other governmental units in cooperative purchasing ventures when the best interest of the City would be served thereby, provided the same is in accordance with all applicable laws. In the event the City Manager should elect to purchase through or join with other governmental agencies in cooperative purchasing ventures, all purchases in excess of twenty-five thousand dollars (\$25,000) shall require City Council approval before the purchasing contracts are entered into. (Code 1981, § 8-33, Ord. 1997-22, § 5. 5-6-1997; Ord. No. 2004-15, § 4, 7-20-2004)

26. COPYRIGHT AND PATENT RIGHTS

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

27. COST INCURRED BY BIDDER

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

28. DAMAGE

The Contractor shall hold sole responsibility for any damages to the City's equipment or property, the workplace and its contents due to work, negligence in work, personnel and equipment. The Contractor shall be responsible and liable for the safety, injury and health of its working personnel while its employees are performing service work.

29. DEFAULT PROVISIONS

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

30. DELIVERY OF GOODS/SERVICES

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

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

31. DETERMINATION OF LOWEST AND BEST RESPONSIBLE BIDDER /PROPOSER

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

- a. The ability, capacity and skill of the Bidder/Proposer to perform the contract.

- b. Whether the Bidder/Proposer can perform the contract within the time specified, without delay or interference.
- c. The character, integrity, reputation, judgment, experience, and efficiency of the Bidder/Proposer.
- d. The quality of performance of previous contracts.
- e. The previous and existing compliance by the Bidder/Proposer with laws and ordinances relating to the contract.
- f. The sufficiency of the financial resources and ability of the Bidder/Proposer to perform the contract or provide the service.
- g. The quality, availability and adaptability of the supplies or contractual services to the particular use required.
- h. The ability of the Bidder/Proposer to provide further maintenance and service for the use of the subject of the contract.
- i. The number and scope of conditions attached to the bid.
- j. Such other factors as appear to the city council to be pertinent to the bid or the contract under all of the circumstances involved.

32. DISCLOSURE OF CONFLICTS

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

The Bidder shall have no interest and shall not acquire any interest that shall conflict in any manner or degree with the performance of the services required under the Solicitation.

33. DISQUALIFICATION OF BIDDER/PROPOSER

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

34. EXCEPTIONS TO SPECIFICATIONS

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

35. E-VERIFY

Bidders shall utilize the U.S. Department of Homeland Security's E-Verify system to verify the employment eligibility of all employees hired on or after January 1, 2021 by the Bidder and shall expressly require any subcontractor performing services pursuant to the contract to likewise utilize

the U.S. Department of Homeland Security's E-Verify system to verify the employment eligibility of all new employees hired by the subcontractor during the term of contract. Bidders shall complete Form 7.11 E-Verify Affidavit and include it in the returned Response package. Failure to include the affidavit may result in rejection of the Response.

36. FACILITIES

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

37. FAILURE TO RESPOND

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

38. FINANCIAL STABILITY

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

39. 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.

40. GOVERNING FORMS

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

41. GOVERNING LAW

Bidders shall comply with all applicable federal, state and local laws and regulations. All Responses are solicited and shall be made pursuant to the Code of Ordinances, City of Port Orange, Chapter 2, Article VI, Division 2, Section 2-263, and all Responses will be evaluated in accordance with the provisions thereof. Code of Ordinances, City of Port Orange is on file in the Office of the City Clerk, City Hall, 1000 City Center Circle, Port Orange, Florida and at www.municode.com. The City of Port Orange is also governed by the Consultants' Competitive Negotiation Act, Section 287.055, Florida Statutes, as the method of selecting architects, engineers and land surveyors. The City has utilized the procedures in the Act for Professional counselors, environmentalists, planners, general contractors, computer systems, designers, telecommunications consultants, maintenance technicians, financial services and other professional services. Every acquisition equal to or greater than \$10,000.00 must have a signed, notarized "Public Entity Crimes Form" to comply with Section 287.133(3)(a), Florida Statutes. Also required is the "Drug- Free Preference Form" to comply with Section 287.087, Florida Statutes. Each form is included in the Solicitation.

42. GRANT FUNDING

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

43. HIPAA COMPLIANCE

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

44. IDENTICAL TIE BIDS

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

45. INDEMNIFICATION/HOLD HARMLESS

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

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

46. INDEPENDENT CONTRACTOR

It is expressly understood and agreed by both parties hereto that the City is contracting with the successful Bidder as an independent contractor. The parties hereto understand and agree that the City shall not be liable for any claims which may be asserted by any third party occurring in connection with the services to be performed by the successful Bidder under this contract and that the successful Bidder has no authority to bind the City. The Bidder represents itself to be an independent contractor offering such services to the public and shall not represent himself/herself or his/her employees to be an employee of the City. Therefore, the Bidder shall assume all legal and financial responsibility for taxes, FICA, employee fringe benefits, worker's compensation, employee insurance, minimum wage requirements, overtime, etc., and agrees to indemnify, save, and hold the City, its officers, agents, and employees, harmless from and against, any and all loss; cost (including attorney's fees); and damage of any kind related to such matters. The Bidder shall further understand that the City cannot save and hold harmless and or indemnify the Bidder and/or the Bidder's employees against any liability incurred as arising as a result of any activity of the Bidder/Proposer or any activity of the Bidder's employees performed in connection with the Contract.

47. INSPECTIONS AND TESTING

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

48. INSURANCE CANCELLATION

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

49. INSURANCE REQUIREMENTS

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

IMPORTANT: The City does not accept Workers' Compensation Exemptions. Contractor may use leased employees if the Contractor ensures that all workers who access the jobsite are employees covered by the employee leasing company, and no non-employees are permitted to access the jobsite. Any Contractor using a leased employee shall complete the City's Leased Employee Affidavit Form Exhibit. Policies for Workers' Compensation may be issued by companies authorized as a group self-insurer by F.S. 440.572. Policies other than Workers' Compensation shall be issued by insurers licensed and/or duly authorized under Florida Law to do business in the State of Florida and all insuring companies are required to have a minimum rating of "A-" in the "Best Key Rating Guide" published by A.M. Best & Company, Inc. Contractor shall not commence work under this Contract until the City has received a certificate or certificates of insurance with endorsement evidencing the required insurance. Insurer shall provide the City written notice of cancellation, nonrenewal or any other changes in coverage no later than thirty (30) days prior to the effective date of the change and shall provide notice to the City no later than 10 days after non-payment. The Certificates of Insurance and required insurance policies shall contain provisions that thirty (30) days prior written notice shall be given to the City of any cancellation, intent not to renew, or reduction in the policies or coverages. Contractor shall require and ensure each of its subcontractors to maintain, until the completion of the subcontractor's work, insurance of the types and to the limits set forth herein. All insurance coverages shall be primary and non-contributory. All insurance coverages of the subcontractors shall not seek contribution from any other insurance or self-insurance available to the City. The Contractor is responsible for ensuring that its subcontractors maintain the required coverage. Failure of the Contractor to ensure the subcontractors maintain the required coverage, shall not relieve the Contractor of any contractual responsibility, obligation or liability.

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

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

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

[Remainder of this page left intentionally blank]

50. **INVOICES AND PAYMENTS**

All invoices shall be sent to: City of Port Orange, Accounts Payable, P.O. Box 291759, Port Orange, Florida, 32129. In accordance with Florida Statutes, Chapter 218, payment will be made within 45 days after receipt of merchandise and a proper invoice. The City will attempt to pay within fewer days if Contractor offers a payment discount. The City cannot make advance payments, make deposits in advance of receipt of goods, or pay C.O.D.

51. **IRREVOCABILITY OF RESPONSES**

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

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

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

53. **LEGAL REQUIREMENTS**

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

54. **LICENSES, PERMITS AND TAXES**

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

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

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

56. **LOCAL PREFERENCE**

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

(a) Competitive Bids

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

(2) Volusia County business: In any competitive bidding process where a Volusia County business is within five percent (5%) of the lowest and best responsible bid submitted by a business other than a Port Orange business or Volusia County business, then the Volusia

County business shall have the opportunity to submit, within five (5) working days of the bid opening, a best and final bid equal to or lower than the amount of the original low bid. The bid shall then be awarded to the lowest and best responsible bidder.

- (3) Florida Business: In any competitive bidding process where a State of Florida business is within three percent (3%) of the lowest and best responsible bid submitted by a non-local business, then the Florida business shall have the opportunity to submit, within five (5) working days of the bid opening, a best and final bid equal to or lower than the amount of the original low bid. The bid shall then be awarded to the lowest and best responsible bidder.
- (4) Tied Bid Preference: In case of a tie bid between a local business and a non-local business, the local business shall prevail. In case of a tie between two or more local businesses, the following order of preference shall control: first priority to Port Orange business, second priority to Volusia County business, and third priority to Florida business.
- (b) Definitions. The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

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

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

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

57. MAINTENANCE

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

58. NAME BRANDS

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

59. NON-DISCRIMINATION

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

purchase of goods or services, or the subcontracting of work in performance of this contract.

60. NON-EXCLUSIVITY OF CONTRACT

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

61. NON-PERFORMANCE:

Failure to meet the expected quality of workmanship, schedule, or other criteria agreed upon, shall be considered a default. In case of default, the City may procure the required services from other sources and hold the Contractor responsible for any excess costs occasioned thereby and may immediately cancel the contract.

62. NOTICE TO CONTRACTOR

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

63. OPTIONAL CONTRACT USAGE

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

64. OTHER AGENCIES

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

65. PATENTS/COPYRIGHTS

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

66. PRE-BID CONFERENCE OR PRE-PROPOSAL CONFERENCE

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

67. PREPARATION OF RESPONSES

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

substitutions or combinations of alternates will not be considered unless such substitutions or combinations are specifically authorized by the Proposal. The Bidder shall sign his/her name and give his/her business address in the spaces provided therefore. If the Proposal is made as a partnership, it shall be signed by all partners; if made by a corporation, it shall be signed in the name of the corporation by one of the officers thereof and shall have affixed the seal of the corporation.

68. POSTPONEMENT / CANCELLATION / WAIVER OF IRREGULARITIES

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

69. PRICING

The Bidder certifies that prices, terms and conditions in the Response will be firm for acceptance for a period of ninety (90) days from the date of Response opening unless otherwise stated by the City. Responses may not be withdrawn before the expiration of ninety (90) days. Prices shall be firm, with no escalator clauses unless specified by the City. Responses may be withdrawn after ninety (90) days only upon written notification to the City. Prices for all goods and/or services shall be firm for the duration of this contract and shall be stated on the Pricing/Delivery Information form. Prices shall be all inclusive: no price changes, additions, or subsequent qualifications will be honored during the course of the contract. All prices must be written in ink or typewritten. Pricing on all transportation, freight, drayage and other charges are to be prepaid by the Contractor and included in the bid prices. If there are any additional charges of any kind, other than those mentioned above, specified or unspecified, the Bidder shall indicate the items required and attendant costs or forfeit the right to payment for such items. Where unit pricing and extended pricing differ, unit pricing prevails. In the event of any discrepancy between the written amounts and the numerals, the written amounts shall govern and will be considered as the price bid. When submitting Bids/Proposals based on a Lump Sum basis, Bidders shall be required to submit a Schedule of Unit Pricing for each line item listed on the Bid Proposal in order to be considered for award.

70. PRODUCTS/ESTIMATES:

Items included on the Bid Form represent the needs of various departments within the City. This is in no way to be construed as the entire or complete list of products to be purchased from the resulting contract. There is no anticipated dollar volume for this contract and cannot be guaranteed. Items shall be ordered on an as needed, when needed basis. Exact quantities or estimated quantities cannot be predetermined.

71. PROPRIETY INFORMATION

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

72. PROTECTION

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

73. PUBLIC ENTITY CRIMES

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

74. PUBLIC RECORDS COMPLIANCE

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

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

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

75. PUBLIC RECORDS/PUBLIC MEETINGS EXEMPTION STATEMENT

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

76. PURCHASE ORDER AND DELIVERY

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

77. QUALITY

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

78. RECORDS/AUDIT

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

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

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

79. RECYCLED MATERIALS

City of Port Orange encourages the use of products made of recycled materials.

80. REJECTING OF RESPONSES, REBIDDING

The City reserves the right to accept or reject any or all Responses or parts of Responses, to waive irregularities and technicalities, and to request re-bids. The City also reserves the right to award the contract on such items the City deems will best serve the interests of the City. The City further reserves the right to award the contract on a "split order" basis, or such combination as shall best serve the interests of the City unless otherwise specified. The City Council shall have the authority to reject any and all Responses. If the lowest and best Response exceeds the budgeted amount and the City Council does not make additional funds available, the purchasing agent with the help of the department head shall have the authority to re-advertise the article or articles for bidding after making sufficient changes in the plans or specifications to bring the cost within the limit of the money available. (Code 1981, § 8-28.)

81. REQUEST FOR ADDITIONAL INFORMATION

Prior to the final Solicitation selection, Bidders may be required to submit additional information which the City may deem necessary to further evaluate the Bidder's qualifications to perform under the terms of the Solicitation and subsequent Contract.

82. REVIEW OF RESPONSES/SUBMISSIONS

Each Response will be reviewed to determine if the Response is responsive to the submission requirements outlined in the Solicitation. A responsive Response is one which follows the requirements of the Solicitation, includes all required documentation, is submitted in the format outlined in the Solicitation, is of timely submission, and has the appropriate signatures as required on each document. Failure to comply with these requirements may deem your Response non-responsive.

83. RIGHT OF WITHDRAWAL

A bid, proposal, statement, or reply may not be withdrawn before the expiration of ninety (90) days from the Response due date.

84. RIGHTS TO SOLICITATION SUBMITTED MATERIAL

All Responses, inquiries, or correspondence relating to or in reference to a Solicitation, and all reports, charts, and other documentation submitted by Bidders shall become the property of the City when received.

85. RULES, REGULATIONS AND LICENSING REQUIREMENT

The Bidder shall comply with all laws, ordinances and regulations applicable to the services contemplated herein, including those applicable to conflict of interest and collusion. Bidders are presumed to be familiar with all federal, state and local laws, ordinances, codes and regulations that may in any way affect the services offered.

86. SAMPLES

Samples, when requested, must be furnished at, or before, Response opening, (unless otherwise specified), and will be delivered at no charge to the City. If not used and/or destroyed in testing, said sample(s) will, at the Bidder's request, be returned within thirty (30) days after bid award at the Bidder's expense. If requested by the City, samples and/or inspection of like items are to be made available in the central Florida area.

87. SEPARATION AND DISTRIBUTION

The Solicitation has been designed for transmittal as a complete document to interested parties. It is recommended that it not be separated; however, it may be reproduced in its entirety as additional distribution might dictate.

88. SEVERABILITY

If any section, subsection, paragraph, sentence, clause, phrase or word of these requirements or the specifications shall be held invalid, such holding shall not affect the remaining portions of these requirements and the specifications and it is hereby declared that such remaining portions would have been included in these requirements and the specifications as though the invalid portion had been omitted.

89. SIGNATURE REQUIRED

All Responses must show the company name and be signed by a company officer or employee who has the authority to bind the company or firm by their signature. UNSIGNED RESPONSES WILL BE REJECTED. All manual signatures must be original - no rubber stamp, photocopy, etc.

90. SIGNED RESPONSE CONSIDERED AN OFFER

The signed Response is considered an offer on the part of the Bidder, which offer shall be considered accepted upon approval by the City of Port Orange City Council (if required). The City of Port Orange will issue a purchase order or a letter of authorization to the successful Bidder, as authorization for delivery of the items awarded subject to requirements of detailed specifications and those contained herein. In the event of default on the part of the Bidder after such acceptance, the City may take such action as it deems appropriate including legal action for damages or specific

performance.

91. SILENCE OF SPECIFICATIONS

The apparent silence of specifications as to any detail, or the apparent omission from it of a detailed description concerning any point, shall be regarded as meaning that only the best commercial practice is to prevail and that only material and workmanship of the finest quality are to be used. All interpretations of specifications shall be made on the basis of this statement. The items furnished under this contract shall be new, unused of the latest product in production to commercial trade and shall be of the highest quality as to materials used and workmanship. Manufacturer furnishing these items shall be experienced in design and construction of such items and shall be an established supplier of the item bid.

92. SOLICITATION FORM COMPLETION, SUBMISSION AND RECEIPT OF RESPONSES

Unless otherwise specified, Bidders shall use the Solicitation forms supplied by the Purchasing Division. Responses shall be typewritten or handwritten in ink and shall bear the original signature of the Bidder's authorized representative. Responses containing erasures or corrections must be initialed by the Bidder in ink. Responses shall be submitted by mail or hand delivery only. No Response will be accepted by facsimile transmission, e-mail or other electronic delivery. Responses submitted by mail shall be addressed to: Joseph Castro, Buyer, Purchasing Office, a division of the Finance Department, Port Orange City Hall, 1000 City Center Circle, Port Orange, Florida 32129. Responses submitted by hand delivery shall be delivered to: City Clerk, Port Orange City Hall, 1000 City Center Circle, Port Orange, Florida 32129. Responses will be accepted until 2:30 p.m. on the date indicated in the Solicitation documents or as addenda issued by the City.

One (1) sealed envelope or package shall be submitted. The sealed envelope/package must contain the required forms and price proposals, where applicable, and will be evaluated and deemed responsive or non-responsive. All late responses will be returned to the Bidder and will not be unopened. Bids (Envelope/Package) shall contain one (1) original and one (1) digital (CD or flash drive) version unless otherwise indicated in the legal advertisement and shall be mailed or delivered as set forth in the preceding paragraph in one (1) SEALED ENVELOPE/PACKAGE. The envelope/package shall be clearly marked on the outside to include the bid project name, bid number, name and address of the Bidder.

93. STATE LICENSING REQUIREMENTS

All entities defined under Chapters 607, 608, 617 or 620, Florida Statutes, seeking to do business with the City shall be on file and in good standing with the State of Florida's Department of State. Prior to making an offer, the Bidder shall have met the license, certification, and any other requirements of the state, county, city and/or other agency of authority with jurisdiction in such matters and should provide copies of documentation that evidence such qualifications with the response to the Solicitation; and, that the Bidder shall provide follow-up evidence that the Bidder maintains such credentials throughout the period of the agreement. A copy of a current certificate of authority from the Secretary of State authorizing the Bidder/Responder to do business in the State of Florida, or other evidence of legal authority to do business in the state, county, city and/or any other agency of authority should be provided with your response to the Solicitation. Information concerning certification with the Secretary of State may be obtained at <http://ccfcorp.dos.state.fl.us/index.html>. Contract documents shall be executed by the entity's duly authorized officer as evidenced by entity records.

94. SUBCONTRACTING

The Contractor will not sub-contract or enter into any subcontracting agreements pertaining to this contract, without obtaining written approval from the City of Port Orange.

95. SUPPLEMENTAL MATERIALS

Bidders are responsible for including all pertinent product data in the returned bid package. Literature, brochures, data sheets, specification information, completed forms requested as part

of the bid package and any other facts which may affect the evaluation and subsequent contract award should be included. Materials such as legal documents and contractual agreements that the Bidder wishes to include as a condition of the bid must also be in the returned bid package. Failure to include all necessary and proper supplemental materials may be cause to reject the entire bid.

96. TAXES

The City of Port Orange is exempt from all federal excise, state and local taxes unless otherwise stated in this document. A Tax Exemption Certificate will be furnished upon written request to the City of Port Orange Purchasing Division.

97. TERM CONTRACTS

Acceptance by the City of Port Orange of Bidder's offer shall be limited to the terms herein unless expressly agreed in writing by the City. If the contract is intended to cover a specific time period, the term will be given in the bid specifications.

98. TERMINATION CONVENIENCE – NOTICE

The City of Port Orange reserves the right to terminate the contract for default if the Contractor breaches any of the terms therein, including warranties of the Contractor or if the Contractor becomes insolvent or commits acts of bankruptcy. Such right of termination is in addition to and not in lieu of any other remedies which the City of Port Orange may have in law or equity. Default may be construed as, but not limited to, failure to deliver the proper goods and/or services within the proper amount of time, and/or to properly perform any and all services required to the City's satisfaction and/or to meet all other obligations and requirements. The City may cancel the Contract at any time for breach of contractual obligations by providing the Contractor with a written notice of such cancellation. Should the City exercise its right to cancel the contract for such reasons, the cancellation shall become effective on the date as specified in the notice of cancellation sent to the Contractor.

99. TERMINATION - NOTICE

Either party may cancel the contract at any time after award, unless otherwise specified. The City shall be required to give the Bidder notice of thirty days prior to the date of cancellation of the contract. The Bidder shall be required to give the City written notice (60) sixty days prior to the date of cancellation of the contract. The City of Port Orange may terminate the contract without cause upon thirty (30) days written notice.

100. TITLE TRANSFER

Title and Risk of Loss of goods shall not pass to City of Port Orange until City of Port Orange actually receives and takes possession of the goods at the point or points of delivery. Receiving times may vary with the using department. Generally, deliveries may be made between 8:30 a.m. and 3:00 p.m., Monday through Friday. The Contractor is advised to consult the using department for instructions. The place of delivery shall be specified in the bid specification and/or on the Purchase Order as a "Deliver To:" address.

101. UNBALANCED BID

A mathematically unbalanced bid is where a bidder places a high price on some items and a low price on other items in a unit price contract. A bid is materially unbalanced when there is reasonable doubt that acceptance of a mathematically unbalanced bid will result in the lowest overall cost to the City. Unbalanced Bids will be rejected if the prices are deemed materially unbalanced.

102. USE OF SOLICITATION FORMS

The Bidder shall complete the appropriate Solicitation Form(s) included in the Solicitation. All blanks on the Solicitation Forms shall be completed. If a question or confirmation is not applicable, it should be answered with an "N/A." Supplemental information may be attached to the Solicitation Forms. Failure to fully complete the appropriate Solicitation Forms may result in disqualification of

the Response. If additional space for a response is required, attach an additional page to the page on which the question is stated. Clearly identify the number of the question to which the response is attached. Further, if additional Solicitation Form pages are needed, photocopy or replicate as appropriate, and attach such additional pages to the page on which the question or chart is stated. The signature of the Authorized Person or Entity must be that of an officer, partner or a sole proprietor of the entity making the Response. The original Response, and each copy submitted shall contain an original signature on the Bidder's Acknowledgement Form contained in each Solicitation.

103. VARIANCES

For purposes of Response evaluation, Bidders must indicate any variances, no matter how slight, contained in the Response. No variations or exceptions by a Bidder will be considered or deemed a part of the Response submitted unless such variances or exceptions are listed in the Response and referenced in the space provided on the Response pages. If variances are not stated, or referenced as required, it will be assumed that the product or service complies with the City's terms, conditions and specifications. By receiving a Response, the City does not necessarily accept any variances contained in the Response. All variances submitted are subject to review and approval by the City. If any Response contains material variances that, in the City's sole opinion, make that Response conditional in nature, the City reserves the right to reject the Response or part of the Response that is declared, by the City, as conditional.

104. BIDDER'S PRODUCT OR SERVICES

The Bidder's product (if applicable) delivered to the City shall be free of all liens, claims or encumbrances, and the Bidder warrants that it has a clear title to the product being delivered.

- a. If the Bidder is contracted to provide services, such services shall be fully satisfactory to the City as determined by the City.
- b. The Bidder shall provide the City with any data, reports or other information as required and requested by the City to enable it to utilize the product or service furnished by the Bidder.
- c. In furnishing the service or product to the City, the Bidder shall comply with all federal, state, county laws, and city rules, regulations and codes and their successors or amendments. Violation of such laws, rules, regulations and codes may be grounds for delaying or reducing the amount due, or in rescinding the contract, Contract, proposal or quote.

105. WAIVER OF IRREGULARITIES

The City of Port Orange reserves the right to waive and/or reject any non-substantial irregularity in Responses received whenever such waiver or rejection is in the best interest of the City and/or it does not meet the minimum requirements set forth. All reasonably responsive Responses will be considered. However, the City reserves the right to waive formalities or informalities in Responses, to reject, with or without cause, any or all Responses or portions of Responses, or to interview or not interview individual Bidders, and to accept any Responses or portions of Responses deemed to be in the best interest of the City. The City Council shall grant the City Manager to waive any and all non-substantial irregularities in any and all formal Solicitations. (Code 1981, § 8-29; Ord. No. 2015-17, § 1, 5-19-2015)

106. WARRANTIES

Bidders shall furnish all data pertinent to warranties or guarantees which may apply to items in the Response. Bidders may not limit or exclude any implied warranties. The Bidder warrants that product sold to the City shall conform to the standards established by the U.S. Department of Labor under the Occupational Safety and Health Act of 1970. In the event product does not conform to OSHA Standards, where applicable, City of Port Orange may return the product for correction or replacement at the Bidder's expense. If the Bidder fails to make the appropriate correction within a reasonable time, City of Port Orange may correct at the Bidder's expense.

SECTION 6 – SPECIAL REQUIREMENTS/INSTRUCTIONS

PERIOD OF OFFER VALIDITY:

Bids offered in this ITB must remain firm for a period of ninety (90) days from the ITB opening date.

AWARD RECOMMENDATION:

It is the intent of the City to award a contract to the lowest responsive and responsible bidder of Item 1 as outlined in Section 3 Scope of Work/Specifications and the Schedule of Unit Pricing (Attachment 1).

CONTRACT TERM:

Ninety (90) days from notice to proceed for substantial completion and an additional thirty (30) days for final completion, not to exceed a total of one hundred and twenty (120) for the term of the contract.

TIME-LINE:

- A. Notice of Award: after bid opening and complete review of submitted bid information.
- B. Notice to Proceed: TBD by the using department.
- C. Start Date and Time: after Pre- Meeting.
- D. Substantial Completion Time: Not to exceed ninety (90) days from the date of the Notice to Proceed.
- E. Final Completion Time: Not to exceed thirty (30) days from the substantial completion time.
- F. Total Completion Time: Not to exceed one hundred and twenty (120) days from the date of the Notice to Proceed.

ELIGIBILITY OF BIDDER:

To be eligible to respond to this ITB, the Bidders must demonstrate proof of prior experience working with the services described in this ITB. Please provide eligibility experience with your submittal.

LICENSES AND PERMITS

Contractor is responsible for all applicable local and state licenses, permits and fees.

NOTICE:

The City reserves the right to consider cooperative contracts, federal, state municipal etc., in the evaluation process. If in the City's best interest, the City may utilize a cooperative contract in lieu of making an award.

PAYMENT & PERFORMANCE BONDS

The Bidder must be able to obtain both payment and performance bonds from a surety company licensed in Florida and shall submit proof of their present bonding capacity with their bid submittal package in the form of a current letter from bidder's bonding agent. Bidder's bonding capacity must be equal to or greater than 100% of the total amount bid.

Upon award, the successful bidder will also be required to furnish and pay for a satisfactory contract one hundred percent (100%) Payment and Performance Bond to be recorded by the City, with the Clerk of the Circuit Court, Volusia County, Florida and to enter into a contract for services with the City of Port Orange. After recording, the City will furnish to the Contractor the recording information for the bond to evidence that the Contractor has met the requirement of Florida law. The City will bill the cost of recording to the Contractor.

BID BONDS:

A certified check or bank draft, payable to the City of Port Orange, Florida or a satisfactory bid bond executed by the Bidder and an acceptable surety, in an amount equal to five percent (5%) of the total amount bid shall be submitted with each bid.

[Remainder of this page left intentionally blank]

MANDATORY EMPLOYEE BACKGROUND CHECK:

Due to the security requirements of work inside a police department building, all employees of the successful Bidder must pass a background check, must wear a company uniform, and must be accompanied by City staff at all times. Contractor shall provide the background check of all employees working on the job site to the City.

WORKING HOURS:

Work to be performed during normal working hours, beginning at 8:00 a.m. and ending at 5:00 p.m. All area's will be cleaned by the contractor and ready for normal operation at the end of each shift.

SAFETY:

Contractor will comply with all applicable OSHA, State of Florida Safety Regulations and comply with all construction safety requirements of local authorities having jurisdiction. Contractor shall exercise all due caution to exclude the public from the work area and especially from contact with any hazardous materials.

REPAIR OF DAMAGES:

It is the responsibility of the Contractor to repair any damages incurred in the area that is directly related to the project. When damages occur, the City of Port Orange Representative is to be notified and shall inspect the repairs upon completion.

SITE CLEANLINESS:

The Contractor is responsible for daily job site clean up and all debris generated by the work shall be hauled off site to an approved landfill and disposed of in accordance with all local and federal codes.

[Remainder of this page left intentionally blank]

SECTION 7 – REQUIRED FORMS

FORM 7.1 – BID SUBMITTAL CHECKLIST

- _____ Form 7.2 – Bidder’s Acknowledgement Form
- _____ Form 7.3 – Addendum and Change Order Procedure Acknowledgement
- _____ Form 7.4 – Drug Free Preference Statement
- _____ Form 7.5 – Public Entity Crimes Statement
- _____ Form 7.6 – Anti-Collusion Form
- _____ Form 7.7– Statement of Bidder’s Qualifications
- _____ Form 7.8 – Professional References for Previous Experience
- _____ Form 7.9 – Listing of Subcontractors
- _____ Form 7.10 – Local Business Affidavit of Eligibility
- _____ Form 7.11 – E-Verify Affidavit
- _____ Form 7.12 - Debarment, Suspension and Other Responsibility Matters
- _____ Attachment 1 – ITB Schedule of Unit Pricing
- _____ Original Recorded Bid Bond
- _____ Current Bonding Capacity Letter (as outlined in Section 6)
- _____ Measurements and Counts list (as outlined in Sec 3)
- _____ List of all cleaners, coatings, etc., used in the performance of the specifications (as outlined in Section 3)
- _____ List of all safety protocols that will be used (as outlined in Sec 3)
- _____ Copy of License (Contractor, Sunbiz, etc.)
- _____ Submission of one (1) original marked “ORIGINAL” and one (1) digital (CD or flash drive) version in PDF format.

BY: _____
Name of Business

Authorized Signature

Date

This document must be completed and returned with your Submittal

FORM 7.2 – BIDDER’S ACKNOWLEDGEMENT FORM

I have carefully examined the Invitation to Bid (ITB), Instructions to Bidders, General and/or Special Conditions, Specifications, and any other documents accompanying or made a part of this invitation.

I hereby propose to furnish the goods or services specified in the Invitation to Bid at the prices or rates as finally negotiated. I agree that my bid will remain firm for a period of up to ninety (90) days in order to allow the City of Port Orange adequate time to evaluate the proposed bid. Furthermore, I agree to abide by all conditions of the Invitation to Bid.

I certify that all information contained in this Bid is truthful to the best of my knowledge and belief. I further certify that I am a duly authorized to submit this Bid on behalf of the Bidder / Contractor as its act and deed and that the Bidder / Contractor is ready, willing and able to perform if awarded the contract.

I further certify that this Bid is made without prior understanding, Contract, connection, discussion, or collusion with any person, firm or corporation submitting a Bid for the same product or service; no officer, employee or agent of the City of Port Orange City Council or of any other Bidder interested in said ITB; and that the undersigned executed this Bidder’s Acknowledgement with full knowledge and understanding of the matters therein contained and was duly authorized to do so.

I further certify that having read and examined the specifications and documents for the designated services and understanding the general conditions for contract under which services will be performed, does hereby propose to furnish all labor, equipment, and material to provide the services set forth in the ITB.

I hereby declare that the following listing states any clarifications, any and all variations from and exceptions to the requirements of the specifications and documents. The undersigned further declares that the “work” will be performed in strict accordance with such requirements and understands that any exceptions to the requirements of the specifications and documents may render the Bid non-responsive.

NO EXCEPTIONS ALLOWED AFTER THE BID IS SUBMITTED:

Please check one: ☐ I take NO exceptions. ☐ Exceptions (list below; add additional pages if necessary):

NAME OF BUSINESS

MAILING ADDRESS

AUTHORIZED SIGNATURE

CITY, STATE & ZIP CODE

NAME, TITLE, TYPED

TELEPHONE NUMBER / FAX NUMBER

FEDERAL IDENTIFICATION #

E-MAIL ADDRESS

STATE OF _____ COUNTY OF _____

The foregoing instrument was acknowledged before me this day of _____, 20____ by _____, who is personally known to me or who has produced ad identification and who did take an oath.

My Commission Expires:

Notary Public

This document must be completed and returned with your Submittal

FORM 7.3 – ADDENDUM and CHANGE ORDER PROCEDURE ACKNOWLEDGEMENT

ADDENDUM ACKNOWLEDGEMENT

I have carefully examined the Invitation to Bid (ITB), Instructions to Bidders, General and/or Special Conditions, Specifications, and any other documents accompanying or made a part of this invitation to Bid.

I acknowledge receipt and incorporation of the following addenda, and the cost, if any, of such revisions has been included in the price of the bid proposal.

Addendum # _____ Date: _____ Addendum # _____ Date: _____

Addendum # _____ Date: _____ Addendum # _____ Date: _____

CHANGE ORDER PROCEDURE ACKNOWLEDGEMENT

If awarded the Contract for this Solicitation, I acknowledge that no oral statement of any person shall modify or otherwise change, or affect the terms, conditions or specifications stated in the resulting contract. All change orders requests shall be made in writing by the Contractor for review by the Contract Administrator for the City of Port Orange. No work shall be performed as set forth in the change order until the Contractor receives an executed Purchase Order for the requested change.

I acknowledge the following statement regarding Change Orders to the awarded Contract:

“The Successful Contractor is responsible for giving the City of Port Orange, prior to the Contract expiration date, at least forty-five (45) calendar days’ advance notice for any anticipated changes in price greater than \$25,000.00, time and/or scope of the awarded Contract. The Contractor shall not continue to provide services past the Contract expiration date unless approved by a written Change Order Notice from the City.”

Name of Business

By: _____

Printed Name: _____

Title: _____

STATE OF _____

COUNTY OF _____

Sworn to (or affirmed) and subscribed before me this _____ day of _____, 20____, by _____, as _____ of _____

(NAME)

(TITLE)

and who:

(NAME OF ORGANIZATION)

[Notary: Please select one]

☐ is personally known to me; or

☐ has produced _____ as identification.

Notary Public, State of _____

Printed, typed or stamped name, commission and expiration:

This document must be completed and returned with your Submittal

FORM 7.4 – DRUG-FREE PREFERENCE STATEMENT

IDENTICAL TIE BIDS - Preference shall be given to businesses with drug-free workplace programs. Whenever two or more bids, proposals, statements, or replies that are equal with respect to price, quality, and service are received by the city for the procurement of commodities or contractual services, a bid received from a business that certifies that it has implemented a drug-free workplace program shall be given preference in the award process. Established procedures for processing tie bids will be followed if none of the tied Bidders have a drug-free workplace program.

In order to have a drug-free workplace program, a business shall:

1. Publish a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the workplace and specifying the actions that will be taken against employees for violations of such prohibition.
2. Inform employees about the dangers of drug abuse in the workplace, the business's policy of maintaining a drug-free workplace, any available drug counseling, rehabilitation and employee assistance programs, and the penalties that may be imposed upon employees for drug abuse violations.
3. Give each employee engaged in providing the commodities or contractual services that are under bid a copy of the statement specified in subsection (1).
4. In the statement specified in subsection (1), notify the employees that, as a condition of working on the commodities or contractual services that are under bid, the employee will abide by the terms of the statement and will notify the employer of any conviction of, or plea of guilty or nolo contendere to, any violation of chapter 893 or of any controlled substance law of the United States or any state, for a violation occurring in the workplace no later than five (5) days after such conviction.
5. Impose a sanction on or require the satisfactory participation in a drug abuse assistance or rehabilitation program if such is available in the employee's community, by any employee who is so convicted.
6. Make a good faith effort to continue to maintain a drug-free workplace through implementation of Section 287.087, Florida Statutes.

As an authorized representative of the firm, I certify that this firm complies fully with the above requirements.

Name of Business

By: _____

Printed Name: _____

Title: _____

STATE OF _____

COUNTY OF _____

Sworn to (or affirmed) and subscribed before me this _____ day of _____, 20____, by _____, as _____ of _____

(NAME)

(TITLE)

and who:

(NAME OF ORGANIZATION)

[Notary: Please select one]

☐ is personally known to me; or

☐ has produced _____ as identification.

Notary Public, State of _____

Printed, typed or stamped name, commission and expiration:

This document must be completed and returned with your Submittal

FORM 7.5 – SWORN STATEMENT UNDER SECTION 287.133(3)(A), FLORIDA STATUTES, ON PUBLIC ENTITY CRIMES

(To be signed in the presence of notary public or other officer authorized to administer oaths.)

Before me, the undersigned Authority, personally appeared affiant _____, who, being by me first duly sworn, made the following statement:

1. The business address of _____ (name of Offeror or business) is _____.
2. My relationship to _____ (name of Offeror or business) is _____ (relationship such as sole proprietor, partner, president, vice president).
3. I understand that a public entity crime as defined in Section 287.133 of the Florida Statutes includes a violation of any state or federal law by a person with respect to and directly related to the transaction of business with any public entity in Florida or with an agency or political subdivision of any other state or with the United States, including, but not limited to, any proposal or contract for goods or services to be provided to any public entity or such an agency or political subdivision and involving antitrust, fraud, theft, bribery, collusion, racketeering, conspiracy or material misrepresentation.
4. I understand that "convicted" or "conviction" is defined by the Florida Statutes to mean a finding of guilt or a conviction of a public entity crime, with or without an adjudication of guilt, in any federal or state trial court of record relating to charges brought by indictment or information after July 1, 1989, as a result of a jury verdict, non-jury trial, or entry of a plea of guilt or nolo contendere.
5. I understand that "affiliate" is defined by the Florida Statutes to mean (1) a predecessor or successor of a person or a corporation convicted of a public entity crime, or (2) an entity under the control of any natural person who is active in the management of the entity and who has been convicted of a public entity crime, or (3) those officers, directors, executives, partners, shareholders, employees, members, and agents who are active in the management of an affiliate, or (4) a person or corporation who knowingly entered into a joint venture with a person who has been convicted of a public entity crime in Florida during the preceding 36 months.
6. Neither the Offeror or contractor, nor any officer, director, executive, partner, shareholder, employee, member or agent who is active in the management of the Offeror or contractor, nor any affiliate of the Offeror or contractor has been convicted of a public entity crime subsequent to July 1, 1989. **(Draw a line through paragraph 6 if paragraph 7 below applies.)**
7. There has been a conviction of a public entity crime by the Offeror or contractor, or an officer, director, executive, partner, shareholder, employee, member or agent of the Offeror or contractor who is active in the management of the Offeror or contractor or an affiliate of the Offeror or contractor. A determination has been made pursuant to Section 287.133(3) by order of the Division of Administrative Hearings that it is not in the public interest for the name of the convicted person or affiliate to appear on the convicted Vendor list. The name of the convicted person or affiliate is _____. A copy of the order of the Division of Administrative Hearings is attached to this statement. **(Draw a line through paragraph 7 if paragraph 6 above applies.)**

Name of Business

By: _____

Printed Name: _____

Title: _____

STATE OF _____

COUNTY OF _____

Sworn to (or affirmed) and subscribed before me this _____ day of _____, 20____, by _____, as _____ of _____ and who:

[Notary: Please select one]

☐ is personally known to me; or

☐ has produced _____ as identification.

Notary Public, State of _____

Printed, typed or stamped name, commission and expiration:

This document must be completed and returned with your Submittal

FORM 7.6 – ANTI-COLLUSION FORM

ANTI-COLLUSION STATEMENT BID FORM:

By signing this form, the Proposer agrees that this Bid is made without any other understanding, agreement, or connection with any person, corporation, or firm submitting a bid for the same purpose and that the bid is in all respects fair and without collusion or fraud.

SIGN in ink in the space provided below. Unsigned Bids will be considered incomplete, and will be disqualified, and rejected.

IT IS AGREED BY THE UNDERSIGNED VENDOR THAT THE SIGNING AND DELIVERY OF THE BID REPRESENTS THE VENDORS ACCEPTANCE OF THE TERMS AND CONDITIONS OF THE FOREGOING SPECIFICATIONS, CONTRACT AND PROVISIONS, AND IF AWARDED, THIS CONTRACT WILL REPRESENT THE AGREEMENT BETWEEN THE VENDORS AND THE CITY OF PORT ORANGE.

NAME OF FIRM: _____

SIGNED BY: _____
(MUST BE SIGNED BY A COMPANY OFFICER OR AUTHORIZED AGENT)

PRINTED SIGNATURE: _____

TITLE: _____

ADDRESS: _____

CITY: _____ STATE: _____ ZIP CODE: _____

TELEPHONE: _____ FAX: _____

F.E.I.N. NUMBER: _____

NO Bid may be withdrawn for a period of ninety (90) days subsequent to the submittal of the Bids, without the consent of the City of Port Orange.

NO BID (REASON): _____

This document must be completed and returned with your Submittal

FORM 7.7 – STATEMENT OF BIDDER’S QUALIFICATIONS

The undersigned warrants that he or she is duly authorized to complete this document, and hereby affirms that the information contained in Form 7.7 is complete, true, and correct to the best of their knowledge and belief. If necessary, questions may be answered on separate paper and attached, with any additional information that may be pertinent.

- A. Name of Bidder. _____
- B. Permanent main office address. _____
- C. Date organized. _____
- D. If a corporation, where incorporated. _____
- E. How many years have you been engaged in the contracting business under your present firm or trade name? _____
- F. Contracts on hand: (Schedule these, showing amount of each contract and the appropriate anticipated dates of completion.) USE SEPARATE SHEET AND ATTACH TO SUBMITTAL
- G. General character of work performed by your company. _____
- H. Have you ever failed to complete any work awarded to you? If so, where and why? _____
- I. Have you ever defaulted on a contract? If so, where and why? _____
- J. List the more important projects recently completed by your company, stating the approximate cost for each and the month and year completed. USE SEPARATE SHEET & ATTACH TO SUBMITTAL
- K. List your major equipment currently owned or leased. USE SEPARATE SHEET & ATTACH TO SUBMITTAL
- L. Experience in work similar to this type of project. USE SEPARATE SHEET & ATTACH TO SUBMITTAL
- M. The contractor verifies it has a minimum of 5-years of previous experience in duct mold remediation of similar sized building. YES ☐ NO ☐
- N. Background and experience of the principal members of your organization, including the officers. USE SEPARATE SHEET AND ATTACH TO SUBMITTAL
- O. Credit currently available: \$ _____
- P. Give bank name, contact name and phone number: _____
- Q. Will you, upon request, fill out a detailed financial statement and furnish any other information that may be required by the Owner? YES ☐ NO ☐

The undersigned hereby authorizes and requests any person, firm, or corporation to furnish any information requested by the Owner in verification of the recitals comprising this Statement of Vendor's Qualifications. _____

Name of Business

By: _____

Printed Name: _____

Title: _____

STATE OF: _____

COUNTY OF: _____

Sworn to (or affirmed) and subscribed before me this _____ day of _____, 20____, by _____ and who:

[Notary: Please select one]

☐ Is personally known to me; or

☐ Has produced _____ as identification.

Notary Public, State of: _____

Printed, typed or stamped name, commission and expiration:

This document must be completed and returned with your Submittal

FORM 7.8 – PROFESSIONAL REFERENCES FOR PREVIOUS EXPERIENCE

The Bidder proposes that he/she is qualified to perform the referenced work and has successfully done so on recent projects similar in nature and size. The City reserves the right to check references and confirm information provided herein.

Please provide three (3) current and correct references from clients for similar services.

(Do not include the City of Port Orange)

1. Company Name: _____
Contact Person: _____
City, State: _____
Telephone Number: _____
Email Address: _____
Description of goods or
Services provided: _____
Contract Amount: _____
Start/End Date of Contract: _____
2. Company Name: _____
Contact Person: _____
City, State: _____
Telephone Number: _____
Email Address: _____
Description of goods or
Services provided: _____
Contract Amount: _____
Start/End Date of Contract: _____
3. Company Name: _____
Contact Person: _____
City, State: _____
Telephone Number: _____
Email Address: _____
Description of goods or
Services provided: _____
Contract Amount: _____
Start/End Date of Contract: _____

This document must be completed and returned with your Submittal.

LISTING OF PREVIOUS EXPERIENCE

Commercial Client List

The Bidder proposes that he/she is qualified to perform the referenced work and has successfully done so on recent projects similar in nature and size. **A minimum of three (3) projects must be listed below.** The City reserves the right to check references and confirm information provided herein.

List all clients to whom you currently provide or have in the past provided goods or services equal or similar to those required under the City's contract and as outlined in this bid package. **A minimum of three (3) projects shall be listed below in order to bid on this contract.**

	Contact Name	Phone	Current Client? Y or N	Number of years service provided	Description of service
1					
2					
3					

This document must be completed and returned with your Submittal.

FORM 7.9 – LISTING OF SUBCONTRACTORS

The Bidder proposes that the following subcontractors are qualified to perform the referenced work and have successfully done so on recent projects similar in nature and size. All subcontractors whose work product accounts for 5% or more of the total contract value shall be listed. Upon approval of subcontractors listed, the successful Bidder shall not substitute subcontractors without approval from the City. Bidder shall attach additional sheets as necessary. **Please mark N/A for no subcontractors.**

Subcontractor No. 1

Name: _____

Description of Work: _____

Percent of Contract Price: _____

Previous Experience Together: Yes/No _____

Subcontractor No. 2

Name: _____

Description of Work: _____

Percent of Contract Price: _____

Previous Experience Together: Yes/No _____

Subcontractor No. 3

Name: _____

Description of Work: _____

Percent of Contract Price: _____

Previous Experience Together: Yes/No _____

Subcontractor No. 4

Name: _____

Description of Work: _____

Percent of Contract Price: _____

Previous Experience Together: Yes/No _____

Subcontractor No. 5

Name: _____

Description of Work: _____

Percent of Contract Price: _____

Previous Experience Together: Yes/No _____

This document must be completed and returned with your Submittal

FORM 7.10 - LOCAL BUSINESS AFFIDAVIT OF ELIGIBILITY

City of Port Orange

This declaration is executed under penalty of perjury of the laws to the United States and State of Florida

THIS AFFIDAVIT IS SUBMITTED IN REFERENCE TO THE FOLLOWING SOLICITATION:

RFSQ/RFP/ITN/BID/CONTRACT/PROJECT #(as applicable): _____

BUSINESS NAME: _____ CONTACT PERSON/TITLE: _____ MAILING ADDRESS: _____

CITY-STATE-ZIP: _____ Length of Time at Address Provided _____

Physical Presence of Business: ☐ Headquarters and/or ☐ Principal Place of Business

And within Legal Boundaries: ☐ City of Port Orange ☐ Volusia County ☐ State of Florida

FEIN (Federal Employer Identification Number): _____

BUSINESS STRUCTURE: ☐ Corporation ☐ LLC ☐ Partnership ☐ Sole Proprietorship

☐ Other (Specify): _____

PHONE NUMBER: _____ FAX: _____

EMAIL: _____

****Please attach a valid business tax receipt, or other such documentation****

ATTESTATION – I understand that:

- In accordance with City of Port Orange City Code 2-275, local businesses shall have five (5) business days from bid/proposal opening to submit a best and final bid for evaluation. To qualify: A Port Orange business initial bid must be within (8%) of the lowest and best responsible bid from a non-Port Orange business; A Volusia County business initial bid must be within (5%) of the lowest and best responsible bid from a non-Volusia County business; A State of Florida business initial bid must be within (3%) of the lowest and best responsible bid from a non-State of Florida business.
- A local business must have its headquarters and/or principal place of business located within the legal boundaries of the City of Port Orange, Volusia County, or the State of Florida, as indicated herein, for at least twelve (12) months prior to the bid or proposal opening date and a valid business license, issued by the corresponding government agency. Post office boxes are not verifiable and shall not be used for the purpose of establishing said physical address. Bidders shall attach to this affidavit of eligibility with a bid or proposal, a copy of a valid business tax receipt or such other documentation, to the city's satisfaction, demonstrating the physical business presence of the firm within corresponding local limits.
- The preference does not apply to goods or services exempted by statute or prohibited by Federal law, State law, or other funding source

As an authorized representative of the firm, I certify that this firm complies fully with the above requirements.

Name of Business

By: _____

Printed Name : _____

Title: _____

STATE OF _____

COUNTY OF _____

The foregoing instrument was acknowledged before me by means of _____ physical presence or _____ online notarization, this _____ day of _____, 20____, by _____, as _____ of _____, a _____. He or she is _____ personally known or _____ produced _____ as identification.

Notary Public, State of _____

Printed, typed or stamped name, commission and expiration:

This document must be completed and returned with your Submittal.

FORM 7.11 CITY OF PORT ORANGE CONTRACTOR E-VERIFY AFFIDAVIT

IN ACCORDANCE WITH SECTION 448.095, FLORIDA STATUTES

Project Name: _____

Solicitation Number: _____

I, the undersigned, hereby certify that _____ [insert contractor company name] does not employ, contract with, or subcontract with an unauthorized alien, and is otherwise in full compliance with Section 448.095, Florida Statutes.

Further, I certify all employees hired on or after January 1, 2021 have had their work authorization status verified through the E-Verify system. I acknowledge that it is my responsibility to insure full compliance with Section 448.095, Florida Statutes. I am aware enrollment in the E-Verify system for employers can be done at www.e-verify.gov.

A true and correct copy of _____ [insert contractor company name] proof of registration in the E-Verify system is attached to this Affidavit.

By affixing my signature below, I hereby affirm that I am duly authorized to bind the company reference herein and I will comply with all applicable E-Verify requirements.

(Print or Type Name, Title)

(Signature of Affiant)

(Federal Employer ID Number – FEIN)

(E-Verify Number)

STATE OF FLORIDA

COUNTY OF _____

The foregoing instrument was acknowledged before me by means of ☐ physical presence or ☐ online notarization, this ___ day of _____, 20____, by _____ as _____ of _____ on behalf of the company. He/she is personally known to me or has produced _____ (TYPE OF ID) as identification.

Notary Public, State of Florida at Large

Printed, typed or stamped name, commission and expiration of commission term

This document must be completed and returned with your Submittal

FORM 7.12 CERTIFICATION REGARDING DEBARMENT, SUSPENSION AND OTHER RESPONSIBILITY MATTERS
PRIMARY COVERED TRANSACTIONS
(TO BE COMPLETED BY PRIME CONTRACTOR)

1.The prospective primary participant certifies to the best of its knowledge and belief, that it and its principals:

(a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;

(b) Have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

(c) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph (1) (b) of this certification;

(d) Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State or local) terminated for cause or default.

2.Where the prospective primary participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

Organization Name

Bid Number or Project Name

Name(s) and Title(s) of Authorized Representatives

Signature

Date

This document must be completed and returned with your Submittal

BID COST/FEE PROPOSAL:

 (ATTACHMENT 1) ITB SCHEDULE OF UNIT PRICING BID FORM CITY OF PORT ORANGE ITB #21-17 Police Department Duct/HVAC Mold Remediation Completed (Attachment 1) ITB Schedule of Unit Pricing form MUST be included with Bid Submission Instruction to save Attachment from DemandStar website: Perform "File Save As" and save spreadsheet to your computer. Fill in pricing in highlighted cells, preferably electronically. Bidders are required to complete all fields shaded in green. All other fields will be automatically calculated. (ATTACHMENT 1) ITB SCHEDULE OF UNIT PRICING MUST BE SIGNED				
NAME OF BUSINESS:				
CONTACT PERSON:				
EMAIL ADDRESS:				
AUTHORIZED SIGNATURE:				
ALL UNIT PRICING IN ACCORDANCE WITH SECTION 3 SCOPE OF WORK/SPECIFICATIONS				
ITEM #	DESCRIPTION	QTY	UNIT	TOTAL BID PRICE
1	General demolition, hazardous material remediation, HVAC cleaning, water extraction and remediation of the Police Department building	1	LS	\$

This document must be completed and returned with your Submittal

[Remainder of this page left intentionally blank]

BID BOND

BID BOND

Bond No.:

KNOW ALL MEN BY THESE PRESENTS that _____, as Contractor, duly authorized to conduct business in the State of Florida, whose principal place of business is located at _____, Tel.: _____, (hereinafter called "PRINCIPAL"), and _____, as SURETY, duly authorized to conduct business in the State of Florida, whose principal place of business is located at _____, Tel.: _____ (hereinafter called "SURETY"), are held and firmly bound unto the City of Port Orange, Florida, as CITY, a Florida municipal corporation, whose address is City of Port Orange, 1000 City Center Circle, Port Orange, Florida 32129, Tel.: (386) 506-5501, (hereinafter called "OBLIGEE" or "CITY"), in the penal sum of _____ dollars and (____)/100 (\$____), lawful money of the United States, for the payment of which sum shall and truly be made, whereof PRINCIPAL and SURETY bind themselves, their heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

THE CONDITION OF THIS OBLIGATION IS SUCH that, whereas the Principal has submitted the accompanying bid, dated _____, 20____, for:

Project Name / Bid No.:

Project Address:

Legal Description:

Description of Work:

NOW, THEREFORE,

A. If the principal shall not withdraw said bid within one hundred twenty (120) days after date of opening of the same, and shall within ten (10) days after the prescribed forms are presented to it for signature, enter into a written contract with the City in accordance with the bid as accepted, and give bonds with good and sufficient surety or sureties, as may be required, for the faithful performance and proper fulfillment of such contract, then the above obligations shall be void and of no effect, otherwise to remain in full force and virtue.

B. In the event of the withdrawal of said bid within the period specified, or the failure to enter into such contract and give such bonds within the time specified, if the principal shall pay the City the difference between the amount specified in said bid and the amount for which the City may procure the required work and supplies, if the latter amount be in excess of the former, then the above obligations shall be void and of no effect, otherwise to remain in full force and virtue.

IN WITNESS WHEREOF, the above parties have executed this instrument under their several seals, this _____ day of _____, A.D. 20____, the name and corporate seal of each corporate party being hereto affixed and these presents duly signed by its undersigned representative, pursuant to authority of its governing body.

Note: If the firm is a sole ownership or partnership including limited liability company, two (2) witnesses are required to attest the signature. If the firm is a corporation, then the corporate secretary shall attest and affix the corporate seal (Attach power of attorney to original bid bond and financial statement of Surety Company).

PRINCIPAL:

Signature

Corporate Officer & Title

ATTEST:

Signature

Corporate Secretary (Affix Corporate Seal)

WITNESSES:

SURETY:

Attorney-in-Fact (signature)

Name & Title

Name of Local Resident Agent

City, State, Zip

Telephone:
A.M. Best No.: _____ NAIC No. : _____

ATTEST:

Signature

Corporate Secretary (Affix Corporate Seal)

STATE OF _____
COUNTY OF _____

Before me this day personally appeared _____ (affiant), who, being duly sworn, deposes and says that he/she is the Attorney-in-Fact for the _____ (corporate surety) and that this person has been authorized by _____ (corporate surety) to execute the forgoing bond on behalf of the Contractor named therein in favor of the City of Port Orange, Florida.

Signature of Affiant

Sworn to / Affirmed and subscribed before me this _____ day of _____, 20____, by _____, who is personally known to me or who produced _____ as identification.

NOTARY PUBLIC – STATE OF

Type or print name: _____

Commission No.: _____

Commission Expires: _____

(Seal)

.....
END OF BID BOND

This document must be completed and returned with your Submittal

FRONT PAGE FOR BOND REQUIRED BY SECTION 255.05, F.S.

PAYMENT AND PERFORMANCE BOND

(Public Works)

Notice and Time Limitations Must Be In Accordance
With Section 255.05(2), (8) and (10), Florida Statutes

BOND NO. _____

PRINCIPAL:

Developer or Contractor: _____

Principal Business Address: _____

Contact Person: _____

Phone Number: _____

SURETY:

Address: _____

Contact Person: _____

Phone Number: _____

OWNER:

City of Port Orange, Florida, a chartered municipal corporation

1000 City Center Circle

Port Orange, Florida 32129-4144

Contact Person: _____

City Manager

Phone Number: _____

(386) 506-5501

Amount: \$ _____

City Case/ ITB 21-17 Police Department Duct/HVAC Mold Remediation

Description of Work:

ITB 21-17 Police Department Duct/HVAC Mold Remediation

Project Location:

City of Port Police Department, 4545 Clyde Morris Blvd., Port Orange, Volusia County, Florida.

Legal Description:

Portions of Parcel ID #: 6307-00-00-0012.

See Attached **Exhibit "A"**

Front Page

All other pages are subsequent to this page regardless of any numbers that may be printed thereon.

**City of Port Orange Police Department
4545 Clyde Morris Boulevard, Port Orange, FL 32127**

Full Parcel ID:

07-16-33-00-00-0012

Short Parcel ID:

6307-00-00-0012

Legal Description:

A portion of the Parcel ID listed above.

EXHIBIT "A"

ITB 21-17 PD Duct/HVAC Mold Remediation

Bond No. _____

**COMBINATION PAYMENT AND PERFORMANCE BOND
FOR
PUBLIC CONSTRUCTION**

per Section 255.05, Florida Statutes
Guaranty for Construction of Public Improvements

BY THIS BOND, We, _____, as Principal, and _____, a corporation, as Surety, are bound to **CITY OF PORT ORANGE, FLORIDA**, a Florida municipal corporation, herein called "Owner" or sometimes referred to as "City," in the sum of _____ **AND /100 DOLLARS (\$_____)**, for payment of which we bind ourselves, our heirs, personal representatives, successors, and assigns, jointly and severally.

THE CONDITION OF THIS BOND is that if Principal:

1. Performs the terms of that certain Standard Contract for Services, having an effective date of _____, entered into by and between the Principal and the City, for Police Department Duct/HVAC Mold Remediation, hereinafter referred to as the "Contract," being made a part of this bond by reference, at the times and in the manner prescribed in the Contract; and
2. Promptly makes payments to all claimants, as defined in Section 255.05(1), Florida Statutes, supplying Principal with labor, materials, or supplies, used directly or indirectly by Principal in the prosecution of the work provided for in the Contract (the "Work"); and
3. Pays Owner all losses, damages, delay damages (including contractually authorized liquidated damages), expenses, costs, and attorney's fees, including appellate proceedings, that Owner sustains because of a breach or material breach by Principal under the Contract documents; and
4. Performs the guarantee of all work and materials furnished under the Contract for the time specified in the Contract, then this bond is void; otherwise it remains in full force.

Notice of Nonpayment and Time Limitations

Any action instituted by a claimant under this bond for payment must be in accordance with the notice and time limitation provisions in Sections 255.05(2), (8) and (10), Florida Statutes.

Any changes in or under the contract documents and compliance or noncompliance with any formalities connected with the contract or the changes does not affect Surety's obligation under this bond.

IN WITNESS WHEREOF, this performance and payment bond is executed and shall be deemed an original, this _____, day of _____, 20__.

Attest:

(Principal)

(As to Corporate Principal) Secretary

By: _____
Anthony Gregg Pifer, President

(Witness to Principal)

(Corporate Seal)

(Surety)

(Witness to Surety)

By: _____
Name: _____
(Attorney-in-Fact)

(Corporate Seal)

NOTE: Date of BOND must not be prior to date of Contract. If Developer/Principal is Partnership, all partners should execute BOND. All BONDS signed by an agent must be accompanied by a certified copy of the authority to act.

IMPORTANT: Surety companies executing BONDS must appear on the Treasury Department's most current list (Circular 570 as amended) and be authorized to transact business in the State of Florida.

This certificate must be completed and returned by the Awarded Vendor, upon issuance of a Notice of Intent to Award by the Purchasing Department of the City of Port Orange. Please note, the City of Port Orange does not accept exemptions for Workers' Compensation coverage.

LEASED EMPLOYEE AFFIDAVIT

EXHIBIT CONTRACT # _____

☐ I hereby certify that I do not utilize an employee leasing company or employee leased employees. I further agree to notify the City in the event these circumstances change.

OR

☐ I affirm that an employee leasing company provides my workers' compensation coverage. I further understand that my contract with the employee leasing company limits my workers' compensation coverage to enrolled worksite employees only. My leasing arrangement does not cover un-enrolled worksite employees, independent contractors, uninsured sub-contractors or casual labor exposure.

I hereby certify that 100% of my workers are covered as worksite employees with the employee leasing company. I certify that I do not hire any casual or uninsured labor outside the employee leasing arrangement. I agree to notify the City in the event that I have any workers not covered by the employee leasing workers' compensation policy. In the event that I have any workers not subject to the employee leasing arrangement, I agree to obtain a separate workers' compensation policy to cover these workers. I further agree to provide the City with a certificate of insurance providing proof of workers' compensation coverage prior to these workers entering any City jobsite.

I further agree to notify the City if my employee leasing arrangement terminates with the employee leasing company and I understand that I am required to furnish proof of replacement workers' compensation coverage prior to the termination of the employee leasing arrangement.

I certify that I have workers' compensation coverage for all of my workers through the employee leasing arrangement specified below:

Name of Employee Leasing Company: _____

Workers' Compensation Carrier: _____

A.M. Best Rating of Carrier: _____

Inception Date of Leasing Arrangement: _____

I further agree to notify the City in the event that I switch employee-leasing companies. I recognize that I have an obligation to supply an updated workers' compensation certificate to the City that documents the change of carrier.

I hereby attest that the information provided in this affidavit is accurate. In addition,

I certify that I have read and understand the above statements regarding my responsibility under the Workers' Compensation coverage.

Name of Contractor: _____

Signature of Owner/Officer: _____

Title: _____ **Date:** _____

AFFIDAVIT REGARDING WORKERS' COMPENSATION

IMPORTANT

This certificate must be completed and returned by the Awarded Vendor, upon issuance of a Notice of Intent to Award by the Purchasing Department of the City of Port Orange. Please note, the City of Port Orange does not accept exemptions for Workers' Compensation coverage.

State of _____

County of _____

I, _____, being duly sworn according to law, deposes and says (it, he, she, they) have accepted the Workers' Compensation laws of the State of Florida, with its supplements and amendments and has insured (its, his, her, their) liability there under accordance with the terms of said Laws with the _____ Company, under the terms of Policy Number _____ for a period from _____, 20__ to _____, 20__.

WITNESS:

By: _____

Name: _____

CONTRACTOR:

Company: _____

By: _____

Name/Title: _____

Sworn to and subscribed before me this _____ day of __, 20__.

My Commission Expires: _____

Notary Public

Notary Public Printed Name



CITY OF PORT ORANGE STANDARD CONTRACT FOR SERVICES

This Standard Contract for Services ("Contract") is entered into this ____ day of _____, 20____, by and between the **CITY OF PORT ORANGE**, a Florida municipal corporation, whose principal address is 1000 City Center Circle, Port Orange, Florida 32129 (the "City"), and _____, a _____ corporation whose principal address is _____ ("Contractor"). The City and Contractor are collectively referred to herein as the "Parties."

1. Provision of Services

(a) The Contractor hereby agrees to provide Police Department Duct/HVAC Mold Remediation Services, and as more specifically described in Intent to Bid 21-17 ("ITB 21-17"). This Contract together with ITB 21-17, Addenda, and Contractor's proposal, all of which may be referred to as the "Contract" and all of which are made a part hereof by reference shall constitute the formal written Contract between the City and Contractor. For convenience, Section 3, Scope of Services, of ITB 21-17 and the Bid Tabulation as submitted by Contractor in Contractor's Proposal are attached hereto as Exhibit "1." A complete copy of ITB 21-17 is available in the Office of the City Clerk. Contractor represents that they are familiar with the documents that make up the Contract, as referenced hereinabove.

(b) The time, manner and place for performance of such services shall be:

Term: This Contract shall become effective on the last date the Contract is signed by the Parties ("Effective Date"). Work shall commence upon issuance of a written Notice to Proceed executed by the City and shall be substantially complete within Ninety (90) days and final completion Thirty (30) days thereafter ("Term").

Manner and Place: The work shall be in accordance with and in a manner as required by all current federal, state, county, fire, building and land development codes, laws, ordinances and regulations, and with applicable permits and licenses per the City Code of Ordinances.

Time and Essence: Contractor acknowledges that time is of the essence for this Contract.

Authorization for Services: This Contract standing alone does not authorize the purchase of any goods or services or require the City to place any orders for goods or service. Authorization for the purchase of goods or services from Contractor under this Contract shall be upon issuance of a Notice to Proceed and a written Purchase Order issued and executed by the City Manager. The City reserves the right to contract with other parties for the goods and services contemplated by this Contract, as determined in the City's sole and absolute discretion.

2. City Obligations. In return for the services identified above, the City agrees to compensate Contractor at the prices set forth in Exhibit "1" attached hereto, subject to a limit up to but not to exceed ____/100 Dollars (\$____). All payments shall be governed by the Local Government Prompt Payment Act as set forth in Sections 218.70 through 218.79, Florida Statutes, as amended.

3. Contract Documents. The following forms, attached as Exhibit "2," are an integral part of this Contract and must be completed, signed, witnessed and notarized as indicated and returned with the signed Contract:

- (a) Front Page for Bond (F.S. § 255.05)
- (b) Combination Payment and Performance Bond (F.S. § 255.05)

4. Contract Administration. The Public Works and Utilities Director, Lynn Stevens, shall perform contract administration of this Contract. The City may change the contract administrator, from time to time and at any time, upon written notice to Contractor. For notice provisions, see the paragraph below entitled "Notice."

5. Liens. Contractor acknowledges that Contractor shall not be entitled to lien the City or other public property.

6. Termination for Convenience of the City

(a) The parties agree that the City may terminate this Contract, or any work or delivery required hereunder, from time to time either in whole or part, whenever the City Manager of Port Orange shall determine that such termination is in the best interest of the City.

(b) Termination, in whole or in part, shall be effected by delivery of a Notice of Termination signed by the City Manager or his designee, mailed or delivered to the Contractor, and specifically setting forth the effective date of termination.

(c) Upon receipt of such Notice, the Contractor shall:

- (i) cease any further deliveries or work due under this Contract, on the date, and to the extent, which may be specified in the Notice;
- (ii) place no further orders with any subcontractors except as may be necessary to perform that portion of this Contract not subject to the Notice;
- (iii) terminate all subcontracts except those made with respect to contract performance not subject to the Notice;
- (iv) settle all outstanding liabilities and claims which may arise out of such termination, with the ratification of the Finance Director of Port Orange; and
- (v) use best efforts to mitigate any damages which may be sustained by the Contractor as a consequence of termination under this clause.

(d) After complying with the provisions of subparagraph (c), above, the Contractor shall submit a termination claim, in no event later than six (6) months after the effective date of termination, unless one or more extensions of three (3) months each are granted by the Finance Director.

(e) The Finance Director, with the approval of the City Manager, shall pay from the using department's budget, reasonable costs of termination, including a reasonable amount for profit on supplies or services delivered or work completed. In no event shall this amount be greater than the original contract price, reduced by any payments made prior to Notice of Termination, and further reduced by the price of the supplies not delivered or the services not provided. This Contract shall be amended accordingly, and the Contractor shall be paid the agreed amount.

(f) In the event that the parties cannot agree on the whole amount to be paid to the Contractor by reason of termination under this clause, the Finance Director shall pay the Contractor the amounts determined as follows, without duplicating any amounts which may have already been paid under the preceding paragraph of this clause:

- (i) With respect to all Contract performance prior to the effective date of Notice of Termination, the total of:
 - (1) the cost of work performed or supplies delivered;
 - (2) the cost of settling and paying any reasonable claims as provided in paragraph (c) (iv), above;
 - (3) a sum as profit on (a) determined by the Finance Director to be fair and reasonable.
- (ii) The total sum to be paid under (i) above shall not exceed the contract price, as further reduced by the contract price of work or supplies not terminated.

(g) In the event that the Contractor is not satisfied with any payments which the Finance Director shall determine to be due under this clause, the Contractor may appeal any claim to the City Council in accordance with Paragraph 23 of this contract concerning disputes.

7. Termination for Convenience for Subcontractors. In accordance with the termination for the convenience of the City provision of this contract, the Contractor shall include similar provisions in any subcontract, and shall specifically include a requirement that subcontractors make all reasonable efforts to mitigate damages which may be suffered. Failure to include such provisions shall bar the Contractor from any recovery from the City whatsoever of loss or damage sustained by a subcontractor as a consequence of termination for convenience.

8. Termination for Default. Either party may terminate this Contract, without further obligation, for the default of the other party or its agents or employees with respect to any agreement or provision contained herein. In the event of default by the contractor, the City reserves the right to procure the item(s) bid from other sources and holds the bidder responsible for excess costs incurred as a result. City Council may elect to refrain from doing business with the bidder as stipulated in City Code 2-276 Suspension and Disbarment.

9. Examination of Records

(a) The Contractor agrees that the City, or any duly authorized representative, shall, until the expiration of five (5) years after final payment hereunder, have access to and the right to examine and copy any pertinent books, documents, papers and records of the Contractor involving transactions related to this Contract.

(b) The Contractor further agrees to include in any subcontract for more than \$10,000 entered into as a result of this Contract, a provision to the effect that the subcontractor agrees that the City or any duly authorized representative shall, until the expiration of five (5) years after final payment under the subcontract, have access to and the right to examine and copy any pertinent books, documents, papers and records of such contractor involved in transactions related to such subcontract, or this Contract. The term subcontract as used herein shall exclude purchase orders for public utility services at rates established for uniform applicability to the general public.

(c) The period of access provided in subparagraphs (a) and (b) above for records, books, documents and papers which may relate to any arbitration, litigation, or the settlement of claims arising out of the performance of this contract or any subcontract shall continue until any appeals, arbitration, litigation or claims shall have been finally disposed of.

10. Public Records Compliance. Contractor shall comply with public records laws as set forth in Chapter 119, Florida Statutes, and shall specifically:

- (a) Keep and maintain public records required by the City to perform the service.

(b) Upon request from the City's custodian of public records, provide the City with a copy of the requested record or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in Section 119, Florida Statutes, or as otherwise provided by law.

(c) Ensure that public records that are exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the Contract term and following completion of the Contract if the Contractor does not transfer the records to the City.

(d) Upon completion of the Contract, Contractor shall transfer to the City, at no cost, all public records in possession of the Contractor and destroy any duplicate public records that are exempt from public records disclosure requirements. All records stored electronically must be provided to the City, upon request from the City's custodian of public records, in a format that is compatible with the information technology systems of the City.

If Contractor does not comply with a public records request, the City shall deem the non-compliance a breach of this Contract, and the Contractor may be subject to penalties under Section 119.0701, Florida Statutes.

CONTRACTOR QUESTIONS RELATING TO CONTRACTOR'S DUTIES TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT MUST BE FORWARDED TO THE OFFICE OF THE CITY CLERK, CITY HALL, 1000 CITY CENTER CIRCLE, PORT ORANGE, FLORIDA 32129; TELEPHONE: (386) 506-5563; E-MAIL: CITYCLERK@PORT-ORANGE.ORG.

11. Termination for Non-Appropriation of Funds

(a) If funds are not appropriated for any succeeding fiscal years subsequent to the one in which this contract is entered into, for the purpose of this Contract, then the City may terminate this Contract upon thirty (30) days prior written notice to the Contractor. Should termination be accomplished in accordance with this Section, the City shall be liable only for payments due through the date of termination.

(b) The City agrees that should it terminate in accordance with this Section, it shall not obtain services which are substantially equal to or similar to those for which this contract was entered into. This provision shall survive any termination of the Contract.

12. Insurance. Contractor shall maintain insurance, as required herein, during the life of this Contract. Contractor shall provide to the City, a certificate of insurance endorsing the City of Port Orange as an additional named insured. All insurance coverages of the Contractor shall be primary and non-contributory. All insurance coverages of the Contractor shall not seek contribution from any other insurance or self-insurance available to the City. For workers' compensation coverage, the Contractor's insurance certificate shall include the insurer's waiver of subrogation in lieu of endorsing the City as an additional insured for workers' compensation. The City shall not accept Workers' Compensation Exemptions. Contractor may use leased employees if the Contractor ensures that all workers who access the jobsite are employees covered by the employee leasing company, and no non-employees are permitted to access the jobsite. Any Contractor using a leased employee shall complete the City's Leased Employee Affidavit Exhibit Form. Policies for Workers' Compensation may be issued by companies authorized as a group self-insurer by F.S. 440.572.

Policies other than Workers' Compensation shall be issued by insurers licensed and/or duly authorized under Florida Law to do business in the State of Florida and all insuring companies are required to have a minimum rating of "A-" in the "Best Key Rating Guide" published by A.M. Best & Company, Inc. Contractor shall not commence work under this Contract until the City has received a certificate or certificates of insurance with endorsement evidencing the required insurance. Insurer shall provide the City written notice of cancellation, nonrenewal or any other changes in coverage no later than thirty (30) days prior to the effective date of the change and shall provide notice to the City

no later than 10 days after non-payment. The Certificates of Insurance and required insurance policies shall contain provisions that thirty (30) days prior written notice shall be given to the City of any cancellation, intent not to renew, or reduction in the policies or coverages.

Contractor shall require and ensure each of its subcontractors to maintain, until the completion of the subcontractor's work, insurance of the types and to the limits set forth herein. All insurance coverages shall be primary and non-contributory. All insurance coverages of the subcontractors shall not seek contribution from any other insurance or self-insurance available to the City. The Contractor is responsible for ensuring that its subcontractors maintain the required coverage. Failure of the Contractor to ensure the subcontractors maintain the required coverage, shall not relieve the Contractor of any contractual responsibility, obligation or liability.

The City reserves the right to increase insurance coverage as determined for higher risk contracts.

The acceptance by the City of any Certificate of Insurance does not constitute approval or agreement by the City that the insurance requirements have been satisfied or that the insurance policy shown on the Certificate of Insurance is in compliance with this Contract and does not waive the insurance required by this Contract.

Should at any time the Contractor or subcontractors not maintain the insurance coverages required herein, the City may terminate the Contract or at its sole discretion shall be authorized to purchase such coverages and charge the Contractor for such coverages purchased. The City shall be under no obligation to purchase such insurance, nor shall it be responsible for the coverages purchased or the insurance company or companies used. The decision of the City to purchase such insurance coverages shall in no way be construed to be a waiver of any of its rights under the Contract.

Standard Insurance Requirements											
	Insurance	Standards	Additional Requirements								
☒	<u>Workers' Compensation</u> The Contractor shall maintain coverage for its employees with statutory workers' compensation limits, and no less than the limits indicated in the Schedule of Limits for Employers' Liability. Said coverage shall include a waiver of subrogation in favor of the City. The City will not accept elective exemptions. Any contractor using an employee leasing company shall complete the Leased Employee Affidavit (Exhibit A).	<table><tr><td><u>Contract Amount</u></td><td><u>Limits</u></td></tr><tr><td>Up to \$10 million</td><td>Statutory/\$500,000</td></tr><tr><td>\$10 - \$20 million</td><td>Statutory/\$1,000,000</td></tr><tr><td colspan="2">Contracts over \$20 million To Be Determined by the City.</td></tr></table>	<u>Contract Amount</u>	<u>Limits</u>	Up to \$10 million	Statutory/\$500,000	\$10 - \$20 million	Statutory/\$1,000,000	Contracts over \$20 million To Be Determined by the City.		☐ If Contract requires work on or about navigable waters, Longshoreman's and Harbor Workers' Coverage required. ☐ If vessels involved, Jones Act coverage with limits of \$500,000 required.
<u>Contract Amount</u>	<u>Limits</u>										
Up to \$10 million	Statutory/\$500,000										
\$10 - \$20 million	Statutory/\$1,000,000										
Contracts over \$20 million To Be Determined by the City.											
☒	Comprehensive General Liability (including Completed Operations and Contractual Liability)	<u>Limits:</u> Combined Single Limit Bodily Injury and Property damage \$1,000,000 occurrence \$1,000,000 aggregate	☐ When work is on or under Railroad rights of way or properties, the Contractor shall take out and maintain during the life of the Contract, Railroad protective liability and property damage insurance in amounts as requested by the Railroad.								

☒	Comprehensive Business, Automobile Liability to include all owned, hired and non-owned automobiles.	Limits: Auto Liability Body Injury and Property Damage: \$1,000,000 each occurrence \$1,000,000 aggregate	
Additional Insurance Requirements			
☐	Property Insurance Builders Risk. <u>Additional Coverage:</u>	Limits: Buildings - Completed value of Contract. "All Risk" coverage on latest ISO for or its equivalent. Permission granted to occupy. Owner named as insured AIMA	If Agreement requires handling or installation of Owner's equipment, coverage should be furnished on "All Risk" form, including transit and Owner shall be named.
☐	Professional Liability	Limits: Coverage - \$1,000,000	
☐	Installation Floater (IT)	Limits: Coverage - \$ <u>To be determined.</u>	
☒	Contractor Pollution Liability	Limits: Coverage - \$1,000,000	
☐	Errors and Omissions	Limits: Coverage - \$1,000,000	
☐	Umbrella Policy	Limits: Coverage - \$ <u>To be determined.</u>	
☒	Payment and Performance Bond Required	Limits: Coverage - Equal to amount of Contract.	
☐	City Manager waives Payment and Performance Bond for work under \$25,000.00.		
☐	Unless otherwise required by law, City Manager waives Insurance for FOB goods under \$25,000.00.		

13. A Contract for the purchase of supplies shall be governed by the City of Port Orange Code of Ordinances, as amended, and such supplies shall be deemed "goods," as defined therein.

14. Assignability of Contract. Neither this contract, nor any part hereof, may be assigned by the Contractor to any other party without the express written approval of the City Council.

15. Modifications or Changes to this Contract

(a) Change Orders. The Department Head, with the concurrence of the City's signatory as required by the City's Purchasing Policy, shall without notice to any sureties, have the authority to order changes in this Contract which affect the cost or time of performance. Such changes shall be ordered in writing specifically designated to be a change order. Such orders shall be limited to reasonable changes in the services to be performed or the time of the performance. The City will not be held liable for any changes which have not been properly authorized and approved in accordance with this Contract.

(b) If any change under this clause causes an increase or decrease in Contractor's cost of, or time required for the performance of the work hereunder, Contractor shall receive an equitable adjustment in accordance with subparagraph (d), which shall include all compensation to the Contractor, or the City, of any kind in connection with such change, including all costs and damages related to or incidental to such change.

(c) Contractor need not perform any work described in any change order unless it has received a certification from the City that there are funds budgeted and appropriated sufficient to cover the cost of such changes.

(d) No claim for changes ordered hereunder shall be considered if made after final payment in accordance with the Contract.

16. Sovereign Immunity. The City expressly retains all rights, benefits and immunities of sovereign immunity in accordance with Section 768.28, Florida Statutes. Notwithstanding anything set forth in any section of this Contract

to the contrary, nothing in this Contract shall be deemed as a waiver of immunity or limits of liability of the City beyond any statutory limited waiver of immunity or limits of liability which may have been adopted by the Florida Legislature or may be adopted by the Florida Legislature and the cap on the amount and liability of the City for damages regardless of the number or nature of claims in tort or equity shall not exceed the dollar amount set by the legislature for tort. Nothing in this Contract shall inure to the benefit of any third party for the purpose of allowing any claim against the City which would otherwise be barred under the Doctrine of Sovereign Immunity or operation of law.

17. Warranties. Contractor warrants that (1) the supplies to be provided to the City pursuant to this Contract are fit and sufficient for the purpose intended; (2) the supplies are merchantable, of good quality, and free from defects, whether patent or latent, in material or workmanship, and (3) the supplies sold to the City pursuant to this Contract conform to the standards required by this Contract.

Contractor further warrants that Contractor has title to the supplies provided, and that the supplies are free and clear of all liens encumbrances, and security interests. All warranties made in this Contract, together with service warranties and guarantees, shall run to the City and its successors and assigns.

18. Additional Warranties. Contractor further expressly warrants that materials and workmanship are warranted from defect for a one-year period. This is a minimum acceptable warranty.

19. Additional Bond Security. If any surety bond furnished in connection with this Contract becomes unacceptable to the City, Contractor shall promptly furnish such additional security as may be required from time to time to protect the interests of the City and a person supplying labor and materials in the prosecution of work contemplated by this Contract. Contractor expressly acknowledges that if the work to be performed hereunder is a public work, a Payment and Performance Bond, in accordance with Florida Statutes Section 255.05, in a form acceptable to the City, shall be provided and recorded with the Clerk of Volusia County at Contractors expense.

20. Inspection

(a) All supplies (which term throughout this clause includes without limitation raw materials, components, intermediate assemblies, and their products) shall be subject to inspection and test by the City, to the extent practicable at all times and places including the place of manufacturer, and in any event prior to acceptance.

(b) In the event any supplies or lots of supplies are defective in material or workmanship, or otherwise not in conformity with the requirements of this Contract, the City shall have the right either to reject them (with or without instructions as to their disposition) or to require their correction. Supplies or lots of supplies which have been rejected or required to be corrected shall be removed or, if permitted or required by the Finance Director, corrected in place by and at the expense of Contractor promptly after notice, and shall not thereafter be tendered for acceptance unless the former rejection or requirement of correction is disclosed. If Contractor fails promptly to remove such supplies or lots of supplies which are required to be removed or promptly to replace or correct such supplies or lots of supplies, the City may either (i) by contract or otherwise replace or correct such supplies and charge Contractor the cost for such replacement or correction; or (ii) may terminate this Contract for default as provided in the clause of this Contract entitled "Termination for Default." Unless Contractor corrects or replaces such supplies within the delivery schedule, the Finance Director may require the delivery of such supplies at a reduction in price, which is equitable under the circumstances. Acceptance or rejection of the supplies shall be made as promptly as practicable after delivery, except as otherwise provided in this Contract. Failure to inspect and accept or reject supplies shall neither relieve Contractor from responsibility for such supplies as are not in accordance with the Contract requirements nor impose liability on the City therefor.

(c) The inspection and test by the City of any supplies or lots thereof does not relieve Contractor from any responsibility regarding defects or other failures to meet the Contract requirements, which may be discovered

prior to acceptance. Except as otherwise provided in this Contract, acceptance shall be conclusive except as regards latent defects, fraud, or such gross mistakes as amount to fraud.

21. Liability for Loss or Damage.

(a) Contractor shall be liable for any loss of, or damage to, City property caused by the negligence, recklessness, or intended wrongful misconduct of Contractor, his/its agents, servants and employees and shall indemnify and save the City harmless against all actions, proceedings, claims, demands, costs, damages and expenses, including attorney's fees, by reason of any suit or action brought for any actual or alleged injury to or death of any person or damage to property other than City property, resulting from the performance of the Contract by Contractor, his/its agents, servants and employees. Contractor shall submit a full written report to the Finance Director within twenty-four (24) hours following the occurrence of such damage, loss or injury.

(b) To the fullest extent permitted by law, in addition to the express duty to indemnify City when there is any causal connection between Contractor's work and any injury, loss, damage, death or property damage, Contractor expressly undertakes a duty to defend City as a separate duty, independent of and broader than the duty to indemnify. The duty to defend agreed to by Contractor hereby expressly include all costs of litigation, attorney's fees, settlement costs and reasonable expenses in connection with the litigation, whether or not the claims made for loss, injury, damage or property damage are valid or groundless and regardless of whether the defense of City is maintained by the City or assumed by Contractor as long as the claims made could be causally connected to Contractor as reasonable determined by City.

22. Non-discrimination. During the performance of this Contract, Contractor agrees as follows:

(a) Contractor will not discriminate against any employee or applicant for employment because of race, religion, color, sex, disability, marital status, age or national origin, except where such is a bona-fide occupational qualification reasonably necessary to the normal operation of Contractor. Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this non-discrimination clause. Contractor agrees and fully supports and complies with the Americans with Disabilities Act of 1990.

(b) Contractor shall state in all solicitations or advertisements for employees placed by or on behalf of Contractor that Contractor is an equal opportunity employer.

(c) Notices, advertisements and solicitations placed in accordance with federal law, rule or regulation shall be deemed sufficient compliance with this provision. Contractor shall include the provisions of the foregoing subparagraphs (a), (b), and (c) in every subcontract or purchase order of over \$10,000 so that the provisions will be binding upon each subcontractor or vendor.

23. Disputes. The City Manager, who shall reduce his decision to writing and mail or otherwise furnish a copy thereof to Contractor, shall decide disputes with respect to this Agreement. The decision by the City Manager shall be final and binding unless, within five (5) business days from the date of delivery of the decision of the City Manager, appeal is made to the City Council in writing and delivered to the City Clerk, Robin L. Fenwick, MMC. The decision of the City Council shall be final and binding unless set aside by a court of competent jurisdiction as fraudulent, capricious, arbitrary, or so grossly erroneous as necessary to imply bad faith, or not to be supported by any evidence.

24. Force Majeure. Neither party shall be liable for any delay in performance or failure to perform any obligation hereunder if, and to the extent that, such failure or delay is caused by an event of Force Majeure. Force Majeure shall mean any act, event or condition that is beyond the party's reasonable control, that materially and adversely

affects the party's ability to perform its obligations hereunder, and that is not the result of the party's willful neglect, error, omission or failure to exercise reasonable due diligence.

25. Controlling Law. **THIS AGREEMENT CONTAINS IMPORTANT MATTERS AFFECTING LEGAL RIGHTS AND IS ACCEPTED AND ENTERED INTO IN FLORIDA AND ANY QUESTION REGARDING ITS VALIDITY, CONSTRUCTION, ENFORCEMENT, OR PERFORMANCE SHALL BE GOVERNED BY FLORIDA LAW. ANY LEGAL PROCEEDING ARISING FROM OR IN ANY WAY REGARDING THE AGREEMENT SHALL HAVE ITS VENUE LOCATED EXCLUSIVELY IN THE CIRCUIT COURT OF VOLUSIA COUNTY, FLORIDA, AND THE PARTIES HEREBY EXPRESSLY CONSENT AND SUBMIT THEMSELVES TO THE PERSONAL JURISDICTION AND VENUE OF THE COURT.**

26. Additional Provisions. This Contract includes all additional provisions as may have been outlined in written quotes and purchase orders and any attachments or exhibits to this Contract whether delivered herewith or subsequently approved as a part hereof, such as drawings or technical specifications prepared in the performance of this work. In the event of a conflict between any attachments or exhibits to this Contract, and this Contract, the language of this Contract shall control.

27. Integration. This Contract and the documents incorporated herein by reference shall constitute the whole agreement between the parties. There are no promises, terms, conditions, or obligations other than those contained herein, and this Contract shall supersede all previous communications, representations, or agreements, written or verbal, between the parties hereto.

28. Notice. For purposes of this agreement, notices shall be sent as follows:

City: City of Port Orange
Attention: City Manager
1000 City Center Circle
Port Orange, Florida 32129
(386) 506-5501

Copy to: City of Port Orange
Attention: Lynn Stevens, Public Works and Utilities Director
1000 City Center Circle
Port Orange, Florida 32129
(386) 506-5575

Contractor: _____
Attention: _____, President

() - Telephone
() - Facsimile
_____ @ _____ - E-Mail

Any notice or other communication given under the Contract will be in writing and delivered by hand, sent by facsimile (provided acknowledgement of receipt thereof is delivered to the sender), sent by certified, registered mail, or sent by any nationally recognized overnight courier service to the addresses provided herein. The parties may,

from time to time and at any time, change their respective addresses and each will have the right to specify as its address any other address by at least 10 days written notice to the other party.

29. Contract Construction

This Agreement may be executed in one or more counterparts, each of which shall be deemed to be an original but all of which together shall constitute one and the same instrument. The delivery by facsimile or e-mail of an executed copy of this Agreement shall be deemed valid as if an original signature was delivered. No contract shall be formed between Contractor and the City until the City signs this Agreement.

30. Authority to Sign. Each person signing this Agreement warrants that he or she is duly authorized to do so and to bind the respective party to the Agreement.

[Remainder of this page intentionally left blank]

Witnesses:

Printed Name: _____

By: _____

_____, President

If this Contract is signed by an individual not identified as the President of the corporation in the records of the Florida Department of State, Division of Corporations, please provide written authorization for that individual to enter into contracts on behalf of the corporation.

Printed Name: _____

Date: _____

STATE OF _____
COUNTY OF _____

The foregoing instrument was acknowledged before me by means of ____ physical presence or ____ online notarization, this ____ day of _____, 20__, by _____, as President of _____, a _____ corporation. He/She is ____ personally known or ____ produced _____ as identification.

Notary Public, State of _____

Printed, typed or stamped name, commission and expiration:

Witnesses:

CITY OF PORT ORANGE

Printed Name: _____

By: _____
Donald O. Burnette, Mayor

Printed Name: _____

Date: _____

STATE OF FLORIDA
COUNTY OF VOLUSIA

The foregoing instrument was acknowledged before me by means of ____ physical presence or ____ online notarization, this ____ day of _____, 20__, by Donald O. Burnette, as Mayor, of the City of Port Orange, a Florida municipal corporation, on behalf of the city. He is ____ personally known or ____ produced _____ as identification.

Notary Public, State of Florida

Printed, typed or stamped name, commission and expiration:

Witnesses:

ATTEST:

Printed Name: _____

By: _____
Robin L. Fenwick, MMC, City Clerk

Printed Name: _____

Date: _____

STATE OF FLORIDA
COUNTY OF VOLUSIA

The foregoing instrument was acknowledged before me, by means of ____ physical presence or ____ online notarization, this ____ day of _____, 20__, by Robin L. Fenwick, as City Clerk of the City of Port Orange, a Florida municipal corporation, on behalf of the city. He is ____ personally known or ____ produced _____ as identification.

Notary Public, State of Florida

Printed, typed or stamped name, commission and expiration:



End of Solicitation Documents



CITY OF PORT ORANGE

PURCHASING DIVISION
1000 CITY CENTER CIRCLE
PORT ORANGE, FLORIDA 32129
TELEPHONE 386-506-5717

purchdiv@port-orange.org

ADDENDUM # 1

December 16, 2021

ITB #21-17 POLICE DEPARTMENT DUCT/HVAC MOLD REMEDIATION

To All Bidders:

The following changes, clarifications and additions are hereby made part of the bidding and specifications for the above referenced project dated November 24, 2021 and prepared by the City of Port Orange Purchasing Division as fully and completely as if the same were fully set forth therein. It is the sole responsibility of bidder to confirm that all addenda have been received prior to submitting bid and acknowledge such in the bid documents.

A. **CHANGES TO SPECIFICATIONS:**

None

B. **QUESTIONS AND ANSWERS:**

None

C. **CLARIFICATIONS:**

The report attached herein contains testing and lab results for the affected and unaffected areas of the building. The Remediation Protocol contained in this report shall not be considered as an extension of the Scope of Work, however it can be used by the bidder as supplemental information as best practices protocol.

[Remainder of page left intentionally blank]



226 North Nova Road, Suite 332
Ormond Beach, Florida 32174
Toll Free: (855) 375-ENVR (3687)
Cell: (386) 627-5864
assignments@ace-envr.com

IAQ/Mold Inspection Report Mold Assessment Evaluation



Facility:
Port Orange Police Department
4545 Clyde Morris Boulevard
Port Orange, Florida 32129
Job #: 2020-11-005
November 6, 2020

Prepared for:
First Response Disaster Team

Action Consulting & Environmental Services
 226 North Nova Road, Suite 332
 Ormond Beach, Florida 32174
 Toll Free: 855-375-3687 (ENVR)
 assignments@ace-envr.com



Date: November 6, 2020

Prepared For: First Response Disaster Team
 Attention: Mr. Ken Poulin
 Email: ken@thedisasterteam.com

Re: Port Orange Police Department
 4545 Clyde Morris Boulevard
 Port Orange, Florida 32129

Dear Mr. Poulin,

The following pertains to a mold inspection for the facility located at 4545 Clyde Morris Boulevard, Port Orange, Florida 32129. Please note, the recommendations contained herein are based upon the information made available to us during our site inspection and the analytical test results obtained from the assessment conducted on Thursday, November 5, 2020.

Conditions of air quality change day to day due to various seen and unseen circumstances, therefore the recommendations set forth in this report are limited to the information relied upon at the time the report was prepared.

Enclosed you will find the mold assessment report for the above referenced facility. We are eager to help you address the issues we have summarized to provide you options to expedite a solution.

Respectfully submitted,

Holly Burns
 Environmental Consultant
NORMI™ Certified IAQ/Mold Inspector
IICRC: WRT, ASD, AMRT, OCT, FSRT, CCT, RRT, UFT
IICRC Master Water Restorer
Florida State Mold Remediator - MRSR 423
Florida State Certified Mold Assessor - MRSA 1811
Florida State Certified Residential Contractor – CRC1328897



EXECUTIVE SUMMARY

ACE visually inspected the exterior and interior of the facility and reports the following information considered to be pertinent to develop a clear IAQ/Mold Profile of the Facility's indoor environment. While certain conclusions may be drawn from the factors listed herein, regarding SANITIZATION and REMEDIATION, it is important to understand the advantages of a holistic solution to the problems identified which can affect indoor air quality.

This is a municipal facility that was built in 2010 with approximately 54,876 square feet of business living area per the Volusia County Property Appraiser's website. Possible moisture intrusion occurred from a Heating Ventilating & Air Conditioning (HVAC) issue. The blower wheel was cleaned in January of 2020. Black specks were observed on furniture after the blower wheel was cleaned. Filters were added to the HVAC vents in room 227 (victims advocate) and Captain Fisher's office. Discoloration was observed in the HVAC ducts in room 227 and Captain Fisher's office. A second HVAC duct and vent were added in Captain Fisher's office to increase the pressure of the main duct line.

The air samples obtained from the 1st floor east corridor and room 227 were not elevated. The swab samples collected from room 227 HVAC duct and Captain Fisher's Office HVAC duct were unusual with the presence of current or former growth observed. Due to the visible and unusual microbial growth observed in the HVAC ducts in room 227 and Captain Fisher's office; mold remediation is recommended for the HVAC ducts/system, room 227, and Captain Fisher's office. Please refer to section 7.0 of the mold remediation protocol in this report. Further investigation is recommended by an HVAC contractor.

This report is the exclusive facility of the inspection company and the client whose name appears herewith and its use by any unauthorized persons is prohibited.

1.0 General Information

On Thursday, November 5, 2020 at 8:13 a.m., Action Consulting & Environmental Services, LLC (hereinafter “ACE”) performed an IAQ/Mold Inspection of the facility located at 4545 Clyde Morris Boulevard, Port Orange, Florida 32129 (herein after the “Facility”) for the purpose of determining the quality of the indoor air. The collection of information is included herein along with ACE’s findings and recommendations. ACE has determined that REMEDIATION IS recommended to address the IAQ issues identified on the day of the inspection noted herein at the subject facility. When REMEDIATION is required, ACE recommends that you refer to the following criteria when selecting a REMEDIATION COMPANY:

- ☒ Must be **licensed and bonded** in compliance with the municipality and Florida Department of Business and Professional Regulations
- ☒ Must be **fully insured** (Worker’s Compensation and General Liability)
- ☒ Must be familiar with **IICRC S520** guidelines

Once the REMEDIATION process is completed, it is recommended that ACE complete “clearance testing” to confirm that proper REMEDIATION and SANITIZATION solutions were implemented. These solutions are listed at the end of this report and include addressing the areas of specific IAQ/Mold concerns in the environment, as well as recommendations for improving the quality of living indoors. By partnering with ACE, you will be able to create a better indoor environment for the residence at the above referenced facility.

Our IAQ/Mold Inspection references the following facility:

**Port Orange Police Department
4545 Clyde Morris Boulevard
Port Orange, Florida 32129**

ACE was contracted to inspect the Facility to determine if the levels of microbial colonization in the area of concern was significant, determine the location of visible microbial colonies and recommend an effective remediation protocol. ACE has included exterior photographs of the Facility to confirm that the inspection was completed at the proper location. The assessment process included a visual inspection, photographs, as well as air and swab sampling of suspect microbial growth. All air and swab sample were forwarded to and analyzed by, Pro-Lab, Weston, FL. Pro-Lab participates in the American Industrial Hygiene Associations (AIHA) and is an accredited laboratory.

NOTE: THIS MOLD ASSESSMENT EVALUATION REPORT IS INTENDED TO BE READ AND UNDERSTOOD IN ITS TOTALITY. ANY UNREAD AND/OR MISUNDERSTANDING PORTIONS OF THE REPORT ARE AT THE DISCRETION OF THE INDIVIDUALS READING THIS DOCUMENT.

2.0 Facility History

Upon inspection, ACE was granted access to the facility by Mr. Bobby Bryant (Facilities Maintenance Supervisor) who provided a tour of the areas of concern.

3.0 General Observations to Assist with Cause and Origin of Mold

Observations for	Yes	No	Unknown
Musty Smell, MVOC (Microbial Volatile Organic Compound) or Odor Detected: No odor detected through face mask.		X	
Water Damage:		X	
Humidity Above 60%:		X	
Apparent Elevated Moisture Content Levels Observed:		X	
Visual Discoloration/Possible Microbial Growth: Room 227 HVAC vent at the filter and inside the HVAC duct. Captain Fisher's office ceiling tiles by HVAC vent and inside HVAC duct.	X		
Roof Leak Observed:		X	
HVAC Concern: Discoloration on HVAC vents and inside HVAC ductwork.	X		
<u>Primary Mold Cause & Origin specific to this loss:</u> Possible moisture may have occurred from a HVAC issue.			
Is the mold greater than 10 square feet?:		X	
Secondary Non-Reported Cause & Origin:		X	
Health Complications: Captain Fisher has allergies and Asthma with mold.	X		
Localized Problem:		X	
Entire Facility Affected:		X	

Possible Cause of Loss:

Primary Cause of Loss:	Possible moisture may have occurred from a HVAC issue
Secondary Loss:	

4.0 Hypothesis

A hypothesis is a supposition or proposed explanation made on the basis of limited evidence as a starting point for further investigation.

H1: The **1st floor east corridor and room 227** will exceed the spores per m³ in the air-o-cell samples collected and the swab samples obtained from the **room 227 HVAC duct and Captain Fisher's Office HVAC duct** will be unusual with the presence of current or former growth and is therefore in a state of elevated fungal ecology.

H01: The **1st floor east corridor and room 227** will not exceed the spores per m³ in the air-o-cell samples collected and the swab samples obtained from the **room 227 HVAC duct and Captain Fisher's Office HVAC duct** will be normal with no fungi detected and is therefore in a state of normal fungal ecology.

5.0 Diagnostic Testing

Included, please find a copy of laboratory results from tests conducted by ACE associated with indoor air quality.

There are five different types of testing recognized in the industry. ACE selects the method(s) that are best applicable to the particular circumstances and situations that are being assessed at the time of the inspection.

Should additional testing be required, ACE may select one or more of these methods to enhance our understanding of your environment so an objective overview of the Facility's indoor air quality can be obtained.

The five different testing methods are:

- 1) Air-O-Cell Sampling—in this process particulate is collected from the air to get a comparison count between the indoor air and the outdoor air. This method does not evaluate the viability of the spores collected.
- 2) Impaction Sampling—this process uses gravity or pressure to plate a petri dish with airborne particulate and then incubate for the laboratory to identify. This method only represents a small sample of the entire indoor air environment.
- 3) EnviroSWAB™ Sampling—this is an effective way of collecting “dust” which includes viable mold spores, plate them to a petri dish, and have the laboratory identify and count the number of live colony forming units (cfu). This method recognizes only the viable mold that has settled out in the location where it has been collected.
- 4) EnviroTAPE™ sampling—where visible mold is present, this tape lift method allows the laboratory to identify and count the number of dead or live colony forming units (cfu). This method does not recognize viability of mold growth only the presence of mold.
- 5) Bulk Sampling—occasionally we determine that specific construction materials or other items require laboratory testing to identify and count the number of either dead or live colony forming units (cfu). This method does not recognize viability of mold growth only the presence of mold.

We are not attempting to make you a Certified IAQ/Mold Inspector but want you to understand the different methods of collection so you will better understand why we choose the following methods. **Two ambient non-viable air samples and two viable swab samples were collected inside the facility. The air samples were collected in the 1st floor east corridor and room 227. The swab samples were collected from room 227 HVAC duct and Captain Fisher's Office HVAC duct.** These sample locations were chosen in order to collect samples that would provide the greatest amount of data concerning exposure to potential occupants and to characterize the magnitude of airborne mold spores in the residence.

5.1 Collection Samples

Non-Viable Air Sample Results

***1st Floor East Corridor – Levels: Not Elevated**

***Room 227 – Levels: Not Elevated**

All air samples are taken at 15L for 10 minutes using an Air-O-Cell.

Viable Swab Sample Results

***Room 227 – A swab sample was collected in order to quantify any mold spore amplification on the HVAC duct reflecting suspect microbial growth. The sample was unusual with the presence of current or former growth observed.**

- **Cladosporium – 160 Spores per cm²**
- **Penicillium/Aspergillus – 240 Spores per cm²**

***Captain Fisher's Office – A swab sample was collected in order to quantify any mold spore amplification on the HVAC duct reflecting suspect microbial growth. The sample was unusual with the presence of current or former growth observed.**

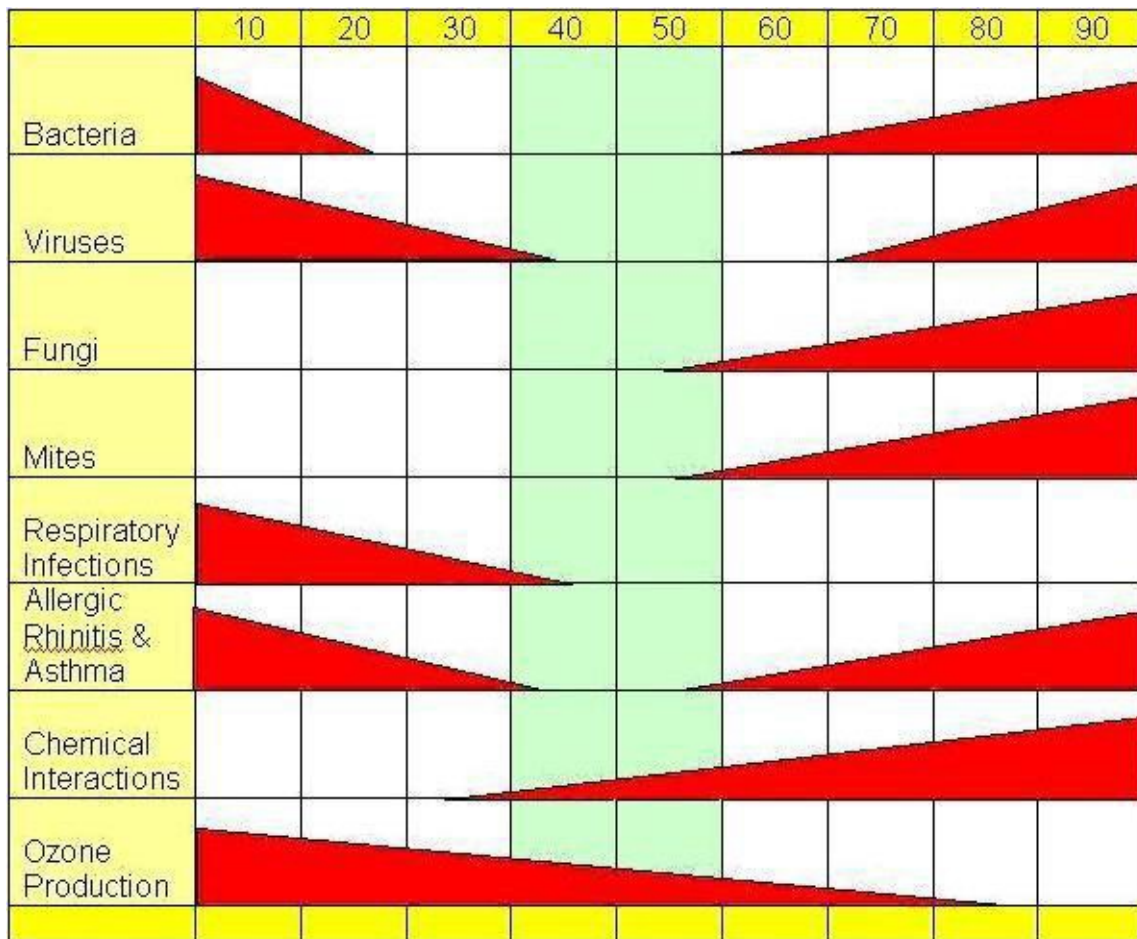
- **Cladosporium – 32,400 Spores per cm²**
- **Hyphae – 20,000 Spores per cm² (Root)**

Atmospheric Readings

1st Floor East Corridor: 41.6% RH / Temp 72.5 degrees /AH 49.6 gpp / Dew Point 48 degrees
Room 227: 46.4% RH / Temp 71.1 degrees /AH 52.7 gpp / Dew Point 50 degrees
Captain Fisher's Office: 53.0% RH / Temp 68.0 degrees /AH 53.8 gpp / Dew Point 50 degrees
Exterior: 62.1% RH / Temp 79.3 degrees /AH 93.7 gpp / Dew Point 65 degrees

The American Society of Heating, Refrigerating and Air Conditioning Engineers (ASHRAE) states that an acceptable relative humidity range for the indoor environment is 30-60%.

OPTIMUM RELATIVE HUMIDITY FOR A HEALTHY INDOOR AIR QUALITY





1675 North Commerce Parkway, Weston, FL 33326 (954) 384-4446

ACE ENVIRONMENTAL
226 N NOVA RD SUITE 332
ORMOND BEACH, FL 32174

Certificate of Mold Analysis

Prepared for: ACE ENVIRONMENTAL
Phone Number: (386) 627-5864
Fax Number:
Project Name: PORT ORANGE POLICE DEPARTMENT
Test Location: 4545 S CLYDE MORRIS BLVD
PORT ORANGE, FL 32129
Report Number: 1381415
Received Date: November 6, 2020
Report Date: November 6, 2020

Diana Sauri, Laboratory Director or other approved signatory

Currently there are no Federal regulations for evaluating potential health effects of fungal contamination and remediation. This information is subject to change as more information regarding fungal contaminants becomes available. For more information visit <http://www.epa.gov/mold> or <http://www.nyc.gov/html/doh/html/epi/mold.shtml>. This document was designed to follow currently known industry guidelines for the interpretation of microbial sampling, analysis, and remediation. Since interpretation of mold analysis reports is a scientific work in progress, it may as such be changed at any time without notice. The client is solely responsible for the use or interpretation. PRO-LAB/SSPTM Inc. makes no express or implied warranties as to health of a property from only the samples sent to their laboratory for analysis. The Client is hereby notified that due to the subjective nature of fungal analysis and the mold growth process, laboratory samples can and do change over time relative to the originally sampled material. PRO-LAB/SSPTM Inc. reserves the right to properly dispose of all samples after the testing of such samples are sufficiently completed or after a 7 day period, whichever is greater.



For more information please contact PRO-LAB at (954) 384-4446 or email info@prolabinc.com



1675 North Commerce Parkway, Weston, FL 33326 (954) 384-4446

Prepared for : ACE ENVIRONMENTAL

Test Address : PORT ORANGE POLICE DEPARTMENT
4545 S CLYDE MORRIS BLVD
PORT ORANGE, FL 32129

ANALYSIS METHOD	Non-viable with count		Non-viable with count		6110 Air Direct Examination			6110 Air Direct Examination		
LOCATION	RM 227 HVAC DUCT		CAPTAIN FISHER HVAC		ROOM 227			1ST FL EAST CORRIDOR		
COC / LINE #	1381415-1		1381415-2		1381415-3			1381415-4		
SAMPLE TYPE & VOLUME	SWAB / COUNT		SWAB / COUNT		AIR-O-CELL 100 - 150L			AIR-O-CELL 100 - 150L		
SERIAL NUMBER	SWAB		SWAB		31001468			31001483		
COLLECTION DATE	Nov 5, 2020		Nov 5, 2020		Nov 5, 2020			Nov 5, 2020		
ANALYSIS DATE	Nov 6, 2020		Nov 6, 2020		Nov 6, 2020			Nov 6, 2020		
CONCLUSION	UNUSUAL		UNUSUAL		NOT ELEVATED			NOT ELEVATED		
IDENTIFICATION	Spores per cm ²	Percent of Total	Spores per cm ²	Percent of Total	Raw Count	Spores per m ³	Percent of Total	Raw Count	Spores per m ³	Percent of Total
Cladosporium	160	40	32,400	62	2	13	33	2	13	48
Hyphae			20,000	38						
Other Ascospores										
Other Basidiospores										
Penicillium/Aspergillus	240	60			4	27	68	1	7	26
Pithomyces								1	7	26
TOTAL SPORES	NA		NA		6	40	100	4	27	100
MINIMUM DETECTION LIMIT*	NA		NA		1	7		1	7	
BACKGROUND DEBRIS	Not Applicable		Not Applicable		Moderate			Light		
OBSERVATIONS & COMMENTS	spores/cm ² Presence of current or former growth observed.		No Fungi Detected. spores/cm ²		Non-biological debris present.					

Background debris qualitatively estimates the amount of particles that are not pollen or spores and directly affects the accuracy of the spore counts. The categories of Light, Moderate, Heavy and Too Heavy for Accurate Count, are used to indicate the amount of deposited debris. Light (None to up to 25% obstruction); Medium (26% to up to 75% obstruction); Heavy (76% to up to 90% obstruction); Too Heavy (Greater than 90% obstruction). Increasing amounts of debris will obscure small spores and can prevent spores from impacting onto the slide. The actual number of spores present in the sample is likely higher than reported if the debris estimate is 'Heavy' or 'Too Heavy for Accurate Count'. All calculations are rounded to two significant figures and therefore, the total percentage of spore numbers may not equal 100%. The effect of the results relate only to the items tested. The methods used in this analysis have been validated and is fit for the intended use. 'R' version indicated after the lab ID# indicates a sample with amended data.

* Minimum Detection Limit: Based on the volume of air sampled, this is the lowest number of spores that can be detected and is an estimate of the lowest concentration of spores that can be read in the sample.
NA = Not Applicable.

Spores that were observed from the samples submitted are listed on this report. If a spore is not listed on this report it was not observed in the samples submitted.

Interpretation Guidelines: A determination is added to the report to help users interpret the mold analysis results. A mold report is only one aspect of an indoor air quality investigation. The most important aspect of mold growth in a living space is the availability of water. Without a source of water, mold generally will not become a problem in buildings. These determinations are in no way meant to imply any health outcomes or financial decisions based solely on this report. For questions relating to medical conditions you should consult an occupational or environmental health physician or professional.

CONTROL is a baseline sample showing what the spore count and diversity is at the time of sampling. The control sample(s) is usually collected outside of the structure being tested and used to determine if this sample(s) is similar in diversity and abundance to the inside sample(s).

ELEVATED means that the amount and/or diversity of spores, as compared to the control sample(s), and other samples in our database, are higher than expected. This can indicate that fungi have grown because of a water leak or water intrusion. Fungi that are considered to be indicators of water damage include, but are not limited to: *Chaetomium*, *Fusarium*, *Memnoniella*, *Stachybotrys*, *Scopulariopsis*, *Ulocladium*.

NOT ELEVATED means that the amount and/or the diversity of spores, as compared to the control sample and other samples in our database, are lower than expected and may indicate no problematic fungal growth.

UNUSUAL means that the presence of current or former growth was observed in the analyzed sample. An abundance of spores are present, and/or growth structures including hyphae and/or fruiting bodies are present and associated with one or more of the types of mold/fungi identified in the analyzed sample.

NORMAL means that no presence of current or former growth was observed in the analyzed sample. If spores are recorded they are normally what is in the air and have settled on the surface(s) tested.



1675 North Commerce Parkway, Weston, FL 33326 (954) 384-4446

Prepared for : ACE ENVIRONMENTAL

Test Address : PORT ORANGE POLICE DEPARTMENT
4545 S CLYDE MORRIS BLVD
PORT ORANGE, FL 32129

ANALYSIS METHOD	6110 Air Direct Examination			INTENTIONALLY BLANK			INTENTIONALLY BLANK			INTENTIONALLY BLANK		
LOCATION	EXTERIOR CONTROL											
COC / LINE #	1381415-5											
SAMPLE TYPE & VOLUME	AIR-O-CELL 100 - 150L											
SERIAL NUMBER	31001452											
COLLECTION DATE	Nov 5, 2020											
ANALYSIS DATE	Nov 6, 2020											
CONCLUSION	CONTROL											
IDENTIFICATION	Raw Count	Spores per m³	Percent of Total	Raw Count	Spores per m³	Percent of Total	Raw Count	Spores per m³	Percent of Total	Raw Count	Spores per m³	Percent of Total
Cladosporium												
Hyphae												
Other Ascospores	2	13	48									
Other Basidiospores	1	7	26									
Penicillium/Aspergillus	1	7	26									
Pithomyces												
TOTAL SPORES	4	27	100									
MINIMUM DETECTION LIMIT*	1	7										
BACKGROUND DEBRIS	Light											
OBSERVATIONS & COMMENTS												

Background debris qualitatively estimates the amount of particles that are not pollen or spores and directly affects the accuracy of the spore counts. The categories of Light, Moderate, Heavy and Too Heavy for Accurate Count, are used to indicate the amount of deposited debris. Light (None to up to 25% obstruction); Medium (26% to up to 75% obstruction); Heavy (76% to up to 90% obstruction); Too Heavy (Greater than 90% obstruction). Increasing amounts of debris will obscure small spores and can prevent spores from impacting onto the slide. The actual number of spores present in the sample is likely higher than reported if the debris estimate is 'Heavy' or 'Too Heavy for Accurate Count'. All calculations are rounded to two significant figures and therefore, the total percentage of spore numbers may not equal 100%. The effect of the results relate only to the items tested. The methods used in this analysis have been validated and is fit for the intended use. R "version" indicated after the lab ID# indicates a sample with amended data.

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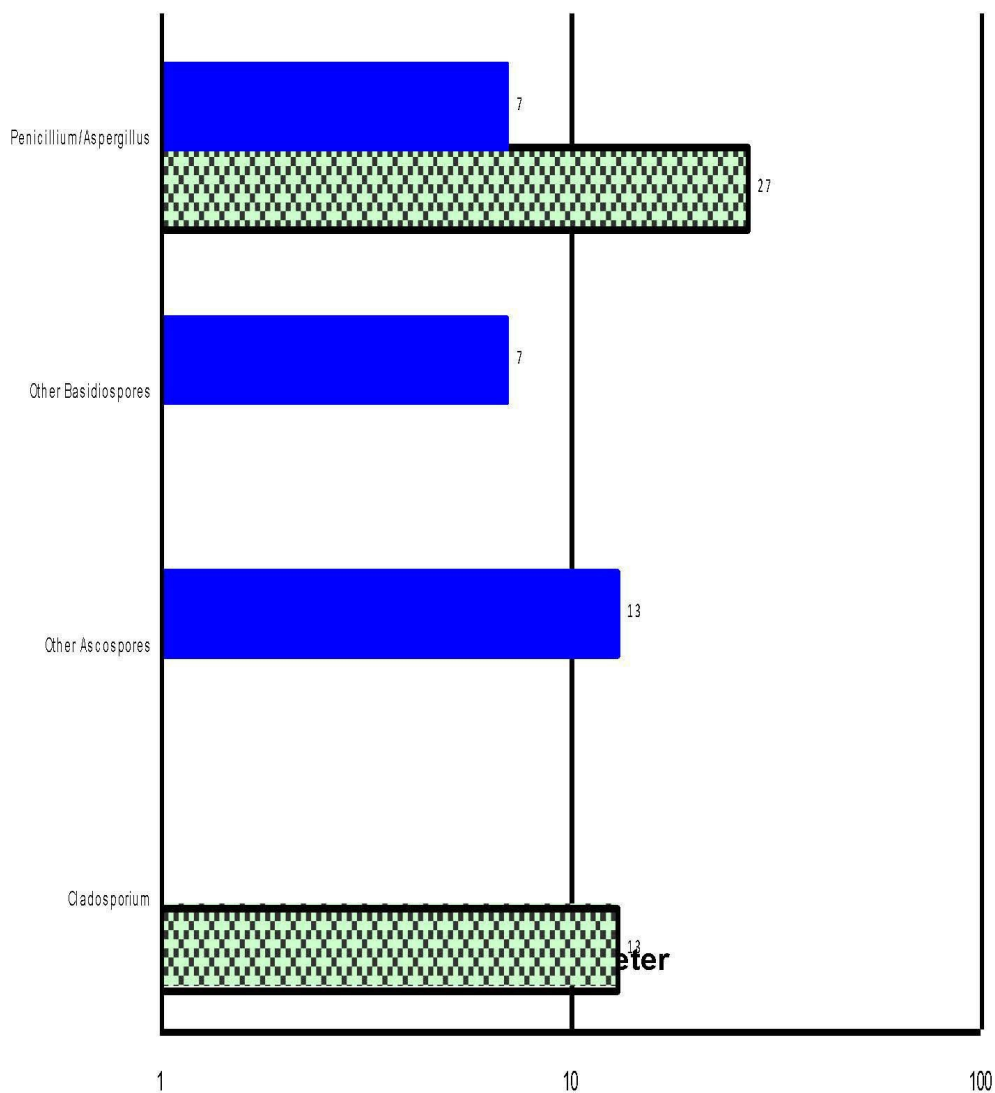
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1675 North Commerce Parkway, Weston, FL 33326 (954) 384-4446

Chain of Custody # 1381415

Room 227
Exterior Control



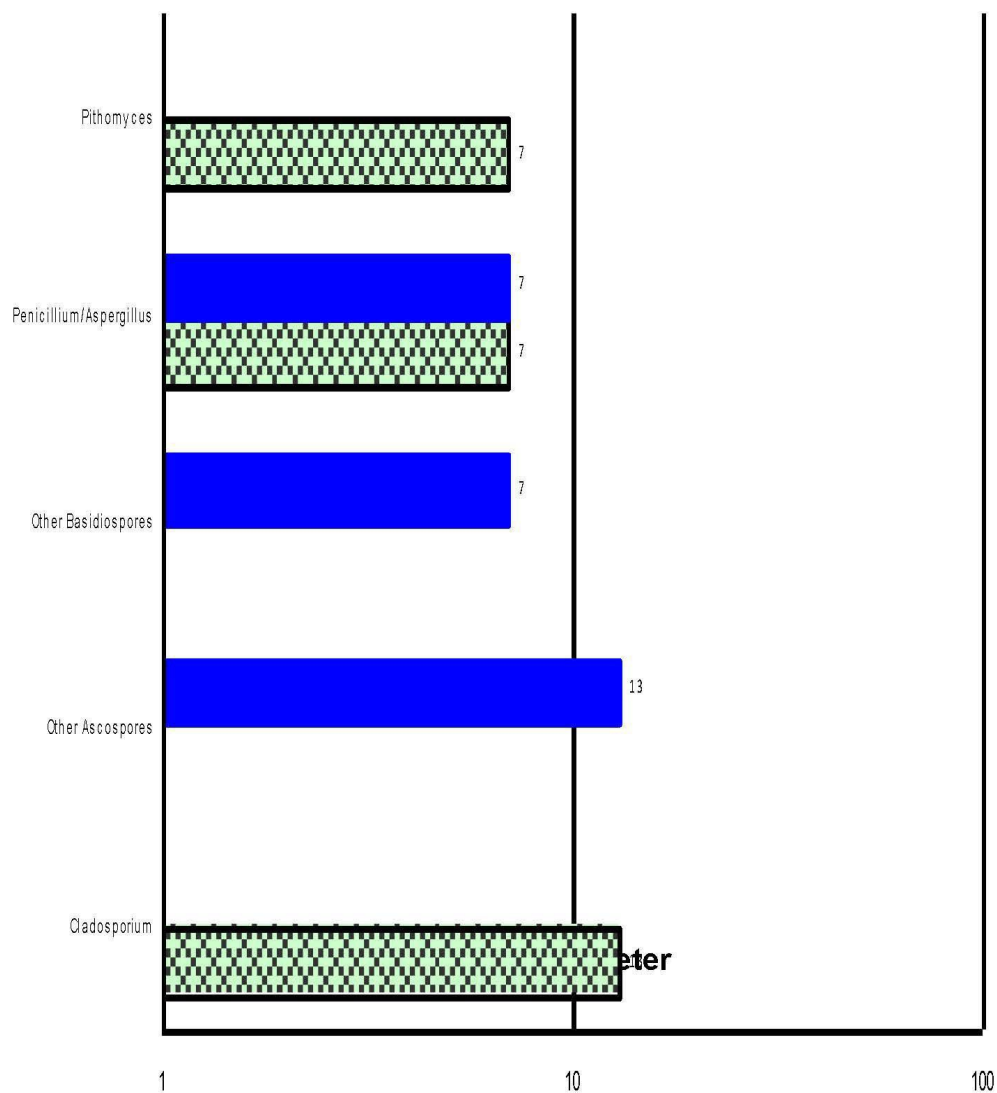
Page 4 of 6



1675 North Commerce Parkway, Weston, FL 33326 (954) 384-4446

Chain of Custody # 1381415

1st Fl East Corridor
Exterior Control



Page 5 of 6


PRO-LAB®

1675 North Commerce Parkway, Weston, FL 33326 (954) 384-4446

Identification	Outdoor Habitat	Indoor Habitat	Possible Allergic Potential Not an opinion or interpretation	Comments
Cladosporium	The most common spore type reported in the air worldwide. Found on dead and dying plant litter, and soil.	Commonly found on wood and wallboard. Commonly grows on window sills, textiles and foods.	Type I (hay fever and asthma), Type III (hypersensitivity pneumonitis) allergies.	A very common and important allergen source both outdoors and indoors.
Hyphae	Common everywhere.	All substrates.	None known.	Hyphae are the "root-like" food absorption strands common to nearly all fungi. They sometimes can become airborne.
Ascospores	Common everywhere. Constitutes a large part of the airspora outside. Can reach very high numbers in the air outside during the spring and summer. Can increase in numbers during and after rainfalls.	Very few of this group grow inside. The notable exception is Chaetomium, Ascotricha and Peziza.	Little known for most of this group of fungi. Dependent on the type (see Chaetomium and Ascotricha).	
Basidiospores	Commonly found everywhere, especially in the late summer and fall. These spores are from Mushrooms.	Mushrooms are not normally found growing indoors, but can grow on wet lumber, especially in crawlspaces. Sometimes mushrooms can be seen growing in flower pots indoors.	Some allergenicity reported. Type I (hay fever, asthma) and Type III (hypersensitivity pneumonitis).	Among the group of Mushrooms (Basidiomycetes) are dry rot fungi Serpula and Poria that are particularly destructive to buildings.
Penicillium/Aspergillus	Common everywhere. Normally found in the air in small amounts in outdoor air. Grows on nearly everything.	Wetted wallboard, wood, food, leather, etc. Able to grow on many substrates indoors.	Type I (hay fever and asthma) allergies and Type III (hypersensitivity pneumonitis) allergies.	This is a combination group of Penicillium and Aspergillus and is used when only the spores are seen. The spores are so similar that they cannot be reliably separated into their respective genera.
Pithomyces	Commonly seen everywhere growing dead leaves, soil and grasses.	Not normally found growing indoors, sometimes on wallboard.	None known.	

PRO-LAB		Account Code		Credit Card Number		Exp / CVV		Check #	
CHAIN OF CUSTODY		CONTACT INFORMATION		Report Delivery: ☐ MAIL ☐ EMAIL		Report Type: ☐ Standard ☐ Detailed		Signature:	
Company/Branch: Ace Services		Address: 226 N. Nova Rd; Suite#332		City: Ormond Beach		State: FL		Zip: 32174	
Contact: Holly Burns		Phone: 855-375-3687		Email: assignments@ace-envr.com					
TEST LOCATION INFORMATION									
Property Name: Port Orange Police Department		Address: 4545 S. Clyde Morris Blvd., Port Orange		City: Port Orange		State: FL		Zip: (Required) 32129	
Phone:		Sampling Date: 11/5/20		Time: 8:13 AM		Relinquished by:		Date: 11/5/20	
INDOOR		WEATHER OUTSIDE		Fog		Rain		Snow	
R/H		Light		Moderate		Heavy			
Temp		41.6°		72.5°					
MOLD TURNAROUND TIME CODES									
ND - 24 Hour (End of next business day) (Standard for mold samples only)		STAT - 3 Hour Mold Turnaround (\$100 Additional for each Mold Sample)		Z5 - Zefon 5		SW - Swab		PD - Petri Dish	
SD - Same Day (End of same day) (\$30 Additional for each Mold sample)		PR - Priority (Online registration or hand delivered to the lab only)		M5 - Micro 5		T - Tape / Bio-Tape		CA - Carpet	
RECOMMENDED FLOW RATE / SAMPLING TIMES									
Z-5: 5 L X 5 MIN		MICRO 5: 5 L X 5 MIN		AOC - Air-O-Cell		B - Bulk		BA - Bacteria	
AIR-O-CELL: 15 L X 10 MIN		CARPET: 5 L X 1 MIN		ST - Other Spore Traps		AN - Andersen Plate		O - Other	
OTHER CODES									
D - Dust		W - Water		SO - Soil		P - Paint			
SAMPLE SERIAL #		COLLECTION LOCATION (Please Print Clearly)		MOLD / BACTERIA ANALYSIS				OTHER ANALYSIS	
				MOLD		BACTERIA		72 Hour Turnaround Time	
				Mold Analysis		Bacteria Species ID		ASBESTOS	
				Culture For Bulk/Swab (\$25 extra (5-7 Days))		Coliform E. coli ID (48 Hrs)		WATER ANALYSIS	
				Flow Rate (Required)		Flow Rate (Required)		LEAD	
				Sample Type Code (Required)		Mold Analysis		PCM	
				Turnaround Time Code (Required)		Mold Analysis		BULK	
				Flow Rate (Required)		Mold Analysis		Bacteria	
				Flow Rate (Required)		Mold Analysis		Chemical Bacteria	
				Flow Rate (Required)		Mold Analysis		Chemical Bacteria Lead	
				Flow Rate (Required)		Mold Analysis		FHA Water Analysis	
1 Swab		Rm 227 HVAC Duct		Stat		Sw		✓	
2 Swab		Captain Fisher HVAC Duct		Stat		Sw		✓	
3 31001468		Rm 227		Stat		15L 10m AOC		✓	
4 31001483		1st Floor East Corridor		Stat		15L 10m AOC		✓	
5 31001452		Exterior (Control)		Stat		15L 10m AOC		✓	
6									
7									
8									
9									
10									
Send to: 1675 N. Commerce Parkway, Weston, FL 33326 40 Hanlan Road, Suite 45, Vaughan, ON Canada L4L 3P6 954-384-4446									
Received by: [Signature]		Prepared by: [Signature]		Analyzed by: [Signature]		Reported by: [Signature]		DO NOT WRITE IN THIS AREA	
All analyses are performed by PRO-LAB® or by PRO-LAB® recognized licensed, certified or accredited laboratories.									

6.0 Inspection Summary

Based on the assessment and inspection, the following recommendations are provided to reduce or eliminate mold colonization from the substrates in the above referenced facility.

Remove the mold amplification from the Facility in order to prevent further structural damage and possible adverse health conditions to the occupants. A contractor who has experience should provide the mold remediation. Proper procedures should be followed to ensure the mold is cleaned up to satisfactory condition 1 levels (normal fungal ecology). Please refer to the mold remediation protocol of this report.

Thank you for the opportunity to be of service on this facility. For further questions, please feel free to contact me.

Respectfully submitted,

Holly Burns

Environmental Consultant

NORMI™ Certified IAQ/Mold Inspector

IICRC: WRT, ASD, AMRT, OCT, FSRT, CCT, RRT, UFT

IICRC Master Water Restorer

Florida State Mold Remediator - MRSR 423

Florida State Certified Mold Assessor - MRSA 1811

Florida State Certified Residential Contractor – CRC1328897



7.0 The Remediation Protocol

The Scope of Work that addresses microbiological decontamination includes but is not limited to the following activities in the Facility.

1. **The Heating Ventilating & Air Conditioning (HVAC) system, as well as all moisture entry points should be confirmed to be leak free prior to beginning mold remediation efforts.**
2. **Elevated moisture and health related triggers can form and be deposited on surfaces. This is unacceptable in maintaining good health and hygiene. Moisture issues must be fixed. The possible causes of loss (vapor and liquid) must be identified and rectified prior to mold remediation occurring.**
3. Due to the fact that there was visible and unusual microbial growth in the **HVAC duct in room 227 and the HVAC duct in Captain Fisher's office**, along with similar discoloration in HVAC ducts, **the HVAC system remediated area. Room 227 and Captain Fisher's office need to be the contained areas.** The areas need to be large enough for workers to move freely, equipment to be placed (air scrubbers/negative air machine, dehumidifiers, etc.) and removal of building materials to perform the mold remediation effectively. Please be certain that the containments are sealed tight prior to removal of building materials as to not cross contaminate into the unaffected areas of the property.
4. **The containments/isolation barriers should be installed at the entry to room 227 and Captain Fisher's office.** The containment/isolation barrier should be installed with 6-mil, fire retardant polyethylene sheeting for full containment. All supply and air vents, door and pipe chases in the containment must be sealed with polyethylene to minimize the spread of mold and mold spores to other areas of the property.
5. Protect the remainder of the residence by placing zippers or Z-Flaps to access the contained areas.
6. Warning signs should be posted at the entry to the contained areas. Unauthorized individuals should be discouraged from entering the work areas.
7. Prior to any remediation work beginning, workers should dress in proper PPE (Personal Protective Equipment) in accordance with OSHA regulations before entering into the isolated remediation areas. OSHA regulations are to follow the 29CFR1910 (General Industry Standards/Occupational Safety & Health Standards and 29CFR1926 Construction Industry Standards/Safety & Health Regulations for Construction. OSHA 29CFR1910.134 for Respirators shall be observed as noted in the ANSI/IICRC S520-2015 Standards.
8. Two negative air machines/air scrubbers should be used to provide containment ventilation during remediation with 4-6 air changes per hour (ACH). The negative air machines/air scrubbers should be placed in room 227 and Captain Fisher's office. Negative pressure must be maintained throughout the duration of the remediation.
9. If the use of any negative air machines are placed, all exhaust air from containment work area shall be discharged to the outdoors. Any window sashes or doors that are removed for installation of exhaust air discharge equipment shall be reinstalled after completion of the work. Openings used for discharge of exhaust air shall be sealed tight with duct tape and plywood or similar product. Exhaust discharge openings may be cut into plywood or similar type product. HEPA filters must be used on all air exhausted from containments.
10. If the use of air scrubbers are employed, keep in mind their limitations and rotate it quarterly and move it within the containment daily to catch any dead zones or stagnant air spaces.
11. Control the humidity below 45% during remediation by the use of a dehumidifier. Control the humidity below 45% to 55% (50%+/-%), during remediation using dehumidification. Maintain 40-50 Grains per Pound (GPP) of water in the air using appropriate safety measures and drying techniques during remediation through proper dehumidification.

12. **IMPORTANT NOTE: If there is fuel (gas or other hydrocarbon sources), in the remediated space, check that back drafting or flame out does not occur when the containment area is under negative pressure.**

Remediation

Due to the nature of this project and the possibility of hidden microbial growth, additional removal of building materials may be necessary. Remediation can begin once the negative air machines are in place.

1. A micro-clean is recommended in room 227 and Captain Fisher's office.
2. HEPA vacuum the carpet in room 227 and Captain Fisher's office.
3. HEPA vacuum the ceiling tiles surrounding the HVAC vents, diffusers, and returns.
4. Remove any affected insulation behind ceiling tiles/ceiling cavities, if necessary.
5. **If additional suspect microbial growth is found during demolition/removal of building materials, the remediation contractor is instructed to take digital documentation and contact the mold assessor listed within this report for further consultation.**
6. Remove any affected salvageable contents throughout the contained areas in sealed impermeable plastic bags and/or wrapped in 6-mil, fire retardant polyethylene sheeting to be cleaned off site, or stored in a temperature-controlled environment. The temperature should not exceed 80 degrees and the relative humidity should not exceed 60% in the controlled environment. Contents should be poly wrapped prior to exiting the isolated area as to not cross contaminate to the unaffected offsite work area and/or unaffected areas within the facility. **All cleaning, maintaining and/or discarding items are to be considered based upon a "cost to benefit ratio."**
7. Remove and dispose of non-salvageable contents in the contained areas. Such contents should be poly wrapped with 6-mil, fire retardant polyethylene sheeting prior to exiting the isolated area. Such porous contents would be condition 3 with microbial growth embedded into the surface area. Note the porosity of each content to determine salvageability. Non-Porous surfaces – metal, glass, plastic, hard surfaces can be cleaned and salvaged. Semi-Porous surfaces – wood and concrete can be cleaned depending on the amount of contaminants in the material and/or the structural stability of the material. Porous surfaces – ceiling tiles, carpet/cushion, and drywall need to be removed if exposed to a contaminant (bacterial or microbial).
8. Protect contents that will not be removed that are in isolated area with 6-mil, fire retardant polyethylene sheeting.
9. **Minimize dust release and spore dissemination to limit cross contamination into unaffected areas of the facility.**
10. **HEPA vacuum all areas to be remediated to keep the work area maintained as free from dust as possible (floors, walls, baseboard, door casing, interior doors, and ceilings). All surfaces (walls, floors, etc...) need HEPA vacuumed, hand wiped with a mild detergent solution followed by a 2nd HEPA vacuuming.**
11. **Damp wipe with an EPA approved anti-microbial solution and dry thoroughly. If necessary, apply biocide for areas that cannot be cleaned thoroughly.**
12. **A third HEPA Vacuuming may be required to remove particulates generated from fungicidal applications.**

13. Affected building materials should be double bagged immediately and by using a HEPA vacuum cleaner, vacuum the outside of the bags to avoid cross contamination to non-affected areas within the facility as they are being carried outside. When exiting the containment area, it is highly recommended to HEPA vacuum or damp wipe the outside of the bags and place the bag into a second bag which is sealed prior to entering the uncontaminated area. It is highly recommended to perform the same procedure with tools, equipment and PPE. Proper procedures of disposing of impacted and contaminated building materials should be conducted by following the ANSI/IICRC S520-2015 Standards.
14. Water damaged building materials (framing, conduit, etc.) should be assessed by a qualified individual for structural integrity. If any structural building components are compromised, these should be discussed by a building contractor or engineer and followed by State, Local or Federal regulations.
15. To achieve a Condition 1 (normal fungal ecology) status in the work area after demolition has been completed, it is important to clean it adequately by thoroughly removing dust and debris. Biocide Antimicrobial and encapsulants/sealants are discouraged and are not considered effective for mold remediation. However, there may be specific instances where professional judgement dictates that biocides may be applied. Misapplication of biocides is a federal violation under the U.S. Federal Insecticide, Fungicide, Rodenticide Act (FIFRA).
16. Apply sealant and encapsulant for areas that cannot be accessed, only if necessary. Remediators need to consider that the application of certain encapsulants or sealants may change the permeability of materials, cause condensation problems in the building assembly (trap moisture) and result in future deterioration and potential liability issues. These compounds may contain nitrogen that helps support future mold growth. Encapsulants may also alter the surface flammability characteristics of certain materials. Encapsulants should only be used after building materials are properly cleaned and HEPA vacuumed and returned to a Condition 1 status and the building materials have completely dried. **Encapsulation should NEVER be used over existing mold or fungal growth or applied to elevated/wet building materials.**
17. Any product/chemical used on this project must have the Safety Data Sheet (Formally, Material Safety Data Sheet) provided to the client or Owner in case of any sensitivities to the products being used, as well as have an additional SDS placed in a plastic bag to be onsite in a conspicuous location for the Mold Assessor to view during the Post Remediation Verification Inspection.
18. **Remove all visible microbiological growth on exposed construction materials on the framing, including but not limited to studs, structural supports, trusses, etc. For wood, use an electric sander or wire brush 1/32" deep in order to remove hyphae. If necessary, apply biocide for areas that cannot be cleaned thoroughly.**
19. Use a minimal amount of water in the cleaning process.
20. **A thorough HVAC cleaning to assist in the healthy indoor air quality is necessary. The air handler should be removed, then cleaned and sanitized, including the evaporator coils, fan blades, blower wheels, duct work and supply registers. ACE recommends that the cleaning of the mechanical systems of the HVAC system be performed by a National Air Duct Cleaning Association (NADCA) certified duct cleaner. If cleaning the HVAC ducts is not possible, then complete removal and replacement may be necessary. ACE recommends replacing the HVAC filter once remediation is complete. It may be necessary to remove the casing of the air handler to access the entire blower wheel.**
21. At the remediator's discretion, changing from negative (Negative Air Machine/NAM) to neutral (air scrubbers) after demolition is complete and the general cleaning phase begins is acceptable, as long as the containments are sealed tight.
22. Provide sufficient drying time for all surfaces that were cleaned.

23. Contact **ACE Environmental at 855-375-3687** to schedule the post remediation verification for final clearance testing.
24. It is recommended that the remediation contractor provide an internal quality control Post Remediation Evaluation (PRE). It is recommended that the remediator perform a post inspection to confirm remediation has been complete prior to contacting the Indoor Environmental Professional (IEP) to schedule a Post Remediation Verification (PRV) inspection. This evaluation involves application of the internal quality control procedures of the remediator, and a sensory inspection of the containment area to ensure that malodors, contaminated materials, visible dust and debris have been removed.
25. It is the remediation contractor's choice as to whether to leave the Air Filtration Devices, Air Scrubbers, Dehumidifiers, equipment running or turn them off at the time of the Post Remediation Verification (PRV). However, the Mold Assessor assumes no liability by turning the equipment off and/or touching the equipment during the Post Remediation Verification (PRV) inspection. As per the ANSI/IICRC S520, please seal the intake prior to turning the equipment off. If the air filtration device does not have an intake seal, please be sure to wrap/seal it prior to turning off the equipment to avoid release/dispersal of microbial spores. Also, it is critical to maintain an environment of less than 60% Relative Humidity prior to and during the PRV regardless of the Air Filtration Device/Negative Air Machine/Air Scrubber decision.
26. Post remediation testing should occur within 72 hours of completion of air purification.
27. Reconstruction may not occur until after the Post Remediation Verification (PRV) has passed/cleared.
28. Remember to HEPA vacuum and damp wipe the containment before it is removed after the PRV has passed/cleared.

It is expected that the remediation contractor has experience in mold remediation and should be held to a professional standard with regard to complete removal of contaminated materials and in the State of Florida must be licensed per Florida Statute 468.

Respectfully submitted,

Holly Burns
 Environmental Consultant
NORMI™ Certified IAQ/Mold Inspector
IICRC: WRT, ASD, AMRT, OCT, FSRT, CCT, RRT, UFT
IICRC Master Water Restorer
Florida State Mold Remediator - MRSR 423
Florida State Certified Mold Assessor - MRSA 1811
Florida State Certified Residential Contractor – CRC1328897



GENERAL COMMENTS

An exterior sample (outside air) is normally collected for two reasons: 1) to provide baseline levels for the air contaminants being monitored and analyzed and 2) to identify excessive air contaminant concentrations existing outside that could enter the structure. The exterior, control sample was collected outside the structure.

The analyses and opinions expressed in this report are based upon the best data available in light of the scope of work. This data obtained and relied upon is in accomplishing the scope of work as is described in this report.

Action Consulting & Environmental, LLC (ACE) analysis herein provides only an assessment of the condition of the facility on the date of the investigation and only in regard to the locations investigated. ACE makes no guarantee regarding additional changes that may occur as a result of any source present or not present at the time of the Professional's investigation.

Note that this report does not contain a guaranteed list of all potential hazards in the structure. While efforts were made to make the inspection process as complete as possible no potentially dangerous sampling methods were used. Some issues or materials may not be found or sampled because they were hidden from view or otherwise inaccessible. Therefore, there can be no assurance that untested materials do not contain suspected environmental types or elevated levels.

ACE's analysis herein provides only an assessment of the condition of the structure on the date of sampling and only in regard to the locations sampled. ACE makes no guarantee regarding additional microbiological growth or other areas of concern that may occur as a result of any source present or not present at the time of ACE's investigation.

ACE hereby certifies the expressed opinions and conclusions have been formulated within a reasonable degree of professional certainty. They are based upon all of the information known by ACE, at the time this report was issued, as well as knowledge, skill, experience, training, and/or education. Should additional information become available, we reserve the right to determine the impact, if any, of the new information on our opinions and conclusions, and to revise our opinions and conclusions if necessary, as warranted by the discovery of additional information.

Limitations- Action Consulting & Environmental, LLC. (ACE) warrants that the findings and conclusions contained herein have been transmitted in accordance with generally accepted methodology and only for the site described in this report.

In the event that any changes in the nature or location of suspected sources of contamination as outlined in this report are observed, the conclusions and recommendations contained in this report shall not be valid unless these changes are reviewed and the opinions of this report are modified and verified in writing.

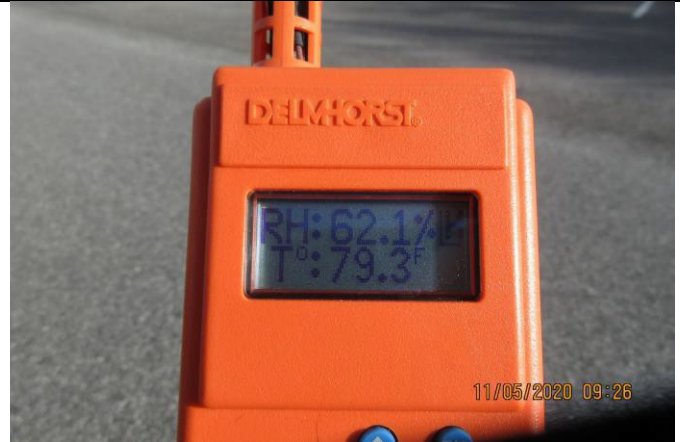
Reliance or use by any such third party without explicit authorization in the report does not make said third party a third-party beneficiary to ACE contract with the client. The information contained in this report was prepared based upon specific parameters and regulations in force at the time of this report. Any such unauthorized reliance on or use of this report, including any of its information or conclusions, will be at the third party's risk. ACE accepts no responsibility for the use, interpretation, or reliance by other parties on the information contained herein, unless written authorization has been obtained from ACE. For the same reasons, no warranties or representations, expressed or implied in this report, are made to any such third party.

This scope of work was developed to provide the client with information regarding apparent conditions relating to the subject facility. Although ACE believes that the findings and conclusions provided in this report are reasonable, the work is limited to the conditions observed and to the information available at the time of the work. Due to the nature of the work, there is a possibility that conditions may exist which could not be identified within the scope of the work or which were not apparent at the time of our site work. The work is also limited to information available from the client at the time the inspection was conducted. The field and testing methods employed at the time of the report may later be superseded by other methods. ACE does not accept responsibility for changes in the state of the art/technology. No other warranties are implied or expressed.

Photographs



Photograph 1
Front of Building



Photograph 2
Exterior – Temp 79.3° / Relative Humidity 62.1%



Photograph 3
Property Identification



Photograph 4
1st Floor East Corridor



Photograph 5
1st Floor East Corridor – HVAC Vent



Photograph 6
1st Floor East Corridor



Photograph 7
1st Floor East Corridor



Photograph 8
1st Floor East Corridor – Open Ceiling



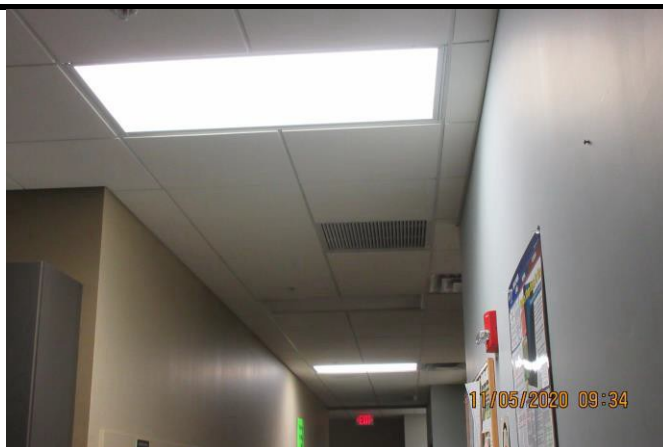
Photograph 9
1st Floor East Corridor – HVAC Vent



Photograph 10
1st Floor East Corridor



Photograph 11
1st Floor East Corridor



Photograph 12
1st Floor East Corridor – Ceiling Tiles



Photograph 13
1st Floor East Corridor – Minor Dust on Ceiling Tile



Photograph 14
1st Floor East Corridor
Temp 72.5° / Relative Humidity 41.6%



Photograph 15
Room 227 - Victim Advocate



Photograph 16
Room 227 - Victim Advocate



Photograph 17
Room 227 – Ceiling Tiles



Photograph 18
Room 227 – HVAC Damper



Photograph 19
Room 227 - Dust and Debris on HVAC Return



Photograph 20
Room 227 - Dust and Debris on HVAC Return



Photograph 21
Room 227 - Dust and Debris on HVAC Return



Photograph 22
Room 227 - Filter added above HVAC Vent



Photograph 23
Room 227 - Victim Advocate



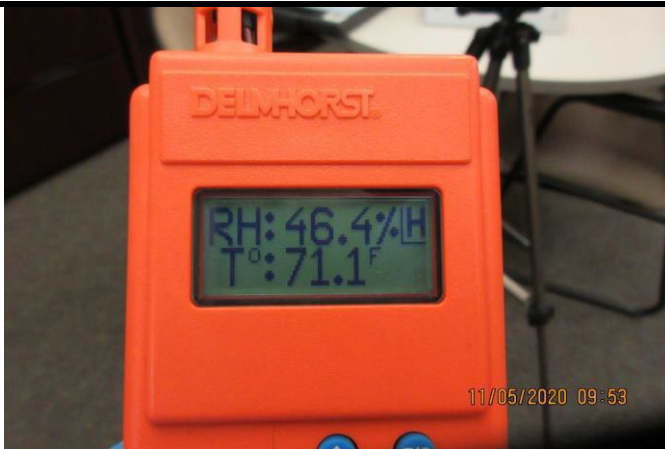
Photograph 24
Room 227 - Victim Advocate



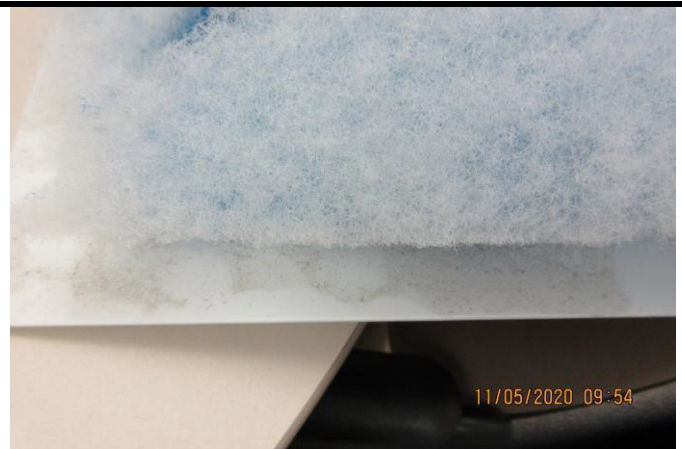
Photograph 25
Room 227 - Victim Advocate



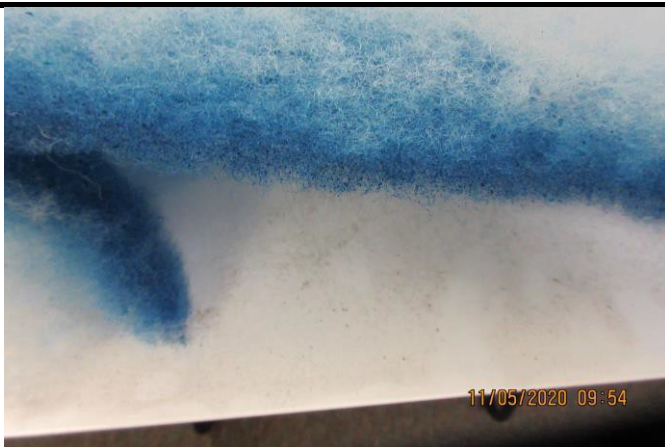
Photograph 26
Room 227 - Filter added above HVAC Vent



Photograph 27
Room 227 - Temp 71.1° / Relative Humidity 46.4%



Photograph 28
Room 227 - Discoloration on the back of HVAC Vent at the Filter



Photograph 29
Room 227 - Discoloration on the back of HVAC Vent at the Filter



Photograph 30
Room 227 - Discoloration on the back of HVAC Vent at the Filter



Photograph 31
Room 227 - HVAC Duct



Photograph 32
Room 227 - HVAC Duct



Photograph 33
Room 227 - Discoloration inside HVAC Duct



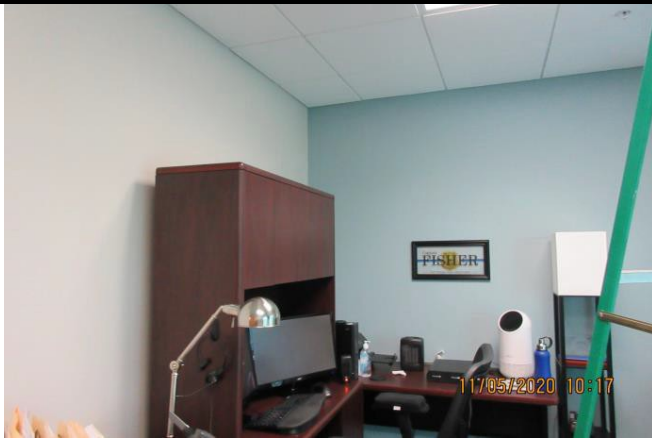
Photograph 34
Room 227 - Discoloration inside HVAC Duct



Photograph 35
Room 227 - Discoloration inside HVAC Duct



Photograph 36
Captain Fisher's Office



Photograph 37
Captain Fisher's Office



Photograph 38
Captain Fisher's Office



Photograph 39
Captain Fisher's Office - Dust on Furniture



Photograph 40
Captain Fisher's Office - Black Specks on the Back of Filter



Photograph 41
Captain Fisher's Office - HVAC Duct



Photograph 42
Captain Fisher's Office - HVAC Duct



Photograph 43
Captain Fisher's Office



Photograph 44
Captain Fisher's Office
Temp 68.0° / Relative Humidity 53.0%



Photograph 45
Captain Fisher's Office
Discoloration on HVAC Vent



Photograph 46
Captain Fisher's Office
Discoloration on HVAC Vent



Photograph 47
Captain Fisher's Office
Discoloration inside HVAC Duct



Photograph 48
Captain Fisher's Office
Discoloration inside HVAC Duct



Photograph 49
Captain Fisher's Office
Discoloration on Ceiling Tile by HVAC Vent



Photograph 50
Captain Fisher's Office
Discoloration on Ceiling Tile by HVAC Vent



Photograph 51
Room 252 – Mechanical



Photograph 52
Room 252 Mechanical – Carrier HVAC



Photograph 53
Room 252 Mechanical – Carrier HVAC



Photograph 54
Room 252 Mechanical - Plenum



Photograph 55
Room 252 Mechanical – HVAC Coils



Photograph 56
Room 252 Mechanical – HVAC Coils



Photograph 57
Room 252 Mechanical
Blower Wheel Cleaned in January 2020



Photograph 58
Swab – Room 227 HVAC Duct



Photograph 59
Swab – Captain Fisher’s Office HVAC Duct



Photograph 60
Sample ID #: 31001483 1st Floor East Corridor



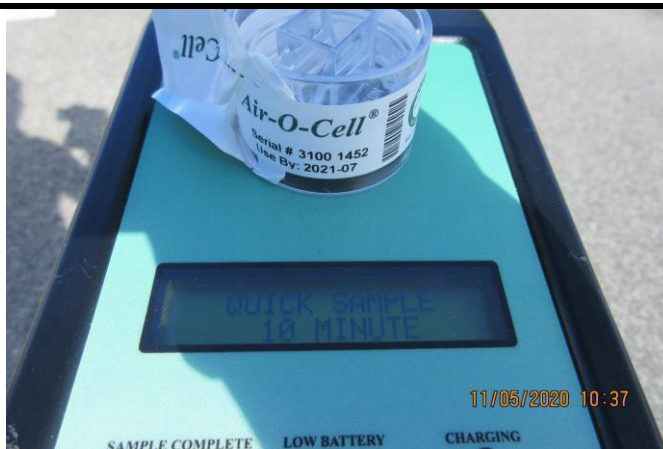
Photograph 61
Sample ID #: 31001468 Room 227



Photograph 62
Sample ID #: 31001452 Exterior (Control)



Photograph 63
Pump Calibrated to 15 Liters



Photograph 64
Pump Calibrated for 10 Minutes

In all other respects, except as specifically stated herein, the subject ITB # 21-17 POLICE DEPARTMENT DUCT/HVAC MOLD REMEDIATION remains unchanged.

END OF ADDENDUM NO. # 1

Joseph Castro

Buyer

jcastro@port-orange.org



CITY OF PORT ORANGE

PURCHASING DIVISION
1000 CITY CENTER CIRCLE
PORT ORANGE, FLORIDA 32129
TELEPHONE 386-506-5717
purchdiv@port-orange.org

ADDENDUM # 2

December 27, 2021

ITB #21-17 POLICE DEPARTMENT DUCT/HVAC MOLD REMEDIATION

To All Bidders:

The following changes, clarifications and additions are hereby made part of the bidding and specifications for the above referenced project dated November 24, 2021 and prepared by the City of Port Orange Purchasing Division as fully and completely as if the same were fully set forth therein. It is the sole responsibility of bidder to confirm that all addenda have been received prior to submitting bid and acknowledge such in the bid documents.

NEW BID OPENING DATE

The bid opening date of January 4, 2022 at 2:30pm is hereby changed to January 10, 2022 at 2:30pm.

RFIs submitted by the posted deadline (December 16th) will be answered with Addendum # 3 to be issued on or about January 3, 2022.

A. CHANGES TO SECTION 6 – SPECIAL REQUIREMENTS/INSTRUCTIONS

1. Section 6 -Special Requirements/Instructions, Mandatory Employee Background Check currently reads: "Due to the security requirements of work inside a police department building, all employees of the successful Bidder must pass a background check, must wear a company uniform, and must be accompanied by City staff at all times. Contractor shall provide the background check of all employees working on the job site to the City.

Section 6 -Special Requirements/Instructions, Mandatory Employee Background Check shall now read: Due to the security requirements of work inside a police department building, all employees of the successful Bidder and any and all successful subcontractors must pass a background check, must wear a company uniform, and must be accompanied by City staff at all times. The awarded Contractor must provide to the City the background checks of all their employees, as well as any and all subcontractors' employees who will be working on the job site. The awarded Contractor and all its subcontractors must be fingerprinted by the Police Department staff and will be required to complete CIJS Online Level 1 Security Awareness Certification.

2. The following new Special Requirement/Instructions (Section 6) is now added to ITB 21-17 and shall now read:

Certified Indoor Air Quality Inspector

The Bidder shall include with their bid submittal all applicable licenses and credentials of their proposed Certified Indoor Air Quality Inspector that will perform post remediation testing. The City

must approve the bidder's proposed Certified Indoor Air Quality Inspector prior to the award of a contract.

B. CHANGES TO SPECIFICATIONS:

None

C. CLARIFICATIONS:

None

In all other respects, except as specifically stated herein, the subject ITB #21-17 POLICE DEPARTMENT DUCT/HVAC MOLD REMEDIATION remains unchanged.

END OF ADDENDUM # 2

Joseph Castro

Buyer

jcastro@port-orange.org



CITY OF PORT ORANGE

PURCHASING DIVISION
1000 CITY CENTER CIRCLE
PORT ORANGE, FLORIDA 32129
TELEPHONE 386-506-5717
purchdiv@port-orange.org

ADDENDUM # 3

January 3, 2022

ITB #21-17 POLICE DEPARTMENT DUCT/HVAC MOLD REMEDIATION

To All Bidders:

The following changes, clarifications and additions are hereby made part of the bidding and specifications for the above referenced project dated November 24, 2021 and prepared by the City of Port Orange Purchasing Division as fully and completely as if the same were fully set forth therein. It is the sole responsibility of bidder to confirm that all addenda have been received prior to submitting bid and acknowledge such in the bid documents.

A. CHANGES TO SPECIFICATIONS:

B. CHANGES TO CLARIFICATIONS:

None

C. QUESTIONS AND ANSWERS:

Question# 1: Is there a cost estimate or budget for the project listed?

ANSWER: The project's cost estimate is \$100,000.

Question# 2: Who determined there was Mold in the duct system and cleaning is sufficient to remove it vs replacement of heavily impacted or damaged areas?

ANSWER: Please see Addendum No.1, testing was done by ACE (Action Consulting & Environmental Services).

Question# 3: If there is mold growth in the duct system, what was the source that caused it and has the source been corrected?

ANSWER: The source was a possible moisture intrusion that occurred as a result of an HVAC issue. This issue has been addressed and will be mitigated through proper maintenance in the future.

Question# 4: What methodology is to be used to verify the cleanliness for the testing specified in ITB#21-17?

ANSWER: Air quality sample with the A/C running and swab/surface tests taken from the inside of the ductwork.

Question# 5: What is the clearance criteria for each sample method?

ANSWER: Air quality test will pass if test shows no elevated levels. Swab/surface tests will pass when test shows normal levels.

Question# 6: How many samples per unit and linear foot of duct is required?

ANSWER: Post remediation swab/surface tests are to be performed on all ducts (supply, return and exhaust) and the location of the tests will be identified by City Staff and conveyed to the awarded contractor during the remediation process.

Question# 7: Does the testing verification include the NADCA dust particle testing?

ANSWER: No.

Question# 8: If so, how many samples per feet?

ANSWER: Not applicable, please refer to answer for question No. 7.

Question# 9: Does the testing verification include both mold and bacteria testing?

ANSWER: Just mold.

Question# 10: Does the cleaning and testing include all supply ducts? Exhaust ducts? And return ducts?

ANSWER: Please refer to Section 3, Specifications, pages 10-16 and Addendum No.1. Cleaning and testing includes all supply ducts, all exhaust ducts and all return ducts.

Question# 11: What materials are used for the ducts throughout each floor? Sheet metal? Exterior and or interior insulated? If the ducts are interior insulated are sealants/coatings allowed for the interior of the duct? What percentage of the duct is this material per floor?

ANSWER: Ducts are constructed from sheet metal or rigid fiberglass. Any type of sealant/coating used must meet all Federal, State and Local Building Codes. The Mechanical Plans, M2.101 First Floor Plan Mechanical and M2.101 Second Floor Plan Mechanical will allow the Bidder to estimate (to scale) the linear footage of each type of duct as shown on the plans. The plans provide the specific sizes for the supply and return air ducts. The ducts shown on the plans that attach directly to the vent in each office or room is flex duct and noted on the plans.

Question# 12: Flex duct? Is the Flex duct to be replaced according to the EPA and NADCA recommendations? If the duct is to be cleaned and tested, what sections and or percentage of the ducts are to be tested for verification per floor?

ANSWER: Flex ducts need only be replaced if they are damaged during the remediation and cleaning process. The Contractor is responsible to repair any and all flex ducts damaged during the project. All repairs must meet all Federal, State and Local Building Codes. With regard to what sections and or percentage of the ducts are to be tested, please see Answer to Question #6.

Question# 13: What is the configuration of the unit and duct in the Evidence Room? Can the testing be photographed in this area? Are there any considerations for accessing the duct or RTU in this area that were not discussed at the Pre-Bid meeting?

ANSWER: Site visits can still be arranged to look at the duct work in the Evidence area at the Police Department. Please contact Robert Bryant at 386-341-7910. These subsequent site visits are not allowed to any bidders who did not attend the mandatory Pre-Bid Conference and site visit. Only DUCT/HVAC items directly related to testing can be photographed with the permission of City staff. There were no other discussions related to the evidence room.

Question No.14: Who is responsible for covering contents per area during the cleaning?

ANSWER: The City staff is responsible.

In all other respects, except as specifically stated herein, the subject ITB # 21-17 POLICE DEPARTMENT DUCT/HVAC MOLD REMEDIATION remains unchanged.

END OF ADDENDUM #3

Joseph Castro

Buyer

jcastro@port-orange.org



**ITB 21-17 POLICE DEPARTMENT DUCT/HVAC MOLD REMEDIATION
BID TABULATION**

OPENING DATE/TIME January 10, 2022 @ 2:30PM

				Dryfast Recovery System, LLC - dba Duct Dynasty Clean Air, LLC	Simpson Environmental Services, LLC	Service Tech Corporation
				RESPONSIVE: NO	RESPONSIVE: YES	RESPONSIVE: NO
ITEM #	DESCRIPTION	QTY	UNIT	TOTAL BID PRICE	TOTAL BID PRICE	TOTAL BID PRICE
1	General demolition, hazardous material remediation, HVAC cleaning, water extraction and remediation of the Police Department building	1	LS	\$90,528.03	\$132,000.00	\$168,500.00

DISCLAIMER: THIS BID TABULATION INDICATES ONLY THE BIDS AS RECEIVED. ALL BIDS ARE SUBJECT TO VERIFICATION FOR ACCURACY, AND FOR SPECIFICATION AND CONTRACT COMPLIANCE. NO CONCLUSIONS ABOUT CONTRACT AWARDS SHOULD BE DRAWN FROM THESE PRELIMINARY TABULATIONS.



CITY COUNCIL AGENDA ITEM

COUNCIL MEETING DATE 4/5/2022

SUBJECT: (C12) Resolution No. 22-12 - Authorizing the Mayor and City Clerk to execute documents related to the return of \$225,840 of CDBG-CV funding to the U.S. Department of Housing and Urban Development and closing out the grant award

DEPARTMENT: Finance

GOAL: 3 - Quality of Life

RECOMMENDED MOTION: Motion to approve Resolution No. 22-12.

SUMMARY: In early 2020, the City of Port Orange was awarded \$225,840.00 in CARES act funding provided through the HUD CDBG-CV program for Round 1 of grant funds to be used to prevent, prepare for, and respond to COVID-19. HUD provided the Funding Approval and Agreement for Round 1 on October 22, 2020. The award was authorized by Council on November 17, 2020 by Resolution No. 20-22.

The proposed use of this 2019 Program Year funding was to provide rental and utilities assistance to our residents in need as a result of the Coronavirus pandemic. After a lengthy process to set up this program, on December 28, 2020, Guardian Community Resource Management, Inc. was selected as the contractor. However, after the contractor was selected, Staff discovered that the County was providing the same services to residents of Volusia County, and their service area included the residents of Port Orange. Therefore, we never asked our contractor to do any work and no funds were ever expended.

On August 15, 2021, a special meeting was called by the City Council to review and approve the submission of our 5-year Consolidated Plan and Annual Action Plans. One of those Annual Action Plans was an amendment to our PY19 Plan to remove the \$225,840 CDBG-CV funding from the PY2019 Annual Action Plan. Council approved this action. HUD is now requiring a formal resolution to decline and return the funding received. As this is a reimbursement grant, no monies have been received to date.

PRESENTER: Alison Sylvester, John McKinney

ATTACHMENTS:

1.	Resolution No. 22-12	Draft Reso. 22-12 Authorizing the closeout and return
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		of HUD CDBG -CV funding w SB rev.pdf
2.	Port Orange CDBG-CV1 Closeout Certification	Port Orange CDBG-CV1 Closeout Certification.pdf
3.	Port Orange CDBG-CV1 Closeout Checklist	Port Orange CDBG-CV1 Closeout Checklist.pdf
4.	Port Orange CDBG-CV1 Closeout 7082 Form	Port Orange CDBG-CV1 Closeout 7082 Form.pdf

Alison Sylvester	Created/Initiated - 3/17/2022
Alison Sylvester	Approved - 3/17/2022
Robin Burris	Approved - 3/18/2022
John McKinney	Approved - 3/18/2022
Matthew Jones	Approved - 3/25/2022
Wayne Clark	Approved - 3/25/2022
Robin Fenwick	Final Approval - 3/25/2022

RESOLUTION NO. 22-12

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PORT ORANGE, VOLUSIA COUNTY, FLORIDA; AUTHORIZING THE RETURN AND CLOSEOUT OF GRANT FUNDING FROM THE U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD) IN THE AMOUNT OF \$225,840.00 FROM THE COMMUNITY DEVELOPMENT BLOCK GRANT CORONAVIRUS (CDBG-CV) FUNDS UNDER THE CORONAVIRUS AID, RELIEF, AND ECONOMIC SECURITY ACT (CARES Act); AUTHORIZING THE MAYOR AND CITY CLERK TO EXECUTE ANY AGREEMENTS, CONTRACTS, AND DOCUMENTS RELATED TO THE RETURN AND CLOSEOUT; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, on November 17, 2020, the City Council of the City of Port Orange ratified the acceptance of grant funding from the U.S. Department of Housing and Urban Development (HUD) in the amount of \$225,840.00 from the Community Development Block Grant Coronavirus (CDBG-CV) Funds under Coronavirus Aid, Relief, and Economic Security Act (CARES Act); and

WHEREAS, after submission and acceptance by HUD of a plan amendment to the 2019-2020 Annual Action Plan for use of the CDBG-CV funds, it was discovered that the services the City had proposed in the amended plan were services already being provided to Port Orange citizens by Volusia County thereby constituting a duplication of services, which is disallowed under CARES Act funding; and

WHEREAS, on August 15, 2021, the City Council of the City of Port Orange amended, again, the 2019-2020 Annual Action Plan to remove references to the proposed use of the CDBG-CV funds and to return the \$225,840.00, thereby approving the return of said funds; and

WHEREAS, the U.S. Department of Housing and Urban Development requires the Official Authorized Representative of the City to execute documents formally closing the award to return the declined funding;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF PORT ORANGE, VOLUSIA COUNTY, FLORIDA:

Section 1. The above recitals are hereby incorporated as if fully set forth herein.

Section 2. The City Council of the City of Port Orange hereby declines and authorizes the return of the previously accepted award of \$225,840.00 of CDBG-CV funds to U.S. Department of Housing and Urban Development.

Section 3. The City Council of the City of Port Orange hereby authorizes the Mayor and City Clerk to execute the required documents for the closeout and return of grant funds to the U.S. Department of Housing and Urban Development in the amount of \$225,840.00.

Section 4. This resolution shall become effective immediately upon adoption.

MAYOR DONALD O. BURNETTE

ATTEST:

Robin L. Fenwick, MMC, City Clerk

Adopted on the day of

Reviewed and Approved: _____
Shannon K. Balmer, Assistant City Attorney



U.S. Department of Housing and Urban Development
Community Planning and Development

**Community Development Block Grant – (CDBG) Entitlement Program
Grantee Closeout Certification**

Grantee Name: City of Port Orange, Florida

Grant Number: B-20-MW-12-0053

The Grantee hereby certifies that: (1) the grant as described in the approved application has been performed in accordance with the terms and conditions of the executed Grant Agreement and that there are no known outstanding programmatic or financial issues; and (2) all data provided below fairly reflects costs and sources of funds of the CDBG grant and are taken from HUD-approved reports and other project-related documents.

1. Grant amount	\$ 225,840.00
2. Cumulative grant funds disbursed (Grantee should draw down amounts for any final audit costs or unsettled third-party claims. Any such amounts not subsequently disbursed must be immediately reimbursed to HUD.)	\$ 0.00
3 Previously-recaptured grant funds	\$ 0.00
4. Balance of grant funds. (These funds will be recaptured by HUD.)	\$ 225,840.00

Grantee Authorized Representative's Signature

Donald O. Burnette

Typed Name of Signatory

Mayor

Title

Date

CPD Division Director's Signature

Lisa A. Hill

Typed Name of Signatory

Title: Director, Office of Community Planning and Development

Date

The above signature by HUD signifies approval of grant closeout.

Note: Any false statements knowingly or deliberately made are subject to civil or criminal penalties under Section 1001 of Title 18 of the U.S. Code.



U.S. Department of Housing and Urban Development
Community Planning and Development

CDBG Closeout Checklist

For the purposes of expediting the grant closeout process, HUD asks applicants to submit the following checklist.

Grantee Name: City of Port Orange, Florida	Grant Number: B-20-MW-12-0053
Official Contact Person: Alison M. Sylvester	Telephone Number: (386) 506-5706
Email Address: asylvester@port-orange.org	Fax Number: _____
DUNS NUMBER: 080827082	

1. Program Income

(i) Is there any program income on-hand?

Yes ☐ No ☒ If yes, explain:

Explanation box

2. CDBG Activities

(i) Are any of the activities ineligible under the regular CDBG program, or do any of the activities provide insufficient public benefit per 24 CFR 570.209(b)(3)? (Please refer to your current Consolidated Plan timeframe with respect to these activities.)

Yes ☐ No ☒ If yes, explain:

(ii) Any unused grant funds cancelled by HUD?

Yes ☐ No ☒ If yes, explain:

Explanation box

3. Draw Downs

As part of its financial review, the grantee confirmed that:

(i) No more than 20 percent of the grant amount was spent on administration and planning during each program year covered by your current Consolidated Plan.

Yes ☐ No ☒ If yes, explain:

(ii) No more than 15 percent of the grant amount was spent on public services during each program year covered by your current Consolidated Plan.

Yes ☐ No ☒ If yes, explain:



U.S. Department of Housing and Urban Development
Community Planning and Development

- (iii) At least 70 percent of the grant amount principally benefitted persons of low- and moderate- income, as measured over your current 1, 2, or 3 year certification period.

Yes ☐ No ☐ If no, explain: [Not Applicable - No funding expenditures.](#)

- (iv) Where applicable, identified activities meet the public benefit standard underwriting guidelines as described in 24 CFR 570.209(a) during each program year covered by your current Consolidated Plan.

Yes ☐ No ☐ If no, explain:

Explanation box
[Not applicable](#)

4. Activity Eligibility and Meet a National Objective

- (i) Are all activities eligible and does each activity meet a national objective? (Please refer to your current Consolidated Plan timeframe with respect to these activities.)

Yes ☐ No ☐ if no, explain:

Explanation box
[Not applicable.](#)

5. Audits

- (i) Did the grantee make reviews and audits of subrecipients?

Yes ☐ No ☒ if no, explain:

Explanation box
[Not applicable.](#)

6. Monitoring

- (i) Does the grantee have any open monitoring findings?

Yes ☐ No ☒ if yes, explain:

Explanation box



U.S. Department of Housing and Urban Development
Community Planning and Development

7. Reporting Systems

- (i) Did the grantee report on the number of jobs created or retained for each activity carried out?
(Please refer to your current Consolidated Plan timeframe with respect to these jobs.)

Yes ☐ No ☐ N/A ☒ if no, explain:

- (ii) Did the grantee report on the name, location, and contact information for the entity that carried out each activity? (Please refer to your current Consolidated Plan timeframe with respect to these activities.)

Yes ☐ No ☐ if no, explain:

Explanation box
Not applicable

8. Certifications

- (i) Have all Federal Requirements been met? For example, Affirmatively Furthering Fair Housing, Section 3, Lead-based paint procedures, Environmental Review, Davis Bacon, etc.

Yes ☐ No ☐ if no, explain:

Explanation box
Not applicable - no funding expenditures.

GRANTEE

By:

Grantee Authorized Representative's Signature

Date

Mayor Donald O. Burnette

Funding Approval/Agreement

Title I of the Housing and Community
Development Act (Public Law 930383)

U.S. Department of Housing and Urban Development
Office of Community Planning and Development
Community Development Block Grant Program

OMB Approval No 2506-0203
exp. 5/31/2018

HI-00515R of 20515R

1. Name of Grantee (as shown in item 5 of Standard Form 424) City of Port Orange	3. Grantee's 9-digit Tax ID Number 596000412	4. Date use of funds may begin (mm/dd/yyyy) 09/21/2020
2. Grantee's Complete Address (as shown in item 5 of Standard Form 424) City of Port Orange 1000 City Center Circle Port Orange, FL 32129	5a. Project/Grant No. 1 B-20-MW-12-0053	6a. Amount Approved \$225,840.00
	5b. Project/Grant No. 2	6b. Amount Approved
	5c. Project/Grant No. 3	6c. Amount Approved

Grant Agreement: This Grant Agreement between the Department of Housing and Urban Development (HUD) and the above named Grantee is made pursuant to the authority of Title I of the Housing and Community Development Act of 1974, as amended, (42 USC 5301 et seq.). The Grantee's submissions for Title I assistance, the HUD regulations at 24 CFR Part 570 (as now in effect and as may be amended from time to time), and this Funding Approval, including any special conditions, constitute part of the Agreement. Subject to the provisions of this Grant Agreement, HUD will make the funding assistance specified here available to the Grantee upon execution of the Agreement by the parties. The funding assistance specified in the Funding Approval may be used to pay costs incurred after the date specified in item 4 above provided the activities to which such costs are related are carried out in compliance with all applicable requirements. Pre-agreement costs may not be paid with funding assistance specified here unless they are authorized in HUD regulations or approved by waiver and listed in the special conditions to the Funding Approval. The Grantee agrees to assume all of the responsibilities for environmental review, decision making, and actions, as specified and required in regulations issued by the Secretary pursuant to Section 104(g) of Title I and published in 24 CFR Part 58. The Grantee further acknowledges its responsibility for adherence to the Agreement by sub-recipient entities to which it makes funding assistance hereunder available.

U.S. Department of Housing and Urban Development (By Name) Lisa A. Johnson	Grantee Name City of Port Orange, Donald O. Burnette
Title Director, Office of Community Planning and Development	Title Mayor

Signature Lisa Johnson Digitally signed by: Lisa Johnson DN: CN = Lisa Johnson email = lisa.a.johnson@hud.gov C = US Date: 2022.03.15 12:53:37 -04'00'	Date (mm/dd/yyyy)	Signature 	Date (mm/dd/yyyy)
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7. Category of Title I Assistance for this Funding Action (check only one) ☒ a. Entitlement, Sec 106(b) ☐ b. State-Administered, Sec 106(d)(1) ☐ c. HUD-Administered Small Cities, Sec 106(d)(2)(B) ☐ d. Indian CDBG Programs, Sec 106(a)(1) ☐ e. Surplus Urban Renewal Funds, Sec 112(b) ☐ f. Special Purpose Grants, Sec 107 ☐ g. Loan Guarantee, Sec 108	8. Special Conditions (check one) ☒ None ☐ Attached	9a. Date HUD Received Submission (mm/dd/yyyy) 06/23/2020	10. check one ☒ a. Orig. Funding Approval ☐ b. Amendment Amendment Number		
		9b. Date Grantee Notified (mm/dd/yyyy) 09/21/2020			
11. Amount of Community Development Block Grant		9c. Date of Start of Program Year (mm/dd/yyyy)			
		a. Funds Reserved for this Grantee	FY (yyyy) 2020	FY (yyyy)	FY (yyyy)
		b. Funds now being Approved	\$225,840.00	\$0.00	
		c. Reservation to be Cancelled (11a minus 11b)	\$225,840.00		

12a. Amount of Loan Guarantee Commitment now being Approved NA	12b. Name and complete Address of Public Agency NA
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Loan Guarantee Acceptance Provisions for Designated Agencies:

The public agency hereby accepts the Grant Agreement executed by the Department Housing and Urban Development on the above date with respect to the above grant number(s) as Grantee designated to receive loan guarantee assistance, and agrees to comply with the terms and conditions of the Agreement, applicable regulations, and other requirements of HUD now or hereafter in effect, pertaining to the assistance provided it.

12c. Name of Authorized Official for Designated Public Agency	
Title	
Signature	Date (mm/dd/yyyy)

HUD Accounting use Only

Batch	TAC	Program	Y	A	Reg	Area	Document No.	Project Number	Category	Amount	Effective Date (mm/dd/yyyy)	F
	153											
	176											
		Y						Project Number		Amount		
		Y						Project Number		Amount		

Date Entered PAS (mm/dd/yyyy)	Date Entered LOCCS (mm/dd/yyyy)	Batch Number	Transaction Code	Entered By	Verified By
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CITY COUNCIL AGENDA ITEM

COUNCIL MEETING DATE 4/5/2022

SUBJECT: (D13) Port Orange Property Development, Inc. Joint Annual Meeting of the Members, Directors and Design Review Board

DEPARTMENT: City Attorney

GOAL: 6 - Organizational Excellence

RECOMMENDED MOTION: Please see the attached agenda.

SUMMARY: Chairman Chase Tramont will conduct the joint meeting. Please see the attached notice and agenda for joint meeting.

PRESENTER: Chase Tramont

ATTACHMENTS:

1.	PO PDI 2-16-2021 minutes	PO PDI 2-16-2021 minutes.docx
2.	Notice of Joint Annual Meeting PO Prop Dev 2022	Notice of Joint Annual Meeting PO Prop Dev 2022- rev.pdf

Robin Fenwick
Shannon Balmer
Wayne Clark
Robin Fenwick

Created/Initiated - 3/8/2022
Approved - 3/22/2022
Approved - 3/24/2022
Final Approval - 3/25/2022

PORT ORANGE PROPERTY DEVELOPMENT, INC. and
DESIGN REVIEW BOARD
ANNUAL MEETING MINUTES
COUNCIL CHAMBERS – CITY HALL
1000 CITY CENTER CIRCLE
PORT ORANGE, FLORIDA
FEBRUARY 16, 2021

THE JOINT ANNUAL MEETING OF MEMBERS, DIRECTORS AND DESIGN REVIEW BOARD OF PORT ORANGE PROPERTY DEVELOPMENT, INC., was called to order by Chairman Chase Tramont at 6:40 p.m.

Roll Call:

Present:

Don Burnette
Drew Bastian
Scott Stiltner
Chase Tramont
Jonathan Foley

Also Present:

Jamie Miller, Interim City Manager
Matthew Jones, City Attorney
Robin Fenwick, City Clerk

2. Acceptance of meeting notice

There were no objections to the meeting notice.

3. Approval of Minutes of February 4, 2020 for meeting of the Members & Directors

Motion to approve the Minutes of February 4, 2020 of the meeting of Members & Directors was made by Member Drew Bastian and Seconded by Member Scott Stiltner. Motion carried unanimously by voice vote.

4. Approval of Minutes of February 4, 2020 for meeting of the Design Review Board

Motion to approve the Minutes of February 4, 2020 of the meeting of the Design Review Board was made by Member Drew Bastian and Seconded by Member Jonathan Foley. Motion carried unanimously by voice vote.

5. Approval of Minutes of March 3, 2020 for special meeting of Members, Directors, & Design Review Board

Motion to approve the Minutes of March 3, 2020 of the special meeting of Members, Directors & Design Review Board was made by Member Drew Bastian and

Seconded by Member Jonathan Foley. Motion carried unanimously by voice vote.

6. Election of the Board of Directors

Motion to elect Drew Bastian, Donald Burnette, Scott Stiltner, Chase Tramont, and the person elected to Council in the upcoming special election was made by Member Drew Bastian and Seconded by Member Jonathan Foley. Motion carried unanimously by voice vote.

7. Such other business as may be brought before the Members of the corporation.

There was none.

Election of Officers of the Board of Directors:

8. Election of officers

- (A) Motion to nominate Chase Tramont as Chairman was made by Member Don Burnette and Seconded by Member Scott Stiltner. Motion carried unanimously by voice vote.
- (B) Motion to nominate Drew Bastian as Vice Chairman was made by Member Don Burnette and Seconded by Member Jonathan Foley. Motion carried unanimously by voice vote.
- (C) Motion to nominate Scott Stiltner as President was made by Member Don Burnette and Seconded by Member Jonathan Foley. Motion carried unanimously by voice vote.
- (D) Motion to nominate District 1 Council Member when elected as Vice President was made by Member Don Burnette and Seconded by Member Scott Stiltner. Motion carried unanimously by voice vote.
- (E) Motion to nominate Don Burnette as Secretary was made by Member Drew Bastian and Seconded by Member Jonathan Foley. Motion carried unanimously by voice vote.
- (F) Motion to re-elect Dr. Scott Neils, Finance Director as Treasurer was made by Member Don Burnette and Seconded by Member Drew Bastian. Motion carried unanimously by voice vote.

9. Such other business as may be brought before the Members of the corporation.

There was none.

Meeting of the Design Review Board:

10. Election of officers

- (A) Motion to nominate Chase Tramont as Chairman was made by Member Don Burnette and Seconded by Member Jonathan Foley. Motion carried unanimously by voice vote.
- (B) Motion to nominate Drew Bastian as Vice Chairman was made by Member Don Burnette and Seconded by Member Jonathan Foley. Motion carried unanimously by voice vote.

There being no further business, the meeting was adjourned at 6:45p.m.

Chase Tramont, Chairman



**NOTICE OF JOINT ANNUAL MEETING
of Members, Directors and Design Review Board of
PORT ORANGE PROPERTY DEVELOPMENT, INC.,
a Florida Not-for-Profit Corporation.**

TO: All Members, Directors, and Design Review Board

Pursuant to the provisions of Article 3.02, Members of the Corporation, and Article 4.03, Board of Directors, of the Bylaws of **PORT ORANGE PROPERTY DEVELOPMENT, INC.**, a Florida Not-for-Profit Corporation

YOU ARE HEREBY NOTIFIED

that the joint annual meeting of the Members and of the Board of Directors shall be held on **Tuesday, April 5, 2022, 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 February 16, 2021 for meeting of the Members and Directors
4. Approval of Minutes of February 16, 2021 for meeting of the Design Review Board
5. Election of the Board of Directors;

Current Board of Directors

Donald Burnette
Drew Bastian
Scott Stiltner
Chase Tramont
Reed Foley

Board of Directors to be elected

City Mayor - Donald Burnette
City Council District 1 Representative - Reed Foley
City Council District 2 Representative - Chase Tramont
City Council District 3 Representative - Drew Bastian
City Council District 4 Representative - Scott Stiltner

6. Such other business as may be brought before the Members of the corporation.

Immediately following the meeting of the members, the Board of Directors shall consider and take action on the following items:

Agenda for Meeting of Board of Directors:

7. **Election of officers:**

Current Officers

Chase Tramont, Chairman
Drew Bastian, Vice Chairman
Scott Stiltner, President
Reed Foley, Vice President
Donald Burnette, Secretary
Dr. Scott R. Neils, Treasurer

Nominations for election of officers:

A. Chairman: _____

B. Vice-Chairman: _____

C. President: _____

D. Vice President: _____

E. Secretary: _____

F. Treasurer: _____ Finance Director: Jonathan C. McKinney

8. Appointment of new Registered Agent, Finance Director: Jonathan C. McKinney.
9. Such other business as may be brought before the Board of Directors.

Immediately following the meeting of the Members and the Board of Directors, the Design Review Board shall consider and take action on the following items:

Agenda for Meeting of the Design Review Board:

10. **Election of officers:**

Current Officers

Chase Tramont, Chairman

Drew Bastian, Vice-Chairman

Nominations for election of officers:

A. Chairman: _____

B. Vice-Chairman: _____

11. Such other business as may be brought before the Design Review Board.

DATED: March 25, 2022.

/s/ Donald Burnette
Donald Burnette, Secretary

Copy to: Donald Burnette, Mayor
Scott Stiltner, Vice Mayor
Drew Bastian, Councilmember
Chase Tramont, Councilmember
Reed Foley, Councilmember
Wayne Clark, City Manager
Matthew J. Jones, City Attorney

ACCOMMODATIONS IN ACCORDANCE WITH THE AMERICANS WITH DISABILITIES ACT (ADA). IF YOU ARE A PERSON WITH A DISABILITY WHO NEEDS ANY ACCOMMODATION IN ORDER TO PARTICIPATE IN THIS MEETING, 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, CITYCLERK@PORT-ORANGE.ORG, AS FAR IN ADVANCE AS POSSIBLE, BUT PREFERABLY WITHIN 2 WORKING DAYS OF YOUR RECEIPT OF THIS NOTICE OR 5 DAYS PRIOR TO THE MEETING DATE. IF YOU ARE HEARING OR VOICE IMPAIRED, CONTACT THE RELAY OPERATOR AT 7-1-1 or 1-800-955-8771. HELP FOR THE HEARING IMPAIRED IS AVAILABLE THROUGH THE ASSISTIVE LISTENING SYSTEM RECEIVERS CAN BE OBTAINED FROM THE CITY CLERKS' OFFICE.

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CITY COUNCIL AGENDA ITEM

COUNCIL MEETING DATE 4/5/2022

SUBJECT: (D14) City Center Corporate Park Property Owner's Association, Inc. Joint Special Meeting of Directors and Members

DEPARTMENT: City Attorney

GOAL: 6 - Organizational Excellence

RECOMMENDED MOTION: Please see the attached agenda.

SUMMARY: President Scott Stiltner will conduct the joint meeting. Please see the attached notice and agenda for the joint meeting.

PRESENTER: Scott Stiltner

ATTACHMENTS:

1.	CITY CTR CORP PARK POA ANNUAL MTG MINS 2-16-2021	CITY CTR CORP PARK POA ANNUAL MTG MINS 2-16-2021.docx
2.	2022 - Notice of Joint Annual Meeting City Center Corp Park POA	2022 - Notice of Joint Annual Meeting City Center Corp Park POA-final.pdf
3.	2022 - Resolution 2022-1 dissolving corporation	2022 - Resolution 2022-1 dissolving corporation.pdf
4.	Registered Agent Change form	Registered Agent Change form.pdf

Robin Fenwick
Shannon Balmer
Wayne Clark
Robin Fenwick

Created/Initiated - 3/15/2022
Approved - 3/22/2022
Approved - 3/25/2022
Final Approval - 3/25/2022

JOINT ANNUAL MEETING MINUTES OF
THE CITY CENTER CORPORATE PARK PROPERTY
OWNERS ASSOCIATION
COUNCIL CHAMBERS – CITY HALL
1000 CITY CENTER CIRCLE
PORT ORANGE, FLORIDA
FEBRUARY 16, 2021

THE JOINT ANNUAL MEETING OF THE MEMBERS AND DIRECTORS OF THE CITY CENTER CORPORATE PARK PROPERTY OWNERS ASSOCIATION, was called to order by Scott Stiltner, President at 6:45 p.m.

Roll Call: Present: Donald Burnette
Drew Bastian
Scott Stiltner
Chase Tramont
Jonathan Foley

Also Present: Jamie Miller, Interim City Manager
Matthew Jones, City Attorney
Robin Fenwick, City Clerk

2. Notice of Meeting

Motion to accept the notice of the meeting was made by Member Drew Bastian and Seconded by Member Chase Tramont. Motion carried unanimously by voice vote.

3. Approval of the Minutes of February 4, 2020

Motion to approve the Minutes of the February 4, 2020 meeting was made by Member Drew Bastian and Seconded by Member Chase Tramont. Motion carried unanimously by voice vote.

4. Election of the Board of Directors

Motion to elect the Board of Directors: Chase Tramont, Drew Bastian, Don Burnette, Scott Stiltner, and person elected to Council in the upcoming special election, with the interim appointment, Jonathan Foley, filling the position until the election was made by Member Don Burnette and Seconded by

Member Drew Bastian. Motion carried
unanimously by voice vote.

5. There was no further business of the Members.

6. Election of Officer

Motion to nominate the person elected
to Council in the upcoming special
election with the interim appointment,
Jonathan Foley, filling the position until
the election as Secretary was made by
Member Chase Tramont and Seconded
by Member Drew Bastian. Motion
carried unanimously by voice vote.

7. There was no further business of the Board of Directors of the Corporation.

ADJOURNMENT: 6:47 p.m.

Scott Stiltner, President



**NOTICE OF JOINT SPECIAL 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 joint special meeting of the Members and of the Board of Directors shall be held on **Tuesday, April 5, 2022 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 Board of Directors Meeting:

1. Call to Order and Roll Call (all members of Council);
2. Ratify all action taken by the Board during the past year;
3. Appointment of new Registered Agent, Finance Director: Jonathan C. McKinney
4. Recommendation to Members to adopt Resolution 2022-1 dissolving the City Center Corporate Park Property Owners Association, Inc.;
5. Such other business as may be brought before the Board of Directors.

Immediately following the meeting of the Board of Directors, the Members shall consider and take action on the following items:

Agenda for Members Meeting:

6. Call to Order and Roll Call (all members of Council);
7. Proof of Notice of Meeting;
8. Approval of Minutes of February 16, 2021 for meeting of the Members and Directors;
9. Reports of officers and reports of committees, if any;
10. Consideration and vote to adopt Resolution 2022-1 dissolving the City Center Corporate Park Property Owners Association, Inc.;
11. Delegation of Secretary to approve Minutes from April 5, 2022 meeting;
12. Adjournment of the Joint Special Meeting of Members and the Board of Directors.

DATED: March 25, 2022.

s/ Reed Foley
Reed Foley, Secretary

Copy to: Donald Burnette, Mayor
Scott Stiltner, Vice Mayor
Chase Tramont, Councilmember
Drew Bastian, Councilmember
Reed Foley, Councilmember
Wayne Clark, City Manager
Matthew J. Jones, City Attorney

ACCOMMODATIONS IN ACCORDANCE WITH THE AMERICANS WITH DISABILITIES ACT (ADA). IF YOU ARE A PERSON WITH A DISABILITY WHO NEEDS ANY ACCOMMODATION IN ORDER TO PARTICIPATE IN THIS MEETING, 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, CITYCLERK@PORT-ORANGE.ORG, AS FAR IN ADVANCE AS POSSIBLE, BUT PREFERABLY WITHIN 2 WORKING DAYS OF YOUR RECEIPT OF THIS NOTICE OR 5 DAYS PRIOR TO THE MEETING DATE. IF YOU ARE HEARING OR VOICE IMPAIRED, CONTACT THE RELAY OPERATOR AT 7-1-1 or 1-800-955-8771. HELP FOR THE HEARING IMPAIRED IS AVAILABLE THROUGH THE ASSISTIVE LISTENING SYSTEM RECEIVERS CAN BE OBTAINED FROM THE CITY CLERKS' OFFICE.

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**CITY CENTER CORPORATE PARK
PROPERTY OWNERS ASSOCIATION, INC.
RESOLUTION NO. 2022-1**

A RESOLUTION OF THE BOARD OF DIRECTORS AND MEMBERS OF THE CITY CENTER CORPORATE PARK PROPERTY OWNERS ASSOCIATION, INC. DISSOLVING THE CITY CENTER CORPORATE PARK PROPERTY OWNERS ASSOCIATION, INC. AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, City Center Corporate Park Property Owners Association, Inc., is a Florida not for profit corporation formed by the City of Port Orange, Florida for the purpose of administering and enforcing covenants and restrictions affecting the lands platted as "City Center Corporate Park" located in Port Orange, Volusia County, Florida; and

WHEREAS, pursuant to the Bylaws of the City Center Corporate Park Property Owners Association, Inc. the Board of Directors and its Members may vote to dissolve the City Center Corporate Park Property Owners Association, Inc.; and

WHEREAS, the articles of incorporation were filed on July 31, 2002; and

WHEREAS, no assets of the Corporation remain after winding up; and

WHEREAS, no corporate debts remain unpaid and the financial records are ready to be closed; and

WHEREAS, upon recommendation by the Board of Directors, the Members at a joint special meeting held on April 5, 2022, at 1000 City Center Circle, Port Orange, Florida, the Members voted to dissolve the Corporation and elected to file a Notice of Corporate Dissolution;

NOW THEREFORE, BE IT RESOLVED BY THE BOARD OF DIRECTORS AND THE MEMBERS OF THE CITY CENTER CORPORATE PARK PROPERTY OWNERS ASSOCIATION, INC. AS FOLLOWS:

Section 1. The City Center Corporate Park Property Owners Association, Inc. is hereby dissolved in accordance with Section 617.1403, Florida Statutes. The effective date of the dissolution shall be April 29, 2022.

Section 2. In accordance with Section 617.1407, Florida Statutes, the City Center Corporate Park Property Owners Association, Inc. shall file a Notice of Corporate Dissolution in a substantially similar format as attached hereto as "Exhibit A" and any other documents necessary to effectuate dissolution.

Section 3. Scott Stiltner, President, and Jonathan C. McKinney, Registered Agent, are hereby expressly authorized to execute any and all documents necessary to effectuate dissolution and the intent of this resolution.

Section 4. This resolution shall become effective April 5, 2022.

Scott Stiltner, President

ATTEST:

Reed Foley, Secretary

Adopted on the 5th day of April, 2022.

Reviewed and Approved: _____
Matthew J. Jones, City Attorney

EXHIBIT "A"

Notice of Corporate Dissolution

This notice is submitted by the dissolved corporation named below for resolution of payment of unknown claims against this corporation as provided in s. 617.1407, F.S.

This "Notice of Corporate Dissolution" is optional and is not required when filing a voluntary dissolution.

Name of Corporation: CITY CENTER CORPORATE PARK PROPERTY OWNERS ASSOCIATION INC.

*Date of dissolution will be the date the dissolution is filed with the Department of State or as specified in the **Articles of Dissolution**.*

Description of information that must be included in a claim:

All information required by law and in accordance with Section 768.28, Florida Statutes.

Mailing address where claims can be sent: (Claims cannot be sent to the Division of Corporations)

City of Port Orange

Attn.: Finance Department

1000 City Center Cir.

Port Orange, FL 32129

A claim against the above named corporation will be barred unless a proceeding to enforce the claim is commenced within 4 years after the filing of this notice.

Scott Stiltner, President
Printed Name of the Person Filing

Signature of the Person Filing

Fee: No charge if included with Articles of Dissolution. If filed separately \$35.00

ARTICLES OF DISSOLUTION

Pursuant to section 617.1403, Florida Statutes, this Florida not for profit corporation submits the following Articles of Dissolution:

FIRST: The name of the corporation as currently filed with the Florida Department of State:

CITY CENTER CORPORATE PARK PROPERTY OWNERS ASSOCIATION INC.

SECOND: The document number of the corporation (if known): N02000005813

THIRD: Adoption of Dissolution

(COMPLETE SECTION I OR II)

SECTION I

If the corporation has members entitled to vote:

(CHECK/COMPLETE ONE)

☒ The date of meeting of members at which the resolution to dissolve was adopted

April 5, 2022. The number of votes cast by the members was sufficient for approval.

☐ The resolution was adopted by written consent of the members and executed in accordance with section 617.0701, Florida Statutes.

SECTION II

If the corporation has no members or members entitled to vote on the dissolution:

The corporation has no members or members entitled to vote on the dissolution.

The date of adoption of the resolution by the board of directors was _____.

The number of directors in office was _____ and the vote for resolution was _____ for and _____ against. (Must be a majority vote)

FOURTH Effective date of dissolution, if applicable: April 29, 2022

(no more than 90 days after dissolution file date)

Note: If the date inserted in this block does not meet the applicable statutory filing requirements, this date will not be listed as the document's effective date on the Department of State's records.

Signature: _____

(By the chairman or vice chairman of the board, president or other officer- if directors have not been selected, by an incorporator- if in the hands of a receiver, trustee, or other court appointed fiduciary, by that fiduciary)

Scott Stiltner

(Typed or printed name of person signing)

President

(Title of person signing)

Filing Fee: \$35

**STATEMENT OF CHANGE OF REGISTERED OFFICE OR REGISTERED AGENT OR BOTH
FOR CORPORATIONS**

Pursuant to the provisions of sections 607.0502, 617.0502, 607.1508, or 617.1508, Florida Statutes, this statement of change is submitted for a corporation organized under the laws of the State of Florida in order to change its registered office or registered agent, or both, in the State of Florida.

1. The name of the corporation: CITY CENTER CORPORATE PARK PROPERTY OWNERS ASSOCIATION, INC.

2. The principal office address: 1000 City Center Cir.

Port Orange, FL 32129

3. The mailing address (if different): _____

4. Date of incorporation/qualification: 07/31/2002 Document number: N02000005813

5. The name and street address of the current registered agent and registered office on file with the Florida Department of State: (If resigned, enter resigned)

Dr. Scott R. Neils

1000 City Center Cir.

Port Orange, FL 32129

6. The name and street address of the new registered agent (if changed) and /or registered office (if changed):

Jonathan C. McKinney

1000 City Center Cir.

P.O. Box NOT acceptable

Port Orange, FL 32129

The street address of its registered office and the street address of the business office of its registered agent, as changed will be identical.

Such change was authorized by resolution duly adopted by its board of directors or by an officer so authorized by the board, or the corporation has been notified in writing of the change.

Signature of an officer or director

Scott Stiltner, President
Printed or typed name and title

I hereby accept the appointment as registered agent and agree to act in this capacity. I further agree to comply with the provisions of all statutes relative to the proper and complete performance of my duties, and I am familiar with and accept the obligation of my position as registered agent. Or, if this document is being filed merely to reflect a change in the registered office address, I hereby confirm that the corporation has been notified in writing of this change.

Signature of Registered Agent

April 5, 2022

Date

If signing on behalf of an entity:

Jonathan C. McKinney

Typed or Printed Name

*** * * FILING FEE: \$35.00 * * ***

MAKE CHECKS PAYABLE TO FLORIDA DEPARTMENT OF STATE
MAIL TO: DIVISION OF CORPORATIONS, P.O. BOX 6327, TALLAHASSEE, FL 32314
CR2E045 (04/13)



CITY COUNCIL AGENDA ITEM

COUNCIL MEETING DATE 4/5/2022

SUBJECT: (H17) First Reading - Ordinance No. 2022-6 - Approval of an Amendment to the Emergency Management Ordinance

DEPARTMENT: Fire/Rescue Services

GOAL: 1 - Public Safety 3 - Quality of Life

RECOMMENDED MOTION: Move to approve Ordinance No. 2022-6.

SUMMARY: Sections 252.38 and 252.46, Florida Statutes, were amended to limit the duration of emergency ordinances unrelated to weather enacted by units of local governments, to provide exceptions to curfew for certain workers and to require units of local government to make all emergency orders, declarations and ordinances available through a conspicuous link on the website's homepage. The purpose of this amendment to Chapter 26 of the City's Ordinances is to implement these changes in the law.

PRESENTER: Joe Wulfing

ATTACHMENTS:

1.	Ordinance 2022-6	Ordinance 2022-6.pdf
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kwilliams kwilliams	Created/Initiated - 3/9/2022
Joe Wulfing	Approved - 3/10/2022
Robin Burris	Approved - 3/10/2022
John McKinney	Approved - 3/11/2022
Matthew Jones	Approved - 3/16/2022
Wayne Clark	Approved - 3/24/2022
Robin Fenwick	Final Approval - 3/25/2022

ORDINANCE NO. 2022-6

AN ORDINANCE OF THE CITY OF PORT ORANGE, VOLUSIA COUNTY, FLORIDA, AMENDING THE CODE OF ORDINANCES, CHAPTER 26, EMERGENCY MANAGMENT, ARTICLE I, IN GENERAL, SECTION 26-6.2, DECLARATION OF STATE OF EMERGENCY AND SECTIONS 26-6.3 (c)(6)&(d), EMERGENCY MANAGEMENT POWERS, TO LIMIT THE DURATION OF EMERGENCY ORDERS FOR CERTAIN EMERGENCIES AND CREATE EXCEPTIONS TO CURFEW; AND ADDING SECTION 26-10, AVAILABILITY OF EMERGENCY ORDERS, DECLARATIONS AND ORDINANCES TO PROVIDE THAT EMERGENCY ORDERS, DECLARATIONS AND ORDINANCES SHALL BE AVAILABLE ON THE CITY'S WEBPAGE; PROVIDING FOR REPEAL OF CONFLICTING ORDINANCES; PROVIDING FOR CODIFICATION; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Florida Statutes Section 252.38 was amended to limit the duration of emergency ordinances unrelated to weather enacted by units of local government; and

WHEREAS, Florida Statutes Section 252.46 was amended to require units of local government to make all emergency ordinances available through a conspicuous link on the government website's homepage; and

WHEREAS, Florida Statutes Section 252.46 was amended to provide exceptions to a curfew for certain workers; and

WHEREAS, the City Council hereby wishes to pass this Ordinance to implement such changes; and

WHEREAS, it is in the best interest of the public health, safety and welfare that this ordinance be adopted.

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 ORDAINED BY THE CITY COUNCIL OF THE CITY OF PORT ORANGE, VOLUSIA COUNTY, FLORIDA:

SECTION 1. The City Council of the City of Port Orange, Florida, hereby amends Chapter 26, Emergency Management, Article I, In General, Sections 26-6.2, Declaration of state of emergency, of the City of Port Orange Code of Ordinances, to read as follows:

ARTICLE I. IN GENERAL

Sec. 26-6.2 . Declaration of state of emergency

(d) An emergency order, as defined by section 252.38 (4)(a) and includes an order or ordinance, which is enacted under this chapter that limits the rights or liberties of individuals or businesses within the city shall be narrowly tailored to serve a compelling public health or safety purpose. Any such order must be limited in duration, applicability, and scope in order to reduce any infringement on individual rights or liberties to the greatest extent possible and shall expire 7-days after issuance. The term does not apply to orders issued in response to hurricanes or other weather-related emergencies. The order may be extended by majority vote of the city council in 7-day increments for a total duration of not more than 42 days consistent with 252.38 (4)(c) Florida Statutes.

SECTION 2. The City Council of the City of Port Orange, Florida, hereby amends Chapter 26, Emergency Management, Article I, In General, Sections 26-6.3 (c)(6) and (d), Emergency management powers, of the City of Port Orange Code of Ordinances to read as follows:

Sec. 26-6.3. Emergency management powers

...

(c) During the existence of a state of emergency, the director has the power and authority to impose by executive order any or all of the following restrictions:

...

- (5) Prohibit or regulate travel upon any public street, highway or upon any other public property. Persons in search of medical assistance, food or other commodity or service necessary to sustain the well being of themselves or their families or some member thereof may be exempted or excepted from such prohibition or regulation;
- (6) Impose a curfew upon all or any portion of the city thereby prohibiting persons from being on public streets, highways, parks, or other public places during the hours when the curfew is in effect. Persons travelling to their places of employment to report for work and to return to their residences after their work is completed shall be allowed to travel during the curfew consistent with Florida Statute 252.46 (4);

...

- (d) The executive orders of the director may exempt, from all or part of any restrictions, physicians, nurses and ambulance operators performing medical services, on-duty employees of hospitals and other medical facilities, on-duty military personnel, bona fide members of the news media, personnel of public utilities maintaining essential public services, city authorized and requested firefighters, law enforcement officers and personnel, and such other classes of persons as may be essential to the preservation of public order, ~~or~~ necessary to serve safety, health and welfare needs of the people within the city, or required by law.

SECTION 3. The City Council of the City of Port Orange, Florida, hereby adds to Chapter 26, Emergency Management, Article I, In General, Section 26-10, Availability of emergency orders, declarations and ordinances, of the City of Port Orange Code of Ordinances to read as follows:

Sec. 26-10. Availability of emergency orders, declarations and ordinances.

Any emergency order, declaration or ordinance enacted or adopted under this chapter shall be available on a dedicated city webpage accessible through a conspicuous link on the homepage consistent with Florida Statute 252.46 (3).

Secs. 26-~~101~~—26-35. Reserved.

SECTION 4. All ordinances or parts of ordinances 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. The provisions of this ordinance shall become and be made a part of the Code of Ordinances of the City of Port Orange and the sections of this ordinance may be

renumbered or re-lettered to accomplish such intention. The code codifier is granted liberal authority to codify the provisions of the ordinance.

SECTION 7. This ordinance shall become effective upon final passage by the City Council.

MAYOR DONALD O. BURNETTE

ATTEST:

Robin L. Fenwick, MMC, City Clerk

Passed on first reading on the day of _____

Passed and adopted on second and final reading on the day of _____

Reviewed and Approved: _____
Carly R. Meek, Assistant City Attorney



CITY COUNCIL AGENDA ITEM

COUNCIL MEETING DATE 4/5/2022

SUBJECT: (I18) Second Reading - Ordinance No. 2022-5 - LDC Amendment/ Chapter 9, Article II, Section 19 (Case No. 22-25000002)

DEPARTMENT: Community Development

GOAL: 3 - Quality of Life

RECOMMENDED MOTION: Move to approve Ordinance 2022-5, amending Chapter 9, Article II, Section 19 of the Land Development Code.

SUMMARY: Planning Commission Action (2/24/22): Recommended Approval 6-0

The proposed amendment is to allow the City's tree bank to fund educational outreach programs and tree giveaways to residents and business owners of the City of Port Orange to plant on their property. Currently, the Land Development Code (LDC) states that funds from the City's tree bank can only be used for the planting of trees, and to cover any other ancillary costs including, but not limited to, landscaping, sprinkler systems, labor, consultant services and other services or materials necessary and proper for the preservation, maintenance, relocation or restoration of tree ecosystems on any public land within the City of Port Orange.

The proposed amendment would allow the City, Environmental Advisory Board (EAB), or other designated City boards to use funds from the tree bank funds to purchase trees to giveaway to residents and business owners during community events (Arbor Day, Earth Day, Family Days, etc.), as well as to create educational outreach programs that encourage the preservation of the City's tree canopy.

In conjunction with the proposed amendment, a Tree Bank Policy will be established by resolution to specify the type and size of trees that may be purchased for giveaways, along with the percentage of funds from the tree bank that can be used for tree giveaways and educational outreach. The Tree Bank Policy Resolution will be brought to Council for consideration on April 19, 2022.

The staff report is attached for more information.

PRESENTER: Penelope Cruz

ATTACHMENTS:

1.	Ordinance 2022-5	Ord 2022-5 tree education.pdf
2.	Staff Report - LDC Tree Bank Amendment	Staff Report - LDC Tree Bank Amendment.pdf

Penelope Cruz
Robin Fenwick

Created/Initiated - 3/14/2022
Final Approval - 3/14/2022

ORDINANCE NO. 2022-5

AN ORDINANCE OF THE CITY OF PORT ORANGE,
VOLUSIA COUNTY, FLORIDA AMENDING CHAPTER 9,
ARTICLE II OF THE LAND DEVELOPMENT CODE, TO
ALLOW FUNDS FROM THE CITY'S TREE BANK TO BE
USED FOR EDUCATIONAL OUTREACH PROGRAMS AND
TREE GIVEAWAYS; PROVIDING FOR REPEAL OF
CONFLICTING ORDINANCES; PROVIDING FOR
SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the proposed amendment is necessary to improve the content of the existing Land Development Code ("Code") by expanding the use of the City's Tree Bank funds to include educational outreach programming and tree giveaways; and

WHEREAS, it is the City Council's intent to establish by resolution a City Tree Bank Policy allowing for the use of funds for educational outreach and tree giveaways; and

WHEREAS, for purposes of this ordinance words with underlined (underlined) type shall constitute additions to the original text and words with strikethrough (~~strikethrough~~) type shall constitute deletions from the original text.

NOW, THEREFORE, BE IT ENACTED BY THE CITY COUNCIL OF THE CITY OF PORT ORANGE, VOLUSIA COUNTY, FLORIDA:

SECTION 1: The City Council of the City of Port Orange hereby amends Chapter 9 , Article II of the of the Land Development Code, City of Port Orange, to read as follows:

Chapter 9 – ENVIRONMENTAL PROTECTION

ARTICLE II: - TREE PRESERVATION

Section 19: - Tree replacement or mitigation.

[No changes to subsections (a) through (d)]

(e) *Tree bank*. The city finance director shall establish a separate project account for the tree bank for the deposit of mitigation payments as required in chapter 9, article II. All monies deposited for use as specified in section 19(e) of this article, shall be deposited in a separate project account established and maintained apart from other project accounts of the City of Port Orange. The funds in said account shall be expended, utilized and disbursed for the planting of trees, and to cover any other ancillary costs including, but not limited to, landscaping, sprinkler systems, labor, consultant services and other services or materials necessary and proper for the preservation, maintenance, relocation or restoration of tree ecosystems on any public land within the jurisdiction of the City of Port Orange, and to fund educational outreach programs and tree giveaways for residents and business owners of the City of Port Orange, as established by resolution. These monies may also be utilized to purchase land intended for conservation, tree preservation or public open space.

SECTION 2: All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed to the extent of such conflict.

SECTION 3: The provisions of this Ordinance shall become and be made a part of the Land Development Code of the City of Port Orange and the sections of this ordinance may be renumbered or re-lettered to accomplish such intention. The code codifier is granted liberal authority to codify the provisions of this ordinance.

SECTION 4: If any provision of this ordinance or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are declared severable.

SECTION 5: This Ordinance shall take effect immediately upon adoption.

MAYOR DONALD O. BURNETTE

ATTEST:

Robin L. Fenwick, MMC, City Clerk

Passed on first reading on the day of

Passed and adopted on second and final reading on the day of

Reviewed and Approved: _____
Shannon K. Balmer, Assistant City Attorney



STAFF REPORT

CASE NO. 22-25000001

LDC Amendment/Chapter 9, Article II, Section 19

REQUEST:	Amend Chapter 9, Article II, Section 19 of the Land Development Code to allow funds from the City's Tree Bank to be used for educational outreach programs and tree giveaways to residents and business owners of the City of Port Orange to plant on their property.
APPLICANT:	City of Port Orange
STAFF RECOMMENDATION:	Approval
STAFF CONTACT:	Penelope Cruz, Planning Manager (386) 506-5671
PLANNING COMMISSION:	Recommended Approval 6-0 (February 24, 2022)
CITY COUNCIL DATE:	March 15, 2022

SUMMARY OF PROPOSED AMENDMENT

The proposed amendment is to allow funds from City's tree bank to fund educational outreach programs and tree giveaways to residents and business owners of the City of Port Orange to plant on their property. Currently, the Land Development Code (LDC) states that funds from the City's tree bank can only be used for the planting of trees, and to cover any other ancillary costs including, but not limited to, landscaping, sprinkler systems, labor, consultant services and other services or materials necessary and proper for the preservation, maintenance, relocation or restoration of tree ecosystems on any public land within the City of Port Orange.

The proposed amendment would allow the City, Environmental Advisory Board (EAB), or other designated City boards to use funds from the tree bank funds to purchase trees to giveaway to residents and business owners during community events (Arbor Day, Earth Day, Family Days, etc.), as well as to create educational outreach programs that encourage the preservation of the City's tree canopy.

In conjunction with the proposed amendment, a Tree Bank Policy will be established to specify the type and size of trees that may be purchased for giveaways, along with the percentage of funds from the tree bank that can be used for tree giveaways and educational outreach.

The City's Tree Bank receives funds when a developer chooses to remove trees from a required landscape buffer or any specimen as part of a new commercial or residential development. According to the LDC, if a developer chooses to remove trees 6" dbh¹ or greater from a required buffer or specimen trees (Oak, Elm, Maple, Cypress, Sweetgum,

¹ Diameter at breast height (DBH). Trunk diameter of tree measured four and one-half feet above soil level. If a tree forks within four and one-half feet of the soil line, each fork shall be considered a separate tree.

Hickory, and Sycamore trees that are 18" dbh or greater; and Magnolia, Cedar, Turkey Oak and Bay trees 12" dbh or greater), a payment toward the City's Tree Bank is required.

PROPOSED AMENDMENT

CHAPTER 9

ARTICLE II: - TREE PRESERVATION

Section 19: - Tree replacement or mitigation.

[No changes to subsections (a) through (d)]

(e) *Tree bank*. The city finance director shall establish a separate project account for the tree bank for the deposit of mitigation payments as required in chapter 9, article II. All monies deposited for use as specified in section 19(e) of this article, shall be deposited in a separate project account established and maintained apart from other project accounts of the City of Port Orange. The funds in said account shall be expended, utilized and disbursed for the planting of trees, and to cover any other ancillary costs including, but not limited to, landscaping, sprinkler systems, labor, consultant services and other services or materials necessary and proper for the preservation, maintenance, relocation or restoration of tree ecosystems on any public land within the jurisdiction of the City of Port Orange, and to fund educational outreach programs and tree giveaways for residents and business owners of the City of Port Orange, as established by resolution. These monies may also be utilized to purchase land intended for conservation, tree preservation or public open space.

RECOMMENDATION

Approval of the amendment to Chapter 9, Article II, Section 19 of the Land Development Code.



CITY COUNCIL AGENDA ITEM

COUNCIL MEETING DATE 4/5/2022

SUBJECT: (I19) Request for Waiver of Bidding Requirements, Direction and Approval of the Type of Show, Date for the 4th of July Spectacular, and Award to Vendor

DEPARTMENT: Parks & Recreation

GOAL: 3 - Quality of Life

RECOMMENDED MOTION: Provide direction on the type of show and date of show for the 4th of July Fireworks Spectacular for FY22. Move to approve show with ___ shells on July __, 2022, waive the formal bidding requirements, award to _____, for the 4th of July Fireworks Spectacular for FY22, authorize the City Manager and City Attorney to finalize contract documents, and authorize the Mayor and City Clerk to execute the associated documents.

SUMMARY: Traditionally, the City gets three quotes for fireworks to be used on the Fourth of July. The company that has won that bid the last twenty years has notified us that they will not be able to provide that service this year due to staffing and material shortages.

Staff reached out to nine companies to get quotes and pricing for this year's show and has only been able to get one vendor, Explosion Touch, to agree to the show on the Fourth of July. The price of this show was quoted at \$37,500 for 2,951 shells, which is comparable to previous years' shows. This amount represents \$17,500 more than we were budgeted. Explosion Touch provided a second quote at \$24,750 for 2,380 shells.

As an alternative, we also had two companies provide quotes for the show on July 2, 2022. Below is a breakdown of costs and dates by company. Funding for the increased cost is available in Parks & Recreation's other operating line of the budget for immediate need and the finance team will adjust this increase during their mid-year adjustments. For comparison, in 2021 we paid \$21,000 for 2,717 shells.

Staff is requesting approval from Council (1) for waiver of formal bidding requirements due to the limited responses, (2) the type of show based on amount of shells, (3) date of the show, and (4) award of the vendor for the 2022 show.

<u>July 4th show</u>		
A) Explosive Touch	Full 15 min show (2,951 shells)	\$37,500
B) Explosive Touch	Reduced 15 min show (2,380 Shells)	\$24,750
<u>July 2nd Show</u>		
C) Kynexplosives	Full 15 min show (2,800 shells)	\$34,000
D) Kynexplosives	Reduced 15 min show (1,844 shells)	\$21,000
E) Explosive Touch	Full 15 min show (2,951 shells)	\$34,500
F) Explosive Touch	Reduced 15 min show (2,380 shells)	\$22,000

PRESENTER: Susan Lovallo

ATTACHMENTS:

Robin Fenwick	Created/Initiated - 3/21/2022
Susan Lovallo	Approved - 3/22/2022
John McKinney	Approved - 3/24/2022
Wayne Clark	Approved - 3/25/2022
Robin Fenwick	Final Approval - 3/25/2022
