



REGULAR CITY COUNCIL MEETING

6:30 PM – COUNCIL CHAMBERS – CITY HALL

FEBRUARY 6, 2024

AGENDA

ALL CITIZENS DESIRING TO ADDRESS THE PORT ORANGE CITY COUNCIL DURING PUBLIC PARTICIPATION SHOULD COMPLETE THE SPEAKER CARD WHICH IS LOCATED ON THE STANDS OUTSIDE COUNCIL CHAMBERS. AFTER COMPLETING THE SPEAKER CARD, PRESENT IT TO THE CLERK.

A. OPENING

1. Invocation by Reverend Melissa Frantz of Daytona Beach Drive In Christian Church
2. Pledge of Allegiance
3. Roll Call

B. RECOGNITION AND PROCLAMATIONS

4. Donation from Jane Taylor to Port Orange Police K-9 Unit for Stealth Fighter K-9 Ballistic Vests
5. World Encephalitis Day Proclamation

C. CONSENT AGENDA

6. Public Comments on Consent Agenda Items Only
7. Agenda Approval
8. Approval of Minutes
 - a. January 9, 2024 - Regular City Council Meeting
9. Bid Awards and Contract Items
 - a. Approval of the Amendment and Extension of the Post-Closing Occupancy Agreement for 5797 Devon Street
 - b. Approval of Third Amendment to the Lease Agreement with Riverside Pavilion Association, Inc.
 - c. Approval of Lease Extension with Clear Channel Outdoors for property located on I-4 for an outdoor advertising sign
 - d. Ratification of the Approval of FDOT State-Funded Grant Agreement Time Extension No. 2 to Contract G1X03 for the St. John's River to Sea (SJR2C) Loop

Trail SUN Trail design

- e. Approval of Change Order No. 4 for Task Authorization No. 9 to TEDS/Stanley Consultants (SUN Trail design)
 - f. Approval of Task Authorization No. 6 with Mead & Hunt for Wellfield Consumptive Use Permit Monitoring
 - g. Approval for Standard Contract for Services with Danus Utilities, Inc. for Lift Station Repairs
10. Resolution No. 23-65 - Amending Resolution No. 23-64 - Approval of Grant Agreement for \$1,000,000 with Florida Department of Environmental Protection for the Ridgewood Avenue & North Commonwealth Water Main Replacement

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

E. COUNCIL COMMENTS

11. Comments/Concerns from Council Members

F. BOARD APPOINTMENTS, INTERVIEWS, AND REPORTS

12. Environmental Advisory Board Report

G. ADDITIONAL ITEMS

13. City Attorney
14. City Manager

H. COUNCIL COMMITTEE REPORTS

15. City Council Committee Reports
- a. River to Sea TPO - Councilman Reed Foley
 - b. Arthaus - Councilman Tracy Grubbs

I. 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.

REGULAR CITY COUNCIL MEETING MINUTES
COUNCIL CHAMBERS – CITY HALL
1000 CITY CENTER CIRCLE
PORT ORANGE, FLORIDA
JANUARY 9, 2024

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 Tom Nelson of First United Methodist Church

Pledge of Allegiance

Roll Call	Present:	Councilman Reed Foley Councilman Tracy Grubbs Councilman Drew Bastian Vice Mayor Scott Stiltner Mayor Don Burnette
	Also Present:	City Manager Wayne Clark City Attorney Matthew Jones Deputy City Clerk Tracee Cody

RECOGNITION AND PROCLAMATIONS

4. Donation from Jane Taylor to Port Orange Police K-9 Unit for Stealth Fighter K-9 Ballistic Vests

This item was re-scheduled for the February 6, 2024 Council meeting.

5. National Certified Registered Nurse Anesthetists Week Proclamation

Mayor Don Burnette read the proclamation for National Certified Registered Nurse Anesthetists Week.

6. Human Trafficking Awareness Day Proclamation

Mayor Don Burnette read the proclamation for Human Trafficking Awareness Day and presented it to Christy Gillis, Circuit 7 Community Development Administrator.

7. Florida Arbor Day Proclamation

Mayor Don Burnette read the proclamation for Florida Arbor Day.

Council recessed at 6:39 p.m. and reconvened at 6:55 p.m.

8. Public Comments on Consent Agenda Items Only

There were none.

9. Agenda Approval

There were no changes requested by Council.

Motion to approve the agenda as presented was made by Vice Mayor Scott Stiltner and seconded by Councilman Drew Bastian. Motion carried unanimously by voice vote.

10. Approval of Minutes

- a. December 12, 2023 - Regular City Council Meeting

11. Bid Awards and Contract Items

- a. Approval of Change Order No. 1 with GAI Consultants, Inc. d/b/a Community Solutions Group relating to the Parks Bond

- b. Approval to Award RFP 23-16 for Disaster Recovery Consulting Services to Tetra Tech, Inc., as the primary vendor and Integrated Solutions Consulting and iParametrics, LLC, as alternate vendors

- c. Approval of Task Authorization No. 1 with Ohlson Lavoie Corporation for design services for Park Restrooms at City Center Sports Complex

- d. Approval of Task Authorization No. 3 with P&S Paving, Inc. under Piggyback Agreement CA8208 (Seminole County IFB-603616-19/BJC Pavement Management Program) for the reconstruction/resurfacing of Willow Run Blvd.

12. Police Department HVAC System Repairs/Replacement

- a. Ratification of Emergency Contract with Energy Air, Inc. for the Rental of Temporary Chillers at the Police Department

- b. Ratification of the emergency purchase order for Validated Custom Solutions for the purchase of two (2) chiller units at the Police Department

- c. Approval of Amendment No. 1 to Task Authorization No. 3 with Schenkel & Schultz TLC Engineering as it relates to the Police Department HVAC Assessment

13. Adoption of Port Orange City Council Local Rules of Procedure for 2024

14. Approval of City Fire Pumper Pull Charity Event

15. Resolution No. 24-01 – Easement Vacation - Lot 45 of Woodhaven Phase 2 (6418 Highfield Village Drive)

16. Approval of Mutual Aid Agreement (MAA) adding the City of Ormond Beach to the Southeast Volusia Regional Special Weapons and Tactics Team

Motion to approve the Consent Agenda as presented was made by Vice Mayor Scott Stiltner and seconded by

Councilman Reed Foley. Motion carried
unanimously by roll call vote.

PUBLIC PARTICIPATION (Non-Agenda – 20 minutes)

There were none.

COUNCIL COMMENTS

17. Comments/Concerns from Council Members

Councilman Reed Foley expressed his concerns about the new Form 6 requirement, including the potential of identity theft. He suggested the City provide LifeLock or something similar to council members. Mayor Don Burnette requested that the City Manager add the suggestion to a future agenda for Council discussion.

Councilman Tracy Grubbs reminded residents to not blow debris in the street gutters and is grateful to staff on the upcoming sidewalk and paving projects.

Vice Mayor Scott Stiltner also spoke about his concerns with Form 6 and would like staff to see what other municipalities are using to protect their elected officials. He also mentioned emails being sent to multiple recipients (including attorneys, Police Pension Board, Administrators, etc.) from the widow of a city police sergeant regarding the Line of Duty Death benefit and wanted clarification as to who is supposed to respond. City Attorney, Matt Jones, provided his input and made Council aware that a possible Memorandum of Understanding (MOU) will be coming forward at some point to address if the Line of Duty Death benefit was retroactive and if the death qualifies as Line of Duty.

Mayor Don Burnette spoke about the upcoming Town Hall in February and requested that Mr. Jones keep Council apprised of a possible MOU.

BOARD APPOINTMENTS, INTERVIEWS, AND REPORTS

18. Citizen Advisory Committee for TPO

Bobby Ball, CAC member for TPO, will provide a report at the February 20 Council meeting.

REGULAR AGENDA

19. Discussion on Utility Billing Mail Surcharge

Councilman Tracy Grubbs presented his idea regarding the emailing of utility bills versus hard copies being sent through the regular mail, including cost savings of approximately \$250,000.00 (with billing and postcards combined), environmental reasons, and having direct contact via email to homeowners for other information including boil water notices. Mayor Don Burnette said he still gets a paper bill only because he hasn't had to make the

choice to receive an electronic bill. Councilman Drew Bastian believes there could be technical issues down the line and that there are residents who just won't do electronic billing. Vice Mayor Scott Stiltner brought up past issues with our utility billing software. He believes a lot of residents might remember that and look at electronic billing in a negative light. He brought up the senior residents who don't even have computers or emails. Councilman Reed Foley doesn't see it as a savings; however, he suggested he could be in favor of a surcharge that is only effective on new accounts. Mayor Don Burnette suggested doing community education over the next six months to promote the idea and possibly charging a fee on new accounts in six months for new water accounts and then a fee for all accounts two years from now that choose paper billing. Mayor would like to vote on a fee for new customers as soon as possible on a future agenda.

Stan Schmidt, resident, expressed his opinion about being in favor of the surcharge and savings to the City.

Robert Reinhausen, resident, commented that he will pay a surcharge to receive a paper bill and was concerned about e-billing and having to enter his credit card information electronically. However, Council explained the surcharge is only to receive the bill electronically, not pay electronically.

20. Table Sponsorship for the Mayor's Gala presented by First Step Shelter

Motion to sponsor a table at the First Step Shelter Mayor's Gala in the amount of \$1,000 was made by Vice Mayor Scott Stiltner and seconded by Councilman Tracy Grubbs. Motion was carried unanimously by roll call vote.

ADDITIONAL ITEMS

21. City Attorney

Mr. Jones made Council aware that some cities are coming together to bring forward a suit against the new Form 6 requirements and that he will keep Council updated if they are interested in proceeding with the legal challenges.

22. City Manager

Vice Mayor Scott Stiltner asked Mr. Clark to provide an update on initiatives taking place in Tallahassee. Mr. Clark explained the legislative appropriation requests and projects including infrastructure and stormwater repairs. He noted that every project has a match of at least 50 percent.

COUNCIL COMMITTEE REPORTS

23. City Council Committee Reports

a. River to Sea TPO - Councilman Reed Foley

Councilman Reed Foley had nothing to report.

b. Roundtable of Elected Officials - Mayor Donald Burnette

Mayor Don Burnette provided details from their recent meeting.

Mayor Don Burnette advised Council of the Teachers of the Year proclamations in Port Orange's schools. Council will present them with Proclamations at their schools.

ADJOURNMENT – 8:00 p.m.

Mayor Donald O. Burnette

Attest:

Robin Fenwick, MMC
City Clerk



CITY COUNCIL AGENDA ITEM

COUNCIL MEETING DATE 2/6/2024

SUBJECT: (C9a) Approval of the Amendment and Extension of the Post-Closing Occupancy Agreement for 5797 Devon Street

DEPARTMENT: Public Utilities

GOAL: 2 - Infrastructure 6 - Organizational Excellence

RECOMMENDED MOTION: Move to approve the Amendment and Extension of the Post-Closing Occupancy Agreement for 5797 Devon Street and authorize the Mayor and City Clerk to sign all necessary documents.

SUMMARY: The purchase of 5797 Devon Street was approved by City Council on 9/5/23 for the City to relocate a sanity sewer lift station and the transaction was completed in November. The previous owners of 5797 Devon Street have asked the City for an extension to the post-closing occupancy agreement (Exhibit B in Purchase Contract) for an additional 59 days. The Public Utilities Department has no objection to the proposed extension. The relocation of the existing lift station on Devon Street is not scheduled to be designed immediately. Therefore, extending the post-occupancy agreement will not interfere with the proposed lift station relocation.

PRESENTER: Steve Parnell

ATTACHMENTS:

1.	Amendment and Extension of the Post Closing Occupancy Agreement	Amendment to Post Closing Agreement.pdf
2.	Post Closing Occupancy Agreement executed	Post Closing Occupancy Agreement executed.pdf

Steve Parnell	Created/Initiated - 1/9/2024
Chris Wall	Approved - 1/9/2024
Steve Parnell	Approved - 1/18/2024
John McKinney	Approved - 1/18/2024
Matthew Jones	Approved - 1/19/2024
Wayne Clark	Approved - 1/25/2024
Tracee Cody	Final Approval - 1/26/2024

**AMENDMENT AND EXTENSION OF THE
POST CLOSING OCCUPANCY AGREEMENT**

THIS AMEDNMENT AND EXTENTION OF THE POST CLOSING OCCUPANCY AGREEMENT (“Amendment”) is made as of the ____ day of _____, 2024 by and between CITY OF PORT ORANGE, FLORIDA, a municipal corporation, mailing address: c/o City Manager, 1000 City Center Circle, Port Orange FL 32129-4144, hereinafter referred to as (“PURCHASER”) and Ronald L. Wilson and Laurie R. Wilson, whose mailing address is 5797 Devon Street, Port Orange, Florida 32127 hereinafter referred to as “SELLER”,

WHEREAS, PURCHASER and SELLER entered into a contract for the purchase and sale of property at 5797 Devon Street, Port Orange, County of Volusia, State of Florida, more particularly described as:

Lot 1, Foxboro Subdivision, as per map recorded in Map Book 34, Page 117, of the Public Records of Volusia County, Florida.

Also being identified by Parcel Number **6316-02-00-0010**; the subject real estate being hereinafter referred to as the “Property”, which contract is dated September 5, 2023 and

WHEREAS, PURCHASER and SELLER completed the closing transaction on the Property and PURCHASER is now the owner of said property; and

WHEREAS, PURCHASER and SELLER entered into a Post Closing Occupancy Agreement dated November 8, 2023 (“Agreement”), for the purpose of SELLER’s continued temporary occupancy of the Property for an additional Ninety (90) days from the date of closing; and

WHEREAS, PARTIES acknowledge the date for SELLER to vacate the Property in accordance with the Agreement is on or before 5:00 pm on February 6, 2024; and

WHEREAS, SELLER has requested and PURCHASER is willing to extend the temporary occupancy subject to and in accordance with terms and conditions of the Agreement for an additional Fifty-nine (59) days except as otherwise amended herein.

NOW THEREFORE, the Parties for and in consideration of the premises and mutual covenants contained herein, the Parties agree as follows:

1. Paragraph 1 of the Agreement, “Occupancy”, is hereby deleted in its entirety and replaced with the following provision:

Occupancy. This Agreement shall be restricted to occupancy of the Property by the SELLER only and shall be used for residential purposes. Occupancy shall terminate on or before One Hundred Forty-Nine (149) days from date of closing on or before 5:00 P.M., said date being April 5, 2024 (“Termination Date”), by which time SELLER shall vacate the Property. This right of occupancy is exclusive to the SELLER.

2. Paragraph 2 of the Agreement, "Payments", is hereby deleted in its entirety and replaced with the following provision:

Payments. Rents due and owing under this Agreement will be at the rate of **One Thousand Five Hundred and NO/100 Dollars (\$1,500.00) per month ("Rent")**. Rent due and owing under this Agreement is hereby suspended pending vacation of the Property on or before One Hundred Forty-Nine (149) days from the date of closing, as agreed herein. If SELLER fails to vacate the Property as agreed, then SELLER shall be in default of their obligations hereunder and shall forfeit all right, title, and interest to the monies held in escrow pursuant to the Contract for Purchase of the Property, referenced hereinabove. If SELLER vacates as agreed, then SELLER shall be entitled to a return of all monies held in escrow pursuant to the Option to Purchase Contract and Escrow Agreement entered into between the parties and without any deduction for rents.

3. Except as specifically amended herein, all terms and conditions set forth in the Agreement shall otherwise remain in full force and effect. In the event of a conflict between the Agreement and this Amendment, this Amendment shall control.
4. This Amendment may be executed in counterparts, all counterparts taken together being one agreement. Facsimile or electronic (including pdf) signatures shall be treated as originals. The provisions contained in this Amendment and the Agreement set forth the entire understanding of the parties and shall be binding upon their respective heirs, successors, assigns and legal representatives of the parties hereto and shall not be changed or terminated orally.

[SIGNATURE PAGES TO FOLLOW]

IN WITNESS WHEREOF, Seller and Purchaser hereby execute this Amendment as of the respective dates shown below.

WITNESSES:

SELLER:

First Witness Signature Above, Printed Name Below:

By: _____
Ronald L. Wilson

Second Witness Signature Above, Printed Name Below:

Date: _____, 2024

STATE OF FLORIDA
COUNTY OF VOLUSIA

The foregoing *Amendment and Extension of the Post Closing Occupancy Agreement* was acknowledged before me by means of [XX] physical presence or [] online notarization this _____ day of _____, 2024, by **Ronald L. Wilson**, the Seller named in the foregoing Amendment, who (*Notary, please check as applicable*): [] took an oath or [] did not take an oath; and who [] is/are personally known to me or [] has produced _____ as identification.

Notary Public, State of Florida at Large
Printed Name, Commission Seal and Term Expiration Date

WITNESSES:

SELLER:

First Witness Signature Above, Printed Name Below:

By: _____
Laurie R. Wilson

Second Witness Signature Above, Printed Name Below:

Date: _____, 2024

STATE OF FLORIDA
COUNTY OF VOLUSIA

The foregoing *Amendment and Extension of the Post Closing Occupancy Agreement* was acknowledged before me by means of [XX] physical presence or [] online notarization this _____ day of _____, 2024, by **Laurie R. Wilson**, the Seller named in the foregoing Amendment, who (*Notary, please check as applicable*): [] took an oath or [] did not take an oath; and who [] is/are personally known to me or [] has produced _____ as identification.

Notary Public, State of Florida at Large
Printed Name, Commission Seal and Term Expiration Date

WITNESS AS TO BOTH:

Signature

Printed Name

Signature

Printed Name

**CITY OF PORT ORANGE, a Florida
Municipal Corporation**

By: _____
Donald O. Burnette, Mayor

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

Date: _____

STATE OF FLORIDA
COUNTY OF VOLUSIA

The foregoing *Post-Closing Occupancy Agreement* was acknowledged before me by means of [XX] physical presence or [] online notarization this _____ day of _____, 2024, by Donald O. Burnette and ROBIN L. FENWICK, City Clerk, both of the CITY OF PORT ORANGE, FLORIDA, a Florida municipal corporation, on behalf of the City, respectively. He is personally known to me and did not take an oath.

Notary Public, State of Florida at Large

Printed Name, Commission Seal and Term Expiration Date

POST CLOSING OCCUPANCY AGREEMENT

8th day of November, 2023 by and between CITY OF PORT ORANGE, FLORIDA, a municipal corporation, mailing address: c/o City Manager, 1000 City Center Circle, Port Orange FL 32129-4144, hereinafter referred to as ("PURCHASER") and Ronald L. Wilson and Laurie R. Wilson, whose mailing address is 5797 Devon Street, Port Orange, Florida 32127 hereinafter referred to as "SELLER",

WHEREAS, PURCHASER and SELLER have entered into a contract for the purchase and sale of property at 5797 Devon Street, Port Orange, County of Volusia, State of Florida, more particularly described as:

Lot 1, Foxboro Subdivision, as per map recorded in Map Book 34, Page 117, of the Public Records of Volusia County, Florida.

Also being identified by Parcel Number **6316-02-00-0010**; the subject real estate being hereinafter referred to as the "Property", which contract is dated Sept. 5, 2023 and

WHEREAS, SELLER desires to occupy the Property after closing and disbursement, and PURCHASER is willing to allow SELLER occupancy in accordance with and subject to the terms and conditions set forth herein.

NOW THEREFORE, the Parties for and in consideration of the premises and mutual covenants contained herein, the Parties agree as follows:

1. Occupancy. This Agreement shall be restricted to occupancy of the Property by the SELLER only and shall be used for residential purposes. Occupancy shall terminate on or before Ninety (90) days from date of closing on or before 5:00 P.M., said date being Feb. 6, 2024 ("Termination Date"), by which time SELLER shall vacate the Property. This right of occupancy is exclusive to the SELLER.
2. Payments. Rents due and owing under this Agreement will be at the rate of **One Thousand Five Hundred and NO/100 Dollars (\$1,500.00) per month ("Rent")**. Rent due and owing under this Agreement is hereby suspended pending vacation of the Property on or before Ninety (90) days from the date of closing, as agreed herein. If SELLER fails to vacate the Property as agreed, then SELLER shall be in default of their obligations hereunder and shall forfeit all right, title, and interest to the monies held in escrow pursuant to the Contract for Purchase of the Property, referenced hereinabove. If SELLER vacates as agreed, then SELLER shall be entitled to a return of all monies held in escrow pursuant to the Option to Purchase Contract and Escrow Agreement entered into between the parties and without any deduction for rents.
3. Utilities and Insurance. SELLER shall be responsible for payment of all utilities and for insurance on contents until the date SELLER vacates the Property. The PURCHASER agrees to maintain liability insurance on the Property.

4. Indemnification. It is understood and agreed that the SELLER will indemnify and hold the PURCHASER harmless in the event of any damage, injury or loss of life in connection with SELLER's occupancy and use of said Property and all facilities offered for SELLER's enjoyment of the Property.
5. Use. SELLER further covenants and agrees not to use nor permit the Property to be used for any illegal, immoral or improper purposes; not to make nor permit any disturbance, noise or annoyance whatsoever detrimental to the Property or to the comfort and peace of any of the inhabitants of said building or its neighbors and particularly SELLER shall not assign this Occupancy Agreement or sublet any portion of the Property. SELLER shall not use said Property for any other purpose than as a residence.
6. Repairs. SELLER shall maintain the Property, including carpet, appliances, equipment and furnishings, if any, and including but not limited to air conditioning, plumbing, electrical and structural in good working order and repair during said occupancy. Any damage, breakage or loss to any portion of the Property, including air conditioning, plumbing, electrical and structural, occurring during the occupancy, will be paid for by SELLER.
7. Surrender. At the end of the term, SELLER shall vacate and surrender the Property in broom clean condition. SELLER shall remove all personal property, furnishings, appliances, fixtures, shrubs and queen palm trees around the pool deck area, at their discretion ("Tangible Personal Property and Fixtures"), and miscellaneous debris; and shall secure all exterior openings of the structure. Upon the expiration of the Post-Closing Occupancy Agreement, any Tangible Personal Property and Fixtures, as defined herein, remaining on the Property shall be the property of the PURCHASER and SELLER shall have no further right of removal.
8. Right of Entry. PURCHASER's right to enter the Property shall be governed by the provisions of Florida Statutes, it being understood that hurricanes or severe weather warnings shall constitute an emergency under such Statutes.
9. No Waiver. The failure of PURCHASER to take any action against SELLER for violation of any of the terms of this Agreement shall not be a waiver of that act or a subsequent act of SELLER of a similar nature from being a violation of this Agreement.
10. Action. If the PURCHASER is compelled to maintain an action for the possession of the Property, or damages, the SELLER agrees to pay all expenses incurred by the PURCHASER in connection with said action, including but not limited to reasonable attorneys' fees and costs at all trial and appellate levels.
11. Miscellaneous. This Agreement may be executed in counterparts, all counterparts taken together being one Agreement. Facsimile or electronic (including pdf) signatures shall be treated as originals. The provisions contained in this Agreement and the Contract set forth the entire understanding of the parties and shall be binding upon their respective heirs, successors, assigns

and legal representatives of the parties hereto and shall not be changed or terminated orally. The law governing this Agreement shall be that of the State of Florida. Venue shall lie in Volusia County. Time is of the essence.

12. Governing Law. This Occupancy Agreement shall be governed by Chapter 83 Florida Statutes as a Residential Tenancy. The rights and remedies under this Occupancy Agreement are cumulative and not exclusive. Upon default, the non-defaulting Party shall additionally have such other and further rights as may be provided at law or in equity.

13. Captions. The captions used herein are for convenience purposes only and have no effect on the interpretation of the terms contained herein.

[SIGNATURE PAGES TO FOLLOW]

WITNESSES:

Shannon K. Balmer
First Witness Signature Above, Printed Name Below:

Shannon K. Balmer
Candace Sargent
Second Witness Signature Above, Printed Name Below:

CANDACE Sargent

SELLERS:

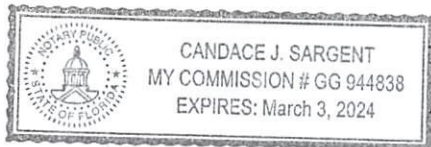
By: Ronald L. Wilson
Ronald L. Wilson

By: Laurie R. Wilson
Laurie R. Wilson

Date: November 8, 2023

STATE OF FLORIDA
COUNTY OF VOLUSIA

The foregoing *Post Closing Occupancy Agreement* was acknowledged before me by means of [XX] physical presence or [] online notarization this 8th day of November, 2023, by **Ronald L. Wilson** and **Laurie R. Wilson**, the Sellers named in the foregoing Contract, who (Notary, please check as applicable): [] took an oath or ☒ did not take an oath; and who [] is/are personally known to me or ☒ has produced dr license as identification.



Candace Sargent
Notary Public, State of Florida at Large
Printed Name, Commission Seal and Term Expiration Date

WITNESS AS TO BOTH:

[Signature]
Signature

Matt Jones
Printed Name

[Signature]
Signature

Meghan Meyer
Printed Name

CITY OF PORT ORANGE, a Florida
Municipal Corporation

By: [Signature]
Donald O. Burnette, Mayor

Attest: [Signature]
Robin L. Fenwick, MMC, City Clerk

Date: November 7, 2023

STATE OF FLORIDA
COUNTY OF VOLUSIA

The foregoing *Post-Closing Occupancy Agreement* was acknowledged before me by means of [XX] physical presence or [] online notarization this 7 day of November, 2023, by Donald O. Burnette and ROBIN L. FENWICK, City Clerk, both of the CITY OF PORT ORANGE, FLORIDA, a Florida municipal corporation, on behalf of the City, respectively. He is personally known to me and did not take an oath.



[Signature]
Notary Public, State of Florida at Large
Printed Name, Commission Seal and Term Expiration Date



CITY COUNCIL AGENDA ITEM

COUNCIL MEETING DATE 2/6/2024

SUBJECT: (C9b) Approval of Third Amendment to the Lease Agreement with Riverside Pavilion Association, Inc.

DEPARTMENT: Finance

GOAL: 3 - Quality of Life

5 - Fiscal Sustainability

6 - Organizational Excellence

RECOMMENDED MOTION: Move to approve the Third Amendment to the Lease Agreement with Riverside Pavilion Association, Inc.

SUMMARY: In April 1994, the City and two non-profit organizations, the Port Orange/South Daytona Chamber of Commerce and the Halifax Sports Fishing Club agreed to form the Riverside Pavilion Association, Inc. (lessee) for the purpose of constructing a building to serve as a pavilion and meeting rooms along the riverfront in what is now part of the Riverwalk Park Complex.

The lessee is responsible for all uses of the premises, which includes the rental of the facilities for private organizations and individuals to hold meetings and conduct activities and special events. The lessee will provide the City access to the facilities if there are no prior functions scheduled.

The lease included an initial twenty (20) year term that terminated on March 31, 2014. The lease allows for no more than two, ten (10) year additional terms. The first extension expires on March 31, 2024. The lessee pays the City annual rent of ten dollars per calendar year. As part of the lease, the lessee is responsible for all utilities, taxes, insurance and all repairs and improvements to the building. If any damage is incurred by storms etc., the lessee is responsible for the repair of any and all damages. The City is only responsible for the grounds and parking areas' repair and maintenance.

This will be the third amendment to the original lease and it will expire on March 31, 2034. Prior amendments consisted of a name change for the Riverside Pavilion Association, Inc. and the first extension of the lease. Staff recommends Council approve the second and final extension of the lease.

PRESENTER: John McKinney

ATTACHMENTS:

1.	Riverside Pavilion Association , Inc - Third Amendment to Lease Agreement	Riverside Pavilion Association , Inc - Third Amendment to Lease Agreement.pdf
2.	Riverside Pavilion Association, Inc - Lease	Riverside Pavilion Lease.pdf

John McKinney	Created/Initiated - 1/17/2024
John McKinney	Approved - 1/17/2024
Matthew Jones	Approved - 1/17/2024
Wayne Clark	Approved - 1/25/2024
Tracee Cody	Final Approval - 1/26/2024

This Document Prepared by and Return to:
Shannon K. Balmer, Assistant City Attorney
City of Port Orange
1000 City Center Circle
Port Orange, FL 32129

THIRD AMENDMENT TO LEASE AGREEMENT

THIS THIRD AMENDMENT TO LEASE AGREEMENT is made and entered the day and year set forth hereinafter by and between the **CITY OF PORT ORANGE, FLORIDA**, a chartered municipal corporation, with its principal business offices located at 1000 City Center Circle, Port Orange, Volusia County, Florida 32129 ("City" or "Lessor"), and **RIVERSIDE PAVILION ASSOCIATION, INC.**, f/k/a Riverside Pavilion Condominium Association, Inc., a Florida not for profit corporation, having its principal business office located at: 3431 Ridgewood Avenue, Port Orange, Florida 32129 ("Association" or "Lessee"), and hereinafter collectively referred to as the "Parties."

WHEREAS, the Parties entered into a Lease Agreement dated April 18, 1994, for that certain property located at 3431 Ridgewood Avenue, Port Orange, Volusia County, Florida, more particularly described in **Exhibit A** attached hereto ("Demised Premises"); and

WHEREAS, the Parties entered into a Lease Amendment on November 5, 2003, to amend the name and organizational designations of the Lessee; and

WHEREAS, the initial term of the Lease Agreement was for twenty (20) years, commencing on April 1, 1994, and terminating on March 31, 2014; and

WHEREAS, the Lease Agreement provides for the extension of the Lease Agreement for two (2) additional terms of ten (10) years each at the option of either party; and

WHEREAS, the Parties entered into the Second Amendment to Lease Agreement ("Second Amendment") extending the Lease Agreement for an additional term of ten (10) years, commencing on April 1, 2014, and terminating on March 31, 2024; and

WHEREAS, the Parties have agreed to extend the Lease Agreement for the final additional term of ten (10) years as provided in the Lease Agreement, commencing on April 1, 2024, and terminating on March 31, 2034.

NOW, THEREFORE, the Parties, for good and valuable consideration, receipt whereof is hereby acknowledged, agree as follows:

1. The terms and conditions of the Lease Agreement, as previously amended, are hereby restated and incorporated as if fully set forth herein.
2. The premises set forth above are true and correct and form a material part of this Third Amendment to the Lease Agreement.
3. The Lease Agreement is hereby renewed for one ten-year term that shall expire on March 31, 2034.

4. This Third Amendment to the Lease Agreement shall become effective on April 1, 2024, notwithstanding the date of execution.

5. All other terms and conditions of the Lease Agreement, as amended, shall remain in full force and effect except as modified by this Third Amendment.

6. This Third Amendment to Lease Agreement may be executed in one or more counterparts, each of which shall be deemed to be an original but all of which together shall constitute one and the same instrument. The delivery by facsimile of an executed copy of this Third Amendment to Lease Agreement shall be deemed valid as if an original signature was delivered.

IN WITNESS WHEREOF, the Parties hereto have signed, sealed, and delivered this Third Amendment to Lease Agreement on the day and year stated hereinafter.

LESSOR:

CITY OF PORT ORANGE, FLORIDA,
a chartered municipal corporation

Witness

Print Name: _____

1000 City Center Circle
Port Orange, FL 32129

By: _____

Donald O. Burnette, Mayor

Witness

Print Name: _____

1000 City Center Circle
Port Orange, FL 32129

Attest: _____

Robin L. Fenwick, MMC, City Clerk

Date Signed: _____, 2024

Corporate Seal

STATE OF FLORIDA
COUNTY OF VOLUSIA

The foregoing instrument was acknowledged before me by means of [XX] physical presence or online notarization this _____ day of _____, 2024, by Donald O. Burnette, the Mayor, and Robin L. Fenwick, the City Clerk, both who are duly authorized to execute the foregoing Third Amendment to Lease Agreement on behalf of the CITY OF PORT ORANGE, FLORIDA, a chartered municipal corporation, and who [] are personally known to me, or [] have produced _____ as identification.

Notary Public, State of Florida at Large

Printed name, commission, and expiration:

LESSEE:

RIVERSIDE PAVILION ASSOCIATION, INC., f/k/a
Riverside Pavilion Condominium Association, Inc.,
a Florida not for profit corporation

Suzanne Inklebarger

Witness

Printed Name: Suzanne Inklebarger

Address: 1012nd St. Ste 402
Holly Hill, FL 32117

By: Randy Beardsley
Randy Beardsley, President

Date Signed: 1/5, 2024

Carol Court

Witness

Printed Name: CAROL COURT

Address: 606 Turnstone Tr
NEW SMYRNA BEACH,
FL 32168

Corporate Seal

STATE OF FLORIDA
COUNTY OF VOLUSIA

The foregoing instrument was acknowledged before me by means of [XX] physical presence or online notarization this 5th day of January, 2024, by Randy Beardsley, the President, who is duly authorized to execute the foregoing Third Amendment to Lease Agreement on behalf of the RIVERSIDE PAVILION ASSOCIATION, INC., f/k/a Riverside Pavilion Condominium Association, Inc., and who [☒] is personally known to me, or [☐] has produced _____ as identification.

Suzanne Inklebarger
Notary Public, State of Florida at Large
Printed name, commission, and expiration: 10/30/2025



EXHIBIT "A"

EASEMENT FOR BUILDING AT 3431 RIDGEWOOD AVENUE, PORT ORANGE RIVER FRONT PARK

A PORTION OF THE NORTH ONE-HALF OF LOT 1, BLOCK 1, AND SUBMERGED LANDS (AS PER OFFICIAL RECORDS BOOK 748, PAGE 259) LYING EASTERLY THEREOF, AND A PORTION OF A 100 FOOT WIDE CANAL AND ROAD RIGHT-OF-WAY AS LIES EASTERLY OF RIDGEWOOD AVENUE (U.S. HIGHWAY NO. 1), ALL AS SHOWN ON PLAT OF HENRY P. HAND SUBDIVISION, AS RECORDED IN MAP BOOK 2, PAGE 185, PUBLIC RECORDS OF VOLUSIA COUNTY, FLORIDA, SAID PORTION OF LAND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

FROM A POINT OF REFERENCE, BEING THE INTERSECTION OF THE EASTERLY LINE OF RIDGEWOOD AVENUE (U.S. HIGHWAY NO. 1), A 100 FOOT RIGHT-OF-WAY, WITH THE SOUTHERLY LINE OF THE SAID NORTH ONE-HALF OF LOT 1, H. P. HAND SUBDIVISION; THENCE N 75°15'14" E ALONG SAID SOUTHERLY LINE A DISTANCE OF 389.05 FEET; THENCE N 14°40'09" W DEPARTING SAID SOUTHERLY LINE A DISTANCE OF 11.16 FEET TO THE POINT OF BEGINNING; THENCE CONTINUE N 14°40'09" W A DISTANCE OF 118.63 FEET; THENCE N 75°19'51" E A DISTANCE OF 126.44 FEET; THENCE S 14°40'09" E A DISTANCE OF 118.63 FEET; THENCE S 75°19'51" W A DISTANCE OF 126.44 FEET TO THE POINT OF BEGINNING. THE ABOVE DESCRIBED PARCEL CONTAINS 15,000 SQUARE FEET MORE OR LESS.

LEASE AGREEMENT

THIS LEASE AGREEMENT (hereinafter "Lease") is made and entered into this 18th day of April, 1994, by and between the CITY OF PORT ORANGE, FLORIDA, a Florida municipal corporation (hereinafter "CITY" or "LESSOR"), and the RIVERSIDE PAVILION CONDOMINIUM ASSOCIATION, INC., a Florida non-profit corporation (hereinafter "ASSOCIATION" or "LESSEE").

W I T N E S S E T H

WHEREAS, the Port Orange/South Daytona Chamber of Commerce is a non-profit organization the purpose of which is to encourage the growth and development of the business community within the cities of Port Orange and South Daytona; and

WHEREAS, the Halifax Sport Fishing Club is a non-profit organization the purpose of which is to promote, support and encourage responsible sport fishing through public education programs; and

WHEREAS, the two non-profit organizations have formed an association known as the Riverside Pavilion Condominium Association, Inc., for the purpose of constructing a building to serve as a pavilion and meeting room, with related facilities, for educational programs, meetings, activities, and events by community organizations; and

WHEREAS, the CITY finds that the activities of the organizations comprising the ASSOCIATION serve a significant public purpose, and wishes to encourage and assist same; and

WHEREAS, the CITY owns and is in the process of developing certain lands into a riverfront park for the citizens of Port Orange and adjacent areas; and

WHEREAS, the CITY has offered to lease a portion of said lands to the ASSOCIATION for a nominal sum; and

WHEREAS, the CITY desires to lease such land to the ASSOCIATION for a nominal sum provided that the organizations comprising the ASSOCIATION continue to serve certain public functions, services and purposes.

NOW, THEREFORE, for and in consideration of the sum of Ten Dollars (\$10.00) and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. Lease of Demised Premises. LESSOR, in consideration of the rent and the terms, provisions, covenants and conditions set forth herein, does hereby lease to LESSEE the land located in the City of Port Orange, Volusia County, Florida, more particularly described in Exhibit A hereto ("DEMISED PREMISES"), subject to such terms, conditions, provisions, covenants and conditions set forth herein; present and future codes, ordinances, laws, regulations, and orders of the City of Port Orange, County of Volusia, State of Florida and all other governmental authorities; and all covenants, easements and restrictions of record.

2. Term.

(a) Initial Term. The term of this Lease is twenty (20) years, commencing on April 1, 1994, and terminating on March 31, 2014, unless sooner terminated as provided herein. This Lease shall terminate at the expiration of the Lease term as herein provided or earlier if:

- (a) LESSOR terminates this Lease due to a default by LESSEE as described in Paragraph 12(a); or
- (b) LESSEE fails to commence construction of the proposed building within two (2) years from the date of this Lease; or
- (c) LESSEE ceases to exist or ceases to be a non-profit organization.
- (d) LESSEE terminates this Lease due to a default by LESSOR as described in Paragraph 12(c).

Upon termination, all improvements on the DEMISED PREMISES, including those improvements installed and paid by LESSEE, shall become the property of the City of Port Orange without compensation to LESSEE, unless such termination occurs pursuant to Paragraph 2(c) of this Lease. In the event of termination of this Lease for any reason, LESSEE shall surrender and assign to LESSOR any and all licenses, permits or other governmental authorizations required for alcoholic beverages or liquor on the DEMISED PREMISES.

(b) Additional Terms. At the end of the twenty (20) year term, this Lease may be extended for no more than two (2) additional terms of ten (10) years each at the option of either party. To exercise such option, either party shall provide written notice to the other party no later than ninety (90) days prior to termination of the initial term or extension thereof. Any additional term shall be approved as an amendment to this Lease.

(c) Compensation upon Early Termination. In the event LESSOR fails to extend this Lease at the end of the initial twenty (20) year term or at the end of the first ten (10) year extension thereof, or in the event LESSOR terminates this Lease prior to the end of the second ten (10) year extension for any reason except as provided in Paragraph 2(a) of this Lease, or in the event LESSEE terminates this Lease during the initial term or either additional term due to default by LESSOR, LESSOR shall compensate LESSEE for the improvements owned by LESSEE and constructed on the DEMISED PREMISES and all appurtenances, which shall become the property of LESSOR, as provided in Paragraph 2(a).

(d) Determination of Compensation. Compensation shall be based upon the fair market value of the improvements and all appurtenances, reduced by depreciation (calculation based on original cost amortized by using the straight line method over 40-year life). Fair market value shall be determined by taking into consideration the condition and age of such improvements and appurtenances, as determined by appraisal. LESSOR shall be responsible for obtaining the initial appraisal. If LESSEE objects to

LESSOR's appraisal, LESSEE shall, at LESSEE's own cost and expense, obtain a second independent appraisal. In the event LESSEE's appraisal differs from LESSOR's appraisal by an amount of less than ten percent (10%), the fair market value of the improvements and appurtenances shall be deemed to be the average of the two (2) appraisals. In the event LESSEE's appraisal differs from LESSOR's appraisal by an amount of ten percent (10%) or greater, a third independent appraisal shall be conducted by an appraiser mutually agreed upon by LESSOR and LESSEE. The cost of the third appraisal shall be equally divided between LESSOR and LESSEE. The fair market value of the improvements and appurtenances shall then be determined to be the average of the values of the two (2) appraisals most similar in appraised value.

(e) Land. The value of the land upon which the improvements and appurtenances are located shall not be taken into consideration or given any value by the appraisers in arriving at the fair market value to be paid by LESSOR as compensation upon termination of the Lease.

3. Rent. As rent for the DEMISED PREMISES, LESSEE shall pay LESSOR the annual rent of Ten Dollars (\$10.00) per calendar year, due and payable in full and in advance on the first day of the year for which such rent is due. The rent for the first, partial calendar year shall be paid on the commencement date of this Lease in the full amount of Ten Dollars (\$10.00) and shall not be pro-rated. Rent for the last, partial calendar year of this Lease shall also be due in the full amount of Ten Dollars (\$10.00) on the first day of such calendar year and shall not be pro-rated.

4. Warranty of Title and Quiet Possession. LESSOR covenants that LESSOR is seized of the DEMISED PREMISES in fee simple, free and clear of all encumbrances (including any contracts, leases or agreements, threatened or pending condemnation proceedings, suits or proceedings concerning the DEMISED PREMISES, other parties' rights of possession, restrictions and undisclosed rights-of-way or easements). LESSOR covenants and agrees that LESSEE upon paying the minimum annual rent provided for herein shall, subject to the terms and provisions of this Lease, lawfully hold, occupy, and enjoy the DEMISED PREMISES during the term of this Lease.

5. Payment of Utilities, Taxes and Assessments.

(a) Utilities. LESSEE shall pay directly to the person or entity furnishing same all charges to the DEMISED PREMISES for water, sewer, garbage, electric, gas, telephone, and other utility services delivered or furnished to the DEMISED PREMISES and utilized by LESSEE in the operation and use of the DEMISED PREMISES.

(b) Taxes. To the extent that any taxes are owing for the real property or improvements, such taxes shall be paid by LESSEE.

(c) Assessments. LESSEE shall pay any special taxes or assessments charged or assessed against the DEMISED PREMISES.

(d) Impact Fees. Lessee shall pay all impact fees, development fees and other charges imposed or assessed for any improvements to the DEMISED

PREMISES. All impact fees or development fees imposed or assessed by the City of Port Orange, including any credits for such fees, shall comply with the provisions of applicable CITY ordinances or resolutions.

6. Use, Construction and Operation of Demised Premises.

(a) Use. In accordance with the terms below, LESSEE shall use the DEMISED PREMISES solely to (i) operate non-profit educational instructional programs and other activities and special events for the general public; (ii) provide space and facilities for LESSOR and community organizations to hold meetings and sponsor activities and special events; (iii) provide space and facilities for private organizations and individuals to hold meetings and conduct activities and special events, provided that such private use shall not constitute the primary use of the DEMISED PREMISES and shall not serve any commercial or business functions; and (iv) construct any improvements and structures to serve those purposes (leasehold improvements).

(b) Construction. LESSEE shall pay all costs for improvements to the DEMISED PREMISES including all construction costs, connection charges, fees and permits. No such improvements shall be made without LESSEE obtaining the prior written consent of LESSOR, which consent will not be unreasonably withheld. LESSEE shall obtain all required authorizations, approvals, licenses, and permits from all municipal, county, state, federal and other governmental and administrative bodies having jurisdiction, and LESSOR agrees to join in the application for such permits, licenses, approvals, or authorizations whenever such action is necessary. LESSEE shall post a payment and performance bond for any and all improvements which will prevent any mechanic's, materialmen's, contractor's, subcontractor's or laborer's liens arising from any work or improvement to be placed or filed against the DEMISED PREMISES or any improvements thereon. LESSEE may, subject to prior written consent of LESSOR, satisfy the obligation for such bond by requiring a payment and performance bond to be posted by a general contractor who has entered into a contract with LESSEE for construction of any improvements to the DEMISED PREMISES.

(c) Indemnification. LESSEE shall defend and indemnify LESSOR against all liability and loss of any kind arising out of work performed on the DEMISED PREMISES by LESSEE, or any officer, agent, employee, contractor, subcontractor, licensee, invitee, guest or volunteer of LESSEE, together with reasonable attorney's fees and the costs and expenses incurred by LESSOR.

(d) Alcoholic Beverages. Alcoholic beverages or liquor are permitted on the DEMISED PREMISES by code or ordinance of the City Council of the City of Port Orange; provided, however, that nothing in this Lease shall prohibit the City Council from or interfere with the City Council in amending or repealing such ordinance. Repeal of such ordinance which prevents alcoholic beverages on the DEMISED PREMISES shall constitute a default by LESSOR as provided in Paragraph 12(c). LESSEE shall assume all responsibility and liability in connection with alcoholic beverages or liquor on the DEMISED PREMISES. LESSEE shall obtain and maintain all licenses, permits and other governmental authorizations required for and comply with all federal, state

and local laws, rules, regulations and ordinances applicable to alcoholic beverages or liquor on the DEMISED PREMISES.

7. Ownership of Improvements. Title to all improvements constructed on the DEMISED PREMISES by LESSEE as permitted by this Lease shall vest in LESSEE for the duration of this Lease. LESSEE shall not, however, remove any improvements from the DEMISED PREMISES nor waste, destroy or modify any improvements on the DEMISED PREMISES, except as permitted by this Lease. LESSEE may, however, remove and destroy any personal property at will.

Upon LESSOR taking possession of the DEMISED PREMISES, whether by default as provided in Paragraph 12 of this Lease, termination as provided in Paragraph 2(a) of this Lease, or early termination and compensation as provided in Paragraph 2(c) of this Lease, title to all improvements on the DEMISED PREMISES shall vest in LESSOR free and clear of all claims to or against them by LESSEE or any third person. LESSEE shall defend and indemnify LESSOR against all liability and loss arising from such claims which have been brought through, against or because of LESSEE. LESSEE's ownership of and ability to transfer or encumber or pledge the improvements arises solely from LESSEE's leasehold interest in the DEMISED PREMISES and exists only for so long as this Lease exists. Upon default or termination of this Lease, as provided in Paragraph 12 or Paragraph 2, respectively, LESSEE's ownership of the improvements shall cease, and any and all liens or encumbrances (except for easements, rights-of-way or other encumbrances shown on plats of record or otherwise acceptable to LESSOR) against the improvements which arise from or through LESSEE's ownership of the improvements shall likewise cease.

8. Subordination. LESSOR shall never be obligated to subordinate its fee simple title interest in the DEMISED PREMISES.

9. Operation, Maintenance and Repairs. Throughout the Lease term, LESSEE shall promptly and diligently, at LESSEE's sole cost and expense, operate, repair and maintain the DEMISED PREMISES and leasehold improvements in first class, sanitary condition and repair, and in accordance with all applicable laws, rules, ordinances, orders and regulations of:

- (a) Federal, state, county, municipal and other governmental agencies and bodies having or claiming jurisdiction, and all their respective departments, bureaus and officials, including but not limited to the City of Port Orange commercial property maintenance standards; and
- (b) insurance underwriting boards or insurance inspection bureaus having or claiming jurisdiction, including the Florida Insurance Commission; and
- (c) all insurance companies insuring all or any part of the DEMISED PREMISES or leasehold improvements.

LESSEE shall pay all costs and expenses incurred in the operation, repair and maintenance of the DEMISED PREMISES and leasehold improvements.

10. Assignment, Transfer and Sublease. LESSEE may not assign, transfer or sublease any or all of its interest in this Lease or the leasehold interest created hereby or any of the leasehold improvements without the prior written consent of LESSOR. LESSOR shall provide notice to LESSEE granting or denying such consent no later than ninety (90) days after receipt of LESSEE's request for such assignment, transfer or sublease. In the event of any such assignment, transfer or sublease, the successor in interest to LESSEE shall be obligated to and bound by all terms, conditions and provisions of this Lease. The restrictions in this paragraph shall not prevent LESSEE from renting or letting the leasehold improvements to persons and organizations for the purposes expressly set forth in Paragraph 6. In the event of any rental or sublet, LESSEE shall remain liable to LESSOR for the full performance of all terms, conditions and provisions of this Lease.

11. Insurance, Indemnification and Hold Harmless.

(a) Fire and Extended Coverage. Throughout the Lease term, at LESSEE's sole cost and expense, LESSEE shall keep insured all leasehold improvements located on or appurtenant to the DEMISED PREMISES against loss or damage by fire, and such other risks as are now or hereafter included in an extended coverage endorsement in common use for such improvements, including vandalism and malicious mischief, for the benefit of LESSOR and LESSEE as their interests may appear. The amount of insurance shall be sufficient to prevent either LESSOR or LESSEE from being a co-insurer under the provisions of the policies, but in no event shall the amount be less than actual replacement cost of the leasehold improvements.

(b) Public Liability Insurance. LESSEE shall maintain in effect throughout the Lease term personal injury liability insurance covering the DEMISED PREMISES and the leasehold improvements in the amount of at least \$1,000,000 for injury to or death of any person, of at least \$1,000,000 for any one accident or occurrence, and at least \$1,000,000 for property damage, or any greater amounts as may be reasonably required by LESSOR, from time to time. Such public liability or comprehensive general liability insurance shall include coverage for liquor law liability in the event of alcoholic beverages or liquor on the DEMISED PREMISES. LESSOR shall be named as an additional insured on LESSEE's public liability policies.

(c) Certificates of Insurance. Upon execution of this Lease, LESSEE shall provide Certificates of Insurance to LESSOR to verify insurance coverages. The insurance coverages shall contain a provision which prohibits any cancellation, changes or alterations in the coverages without providing thirty (30) days prior written notice to LESSOR.

(d) Indemnification and Hold Harmless. LESSEE shall indemnify, defend and hold harmless LESSOR, and the members (including without limitation, members of the City Council and members of the citizens advisory committees of the CITY), officers, employees and agents of LESSOR, from and against any and all liabilities, losses, claims, judgments, fines, damages, injuries, costs and expenses (including reasonable attorneys' fees) which may be incurred by, charged to or recovered from any of the foregoing (i) by reason or on account of injury to or death of any person, or damage or destruction of any person's

property, resulting from or arising out of LESSEE's negligence or misconduct in the use, occupancy or maintenance of the DEMISED PREMISES or any leasehold improvements or its operations thereon, or the negligence or misconduct in the acts or omissions of LESSEE's officers, agents, employees, contractors, subcontractors, licensees, invitees or volunteers, acting within the scope of their employment; or (ii) resulting from or in any way connected with the condition, use or occupancy of the DEMISED PREMISES or any leasehold improvements, or the performance of operations under this Agreement; or (iii) arising out of the failure of LESSEE to keep, observe or perform any of the covenants or agreements in this Lease to be kept, observed or performed by LESSEE; or (iv) resulting from, arising out of or in any way connected with alcoholic beverages or liquor on the DEMISED PREMISES.

12. Default.

(a) Events of Default. Each of the following events shall be a default by LESSEE and a breach of this Lease:

- (i) Abandonment or surrender of the DEMISED PREMISES or of the leasehold estate, or failure or refusal to pay when due any installment of rent or any other sum required by this Lease to be paid by LESSEE, or failure or refusal to perform as required or conditioned by any other term, requirement, covenant or condition of this Lease, if not cured within the "grace periods" detailed herein below.
- (ii) The subjection of any right or interest of LESSEE or LESSOR, whether in the leasehold, DEMISED PREMISES or improvements thereon, or in the Lease, to attachment, execution, lien or other levy, or to seizure under legal process of same, if not released or fully bonded within forty-five (45) days.
- (iii) An assignment by LESSEE for the benefit of creditors or the filing of a voluntary or involuntary petition by or against LESSEE under any law for the purpose of adjudicating LESSEE a bankrupt; or for extending time for payment, adjustment, or satisfaction of LESSEE's liabilities; or for reorganization, liquidation, dissolution or arrangement on account of or to prevent bankruptcy or insolvency; unless the assignment or proceedings, and all consequent orders, adjudications, custodies and supervisions are dismissed, vacated or otherwise permanently stayed or terminated within sixty (60) days after the assignment, filing or other initial event.
- (iv) Failure of LESSEE to pay any rents due under the provisions of Paragraph 3 above within thirty (30) days of written notification from LESSOR.
- (v) Failure of LESSEE to maintain status as a non-profit organization.
- (vi) Any act or omission of LESSEE which results in any financial responsibility, obligation, cost, expense or liability to LESSOR.

- (vii) Failure of LESSEE to comply with any term, requirement, condition, covenant or provision of this Lease.

(b) Lessor's Remedies. If LESSEE defaults under this Lease, then the following penalties, remedies and damages shall apply: In the event that LESSEE defaults in the payment of rent or with the maintenance of the property, including any additional rent payable hereunder, and LESSEE does not cure the default within ten (10) days after written demand for payment of such rent, or if LESSEE defaults in the prompt and full performance of any other provisions of this Lease, including defaults as herein defined, and LESSEE does not cure the default within thirty (30) days after written demand by LESSOR that the default be cured, or such further time as may be reasonably necessary to cure such default, then and in any such event LESSOR may, if LESSOR so elects but not otherwise, with or without further notice or demand, forthwith terminate this Lease and LESSEE's right to possession of the DEMISED PREMISES or, without terminating this Lease, forthwith terminate LESSEE's right to possession of the DEMISED PREMISES, and in either case LESSOR may re-enter the DEMISED PREMISES, and repossess the DEMISED PREMISES and may re-let the same after making such repairs and doing such remodeling as LESSOR deems reasonable to re-let the DEMISED PREMISES. In the event that LESSOR shall terminate this Lease pursuant to default, then in addition to any other remedy it may have, LESSOR may recover from LESSEE all damages incurred by reason of such breach, including the cost of recovering the DEMISED PREMISES. Also, in the event that LESSOR shall terminate this Lease pursuant to default, title to the improvements on the DEMISED PREMISES shall vest permanently in LESSOR, free and clear of all liens and encumbrances (except for encumbrances shown on plats of record, easements, rights-of-way and other common encumbrances acceptable to LESSOR) of any kind. In the event of default under this Lease, LESSEE shall surrender and assign to LESSOR any and all licenses, permits or other governmental authorizations required for alcoholic beverages or liquor on the DEMISED PREMISES.

LESSEE shall pay all of LESSOR's reasonable costs, charges and expenses, including the fees of counsel, agents and others retained by LESSOR, incurred in enforcing any of LESSEE's obligations under this Lease or incurred by LESSOR in any litigation, negotiation or transaction in which LESSEE causes LESSOR, without LESSOR's fault, to become involved or concerned, if LESSOR shall prevail in any litigation, negotiation or transaction. Likewise, LESSOR shall pay LESSEE's reasonable costs and expenses, including attorney's fees, if LESSEE shall so prevail.

(c) Default by LESSOR. Repeal of any ordinance which results in prohibiting alcoholic beverages or liquor on the DEMISED PREMISES shall be a default by LESSOR of this Lease. LESSOR defaults under this Lease, LESSEE may terminate this Lease upon giving sixty (60) days prior written notice to LESSOR. In the event that LESSEE shall terminate this Lease pursuant to LESSOR'S default, LESSEE shall be entitled to compensation as provided in Paragraphs 2(d) and 2(e) of this Lease.

13. Lessor's Right to Perform Lessee's Duties and Obligations. In the event LESSEE fails to perform any of its duties or obligations under this Lease, LESSOR may (but is not obligated to) perform the same after giving

thirty (30) days written notice to LESSEE. Any amounts reasonably expended by LESSOR in so performing shall be treated as additional rent due from LESSEE with interest, said amounts to be paid together with the next rental payment due.

14. Lessor's Right of Inspection. LESSEE shall permit LESSOR and its agents or representatives to enter the DEMISED PREMISES and leasehold improvements at all reasonable times and with reasonable notice for the purpose of inspecting the same or making any necessary repairs thereto and performing any work therein that may be necessary by reason of LESSEE's failure to make any such repairs or perform any such work, although LESSOR shall have no obligation to do any of the above.

15. Liens Forbidden. Neither LESSEE nor anyone claiming by, through, or under LESSEE, including, but not limited to, contractors, subcontractors, materialmen, mechanics, and laborers, shall have any right to file or place of record any mechanic's or materialman's lien of any sort whatsoever upon the interest of LESSOR in the DEMISED PREMISES, and any such lien is hereby specifically prohibited. All parties with whom LESSEE may deal are hereby put on notice that LESSEE has no power to subject the interest of LESSOR in the DEMISED PREMISES to any claim or lien of any kind or character, and all such persons so dealing with LESSEE must look solely to LESSEE for payment, and not to LESSOR's interest in the DEMISED PREMISES or any other asset of LESSOR. LESSEE shall forthwith cause any lien filed against LESSOR's interest in the DEMISED PREMISES to be immediately released or adequately bonded, and LESSEE shall and does hereby indemnify LESSOR against any such lien attaching against, through or because of LESSEE, and does hereby agree to pay any and all costs, charges and expenses, including reasonable attorney's fees, incurred by LESSOR and LESSEE in connection with the prosecution or defense of any suit in connection therewith. If LESSEE bonds or satisfies the lien within forty-five (45) days of the filing of or attachment of such lien, such lien filings shall not constitute a default by LESSEE.

All persons who might contemplate placing liens of any kind against LESSEE's interest or LESSOR's interest in the leasehold or leasehold improvements are hereby further warned that: (a) the placement of such liens, if not satisfied, released or bonded, constitutes a default under this Lease; (b) a default under this Lease may, at LESSOR's option, trigger termination of this Lease; and (c) if this Lease is terminated, then title to all leasehold improvements, and all interest in the leasehold, shall revert to LESSOR free and clear of all liens and encumbrances of any kind.

16. Damage to the Demised Premises. LESSEE is required to reconstruct or rebuild any damaged or destroyed portion of the DEMISED PREMISES and leasehold improvements to the extent that applicable insurance proceeds so permit, provided however, that LESSEE shall not be required to so reconstruct or rebuild if: (a) the damage or destruction occurs in the last two (2) years of the initial term or any additional term of this Lease; (b) LESSEE turns over all obtainable insurance proceeds to LESSOR; and (c) LESSEE voluntarily terminates this Lease and turns over the possession of the DEMISED PREMISES and leasehold improvements to LESSOR without further compensation from LESSOR

(this is the only circumstance under which LESSEE may terminate this Lease without LESSOR's approval at LESSOR's sole and absolute discretion).

17. Miscellaneous Provisions.

(a) Notice. All notices permitted or required by this Lease must be given in writing and shall be considered given two (2) business days after deposit with an overnight express postal delivery service, addressed by name and address to the party or person intended as follows:

Notice to LESSOR: City Manager
City of Port Orange
1000 City Center Circle
Port Orange, FL 32119

Copy to: City Clerk

Notice to LESSEE: President
Riverside Pavilion Condominium Association, Inc.
3431 Ridgewood Avenue
Port Orange, FL 32119

Either party may, by notice given at any time or from time to time, require subsequent notice to be given to another individual person, or to a different address, or both.

(b) Entire Agreement. This Lease contains the entire agreement between the parties. No promise, representation, warranty or covenant not included in or attached to this Lease has been or is relied on by either party. Any changes, modifications, additions or amendments hereto must be in writing signed by both parties.

(c) Severability. The invalidity or illegality of any provision of this Lease as to any circumstance, provision or person shall not affect the remainder of this Lease or the applicability of the provision involved to other circumstances or persons to the fullest extent permitted by law.

(d) Successors. Subject to the provisions of this Lease, on assignment or subletting, each and all of the covenants and conditions of this Lease shall be binding on and shall inure to the benefit of the heirs, successors, executors, administrators, assigns and personal representatives of the respective parties.

(e) Governing Law. This Lease shall be governed by and construed in accordance with the laws of the State of Florida.

(f) Captions. The captions of this Lease are for convenience or reference only, and in no way define, limit or describe the scope or intent of this Lease or in any way affect this Lease.

(g) Reinstatement and Waiver. No waiver of any covenant or condition contained in this Lease or of any breach of any such covenant or condition

shall constitute a waiver of any subsequent breach of such covenant or condition by either party, or justify or authorize the non-observance on any other occasion of the same or any other covenant or condition hereof by either party. No receipt of money by LESSOR from LESSEE after the termination of this Lease or after the service of any notice, after the commencement of any suit, or after final judgment for possession of the DEMISED PREMISES shall reinstate, continue or extend the Lease term or affect any such notice, demand or suit.

(h) Non-discrimination. In the use and operation of the DEMISED PREMISES, LESSEE shall not discriminate on the basis of race, creed, sex, national origin, age or handicap. This provision shall apply to all activities, membership, hiring of services or goods, or other actions on or connected with the DEMISED PREMISES.

(i) Illegal Act. LESSEE shall not permit any unlawful acts or violations of any municipal, local, state or federal law, ordinance or regulation.

(j) Amendment. This Lease may be amended or modified only by an instrument of equal formality signed by the respective parties.

(k) Attorney's Fees. In the event of any claim, action, litigation or proceeding under this Lease, the prevailing party shall be entitled to an award of attorney's fees and costs.

IN WITNESS WHEREOF, the parties hereto have executed this Lease Agreement, by and through their duly authorized representatives, on the day and year first written hereinabove.

WITNESSES:

Alfred L. Giron
Linda B. Sheridan
Alfred L. Giron
Linda B. Sheridan

CITY OF PORT ORANGE

By: James E. Ward
James E. Ward, Mayor

ATTEST: Kenneth W. Parker
Kenneth W. Parker,
City Manager

WITNESSES:

RIVERSIDE PAVILION CONDOMINIUM
ASSOCIATION, INC., a Florida
non-profit corporation

Rebecca L. Goon
Linda B. Sheridan
Rebecca L. Goon
Linda B. Sheridan

By: Richard G. Stork
Richard G. Stork, President

ATTEST: Debra L. Connors
Debra L. Connors, Secretary

STATE OF FLORIDA
COUNTY OF VOLUSIA

The foregoing instrument was acknowledged before me this 18th day of April, 1994, by James E. Ward and Kenneth W. Parker, as Mayor and City Manager, respectively, of the City of Port Orange, a Florida municipality, on behalf of the City. They are personally known to me.

Linda B. Sheridan
Notary Public, State of Florida
at Large

Commission No. _____



LINDA B. SHERIDAN
MY COMMISSION # CC353751 EXPIRES
March 8, 1998
BONDED THRU TROY FAIR INSURANCE, INC.

STATE OF FLORIDA
COUNTY OF VOLUSIA

The foregoing instrument was acknowledged before me this 7th day of April, 1994, by Richard G. Stork and Debra L. Connors, as President and Secretary, respectively, of Riverside Pavilion Condominium Association, Inc., a Florida non-profit corporation, on behalf of the corporation. They are personally known to me or produced as identification.

Linda B. Sheridan
Notary Public, State of Florida
at Large

Commission No. _____



LINDA B. SHERIDAN
MY COMMISSION # CC353751 EXPIRES
March 8, 1998
BONDED THRU TROY FAIR INSURANCE, INC.

Exhibit A

EASEMENT FOR PROPOSED BUILDING AT 3431 RIDGEWOOD AVENUE, PORT ORANGE RIVERFRONT PARK

A PORTION OF THE NORTH $\frac{1}{2}$ OF LOT 1, BLOCK 1, AND SUBMERGED LANDS (PER O.R. BOOK 748, PAGE 259) LYING EASTERLY THEREOF, AND A PORTION OF A 100 FOOT WIDE CANAL AND ROAD RIGHT-OF-WAY AS LIES EASTERLY OF RIDGEWOOD AVENUE (U.S. HIGHWAY #1), ALL AS SHOWN ON THE PLAT OF HENRY P. HAND SUBDIVISION, AS RECORDED IN PLAT BOOK 2, PAGE 185, PUBLIC RECORDS OF VOLUSIA COUNTY, FLORIDA, SAID PORTION OF LAND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

FROM A POINT OF REFERENCE, BEING THE INTERSECTION OF THE EASTERLY LINE OF RIDGEWOOD AVENUE (U.S. HIGHWAY #1), A 100 FOOT RIGHT-OF-WAY, WITH THE SOUTHERLY LINE OF THE SAID NORTH $\frac{1}{2}$ OF LOT 1, BLOCK 1, H. P. HAND SUBDIVISION; THENCE N 75°15'14" E ALONG SAID SOUTHERLY LINE A DISTANCE OF 395.64 FEET; THENCE N 14°44'46" W DEPARTING SAID SOUTHERLY LINE A DISTANCE OF 19.00 FEET TO THE POINT OF BEGINNING; THENCE CONTINUE N 14°44'46" W, A DISTANCE OF 117.00 FEET; THENCE N 75°15'14" E, PARALLEL TO THE SAID SOUTHERLY LINE OF THE NORTH $\frac{1}{2}$ OF LOT 1, A DISTANCE OF 107.00 FEET; THENCE S 14°44'46" E, A DISTANCE OF 117.00 FEET; THENCE S 75°15'14" W PARALLEL TO THE SAID SOUTHERLY LINE OF THE NORTH $\frac{1}{2}$ OF LOT 1, A DISTANCE OF 107.00 FEET TO THE POINT OF BEGINNING.



CITY COUNCIL AGENDA ITEM

COUNCIL MEETING DATE 2/6/2024

SUBJECT: (C9c) Approval of Lease Extension with Clear Channel Outdoors for property located on I-4 for an outdoor advertising sign

DEPARTMENT: City Manager

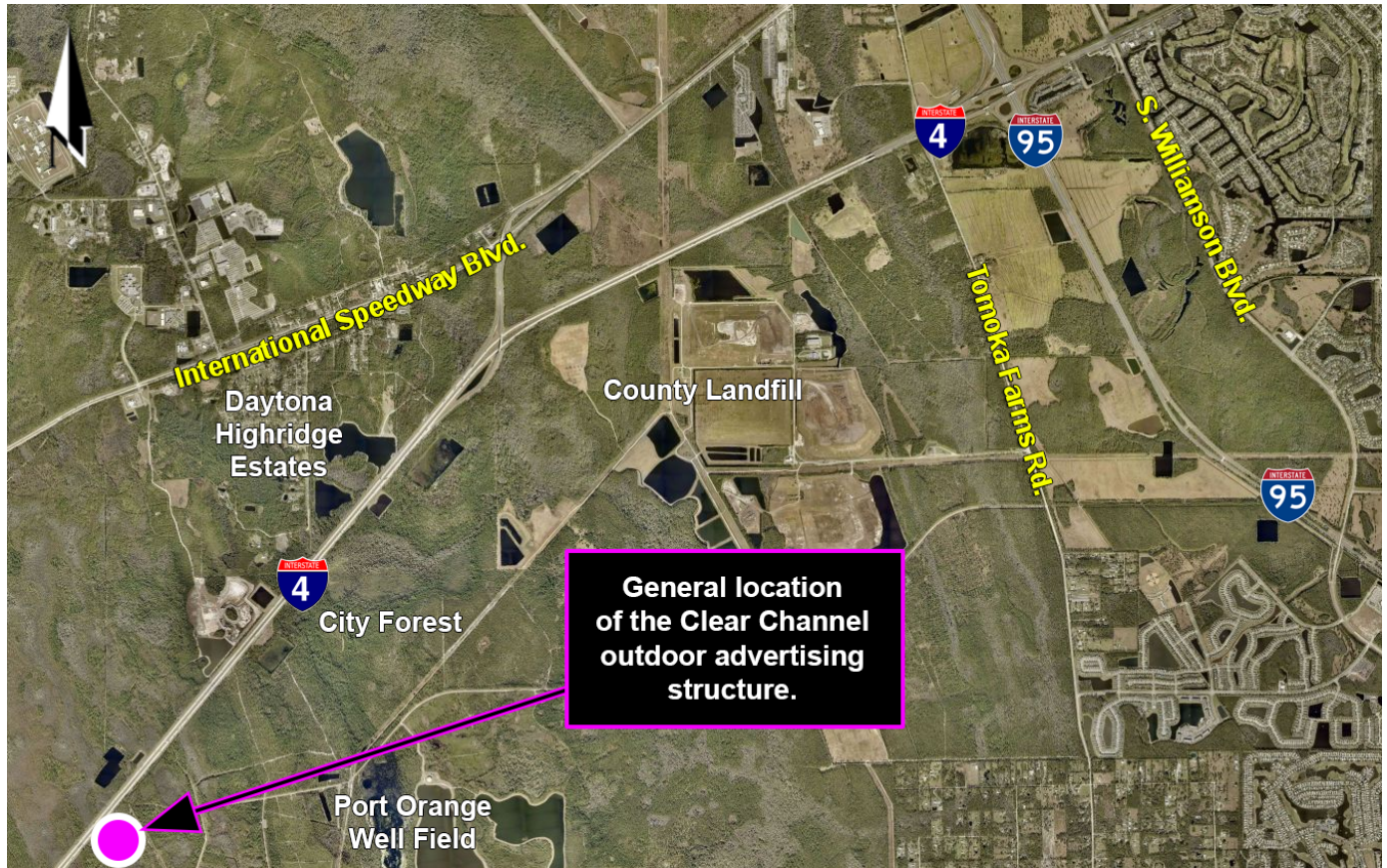
GOAL: 5 - Fiscal Sustainability

RECOMMENDED MOTION: Move to approve Lease Extension with Clear Channel Outdoors for property located on I-4 for an outdoor advertising sign.

SUMMARY: The City entered into a lease with Clear Channel Outdoors for property along I-4 on July 30, 2002, for the purpose of operating and maintaining an outdoor advertising sign structure. Clear Channel has approached the City about an extension of this lease, which expired in June 2023. If the proposed extension is approved, the lease would extend for an additional fifteen years and would expire on June 30, 2038.

The lessee currently pays \$1,500 per year for the land where the outdoor advertising structure is located. Under the renewal, the lessee would increase their annual rent to \$4,000 per year with a 2% increase each lease year thereafter. The annual rent would be paid every July. The property is leased from the City for the sole purpose of an outdoor advertising structure and is maintained by the lessee.

The specific location of this outdoor advertising structure is commonly referred to as 1-4 S/S 3.70 Mi W/O US 92 CCO BOARD panel number 3209. The tax parcel number for this outdoor advertising structure is located at 6214-00-00-0040.



PRESENTER: John McKinney

ATTACHMENTS:

1.	MEL 13820 - Clear Channel Outdoor Lease Extension - 1.11.24 (Clean)	MEL 13820 - Clear Channel Outdoor Lease - 1.11.24 (Clean).pdf
2.	Clear Channel Lease Agreement #13820 Panel 3209	Clear Channel Lease Agreement #13820 Panel 3209.pdf

John McKinney
John McKinney
Matthew Jones
Wayne Clark
Tracee Cody

Created/Initiated - 9/14/2023
Approved - 12/12/2023
Approved - 1/11/2024
Approved - 1/25/2024
Final Approval - 1/26/2024

LEASE #13820
PANEL **3209**
COUNTY **VOLUSIA**
STATE OF FLORIDA

Amended and Restated
Lease Agreement

1. This Amended and Restated Lease Agreement ("Lease") is made and entered into between **CITY OF PORT ORANGE, FLORIDA** a chartered municipal corporation, 1000 City Center Circle, Port Orange, Florida 32129 ("Landlord") and **CLEAR CHANNEL OUTDOOR, LLC.**, a Delaware limited liability company with its principal address at 5333 Old Winter Garden Road, Orlando FL 32811 successor in interest to Clear Channel Outdoor, Inc. ("Tenant"). Landlord hereby leases to Tenant a portion of Landlord's real estate ("Landlord's Parcel") on which a certain outdoor advertising sign structure is located, said portion being commonly known as 1-4 S/S 3.70 Mi W/0 US 92 CCO BOARD #3209, in the County of VOLUSIA in the State of Florida ("Property"). The tax parcel number for Landlord's Parcel on which the described sign structure is located is 6214-00-00-0040 (ALT KEY 2492058). The Property is leased for the purpose of maintaining, operating, improving, supplementing, posting, painting, illuminating, repairing, repositioning and/or removing outdoor advertising structures, including, without limitation, fixture connections, electrical supply and connections, panels, signs, copy and any equipment and accessories as Tenant may place thereon (collectively, the "Structures"). Landlord makes no representation or warranty that electrical power supply or connections are available to the Property or the Structures. Tenant shall have the right to illuminate the Structures at its sole cost, risk and expense, if electrical supply and connections are available to Tenant. This Lease includes all necessary rights of ingress and egress, over Landlord's Parcel and adjoining property of Landlord to the Property, on a route and course determined by Landlord, provided that such right of ingress and egress is granted subject to the express conditions that Tenant or Tenant's agent provide Landlord no less than four (4) days notice of its need to access the Property. Tenant may license the use of the Structures, or any portion thereof, for use as an outdoor advertising sign structure.

2. This Lease shall be in effect for a term of THIRTYSEVEN (37) years, commencing on JULY 1, 2002 AND EXPIRING ON JUNE 30, 2038.

3. Rent at the rate of \$1,500.00 PER YEAR shall be payable to Landlord on JULY 1, 2002, and a like amount on the first day of July of each and every year thereafter, concluding JUNE 30, 2023. Commencing on July 1, 2002, and continuing on the first day of January of each and every year thereafter to and including July 1, 2023, Tenant shall pay to Landlord additional adjusted rent based on the annual rental amount due as set forth herein, equal to 100% of any increase in the cost of doing business as measured by fluctuations in the Consumer Price Index (CPI), Southeast Florida Urban Consumers, published by the U.S. Department of Labor, Bureau of Labor Statistics, for the preceding twelve (12) month lease period. Such additional adjusted rent shall be calculated, applied to and compounded on each yearly rental amount due, as such rental amount due is cumulatively increased from time to time by all additional adjusted rent amounts calculated and paid hereunder for prior rental periods. Landlord and Tenant

acknowledge that Landlord has been paid all rents due between July 1, 2002 and June 30, 2023. Commencing July 1, 2023, rent shall be paid at the rate of \$4,000 PER YEAR with a 2% increase each Lease year thereafter. The annual rent shall be payable to Landlord in advance on or before the first day of each Lease year (prorated for any partial months). Tenant shall be solely responsible for any taxes assessed against the leasehold interest.

4. If ownership of the Property changes, Landlord shall promptly notify Tenant of such change. Prior to transferring ownership of the Property, Landlord shall furnish the new owner with a copy of this Lease.

5. Tenant is the owner of the Structures and has the right to remove the Structures at any time or within thirty (30) days following the termination of this Lease. If Tenant is required to remove the Structure, Tenant shall repair any damaged caused by the removal of the Structures and restore the Property to a condition substantially similar to its pre-Structure condition. During the term of this Lease, Tenant has the sole right and the obligation to make any necessary applications with, and obtain permits from, governmental entities for the construction, use and maintenance of the Structures, and Landlord hereby grants Tenant a limited power of attorney for this purpose. All such permits shall remain the property of Tenant. Any failure by Tenant to fully comply with any required zoning, permitting or other legal or administrative requirement in respect to Structures shall constitute an event of default under this Lease and shall cause this Lease to immediately terminate without the necessity of any other act. Any improvement, replacements, or other modifications to the Structures shall conform and comply with the then current version of the building construction codes imposed within the City of Port Orange. Any failure by Tenant to fully comply with any maintenance requirement in respect to Structures shall constitute an event of default under this lease and shall cause this Lease to immediately terminate without the necessity of any other act.

6. Tenant shall carry commercial general liability insurance with such coverage and limits of liability of not less than \$1,000,000.00 per occurrence including property damage. Upon each year of this agreement that is evenly divisible by three (3) the City may require reasonable increases for such coverage and limits to an amount as is determined in the sole discretion of the City Manager for the City of Port Orange on behalf of the Landlord and shall be effective upon thirty (30) days advance written notice to the Tenant. Such insurance shall name Landlord as an additional insured with respect to the Leased Property, shall be issued by an insurance company authorized to do business in the state in which the Leased Property is located and shall provide thirty (30) days prior written notice to Landlord of any cancellation of such policy. On or before the Commencement Date, Tenant shall deliver to Landlord a certificate evidencing that such insurance is in effect, and, thereafter, Tenant shall deliver to Landlord a renewal certificate evidencing that such insurance is in effect within ten (10) business days of Landlord's request for such certificate. Any insurance required to be provided by Tenant under this paragraph may be provided by a blanket insurance policy covering the Leased Property and other properties of Tenant, provided such blanket insurance policy complies with all of the other requirements of this Lease with respect to the type and amount of insurance required. Tenant may also fulfill its requirements under this paragraph through a program of self-insurance. If Tenant elects to self-insure, Tenant shall furnish Landlord with a letter stating that a self-insurance program is in effect that provides for the same, or greater, coverage than required of Tenant herein.

7. Landlord shall not place or maintain any object on the Property or any neighboring property owned or controlled by Landlord that would obstruct the view of the advertising copy on the Structures. If Landlord fails to remove any such obstruction within thirty (30) days after notice from Tenant, Tenant may in its sole discretion cancel this Lease, remove any or all of the Structures, and receive all pre-paid rent for any unexpired term of this Lease. Tenant, with Landlord's consent, may trim any trees and vegetation currently on the Property to prevent obstructions.

8. If: (a) the view of the Structures' advertising copy becomes entirely or partially obstructed and such obstruction cannot be removed; (b) the Property cannot safely be used for the erection or maintenance of the Structures for any reason; (c) Tenant is unable to obtain or maintain any necessary permit for the erection, use and/or maintenance of the Structures; or (d) the Structures' use is prevented by law, or Tenant is required by any governmental entity to reduce the number of billboards operated by it in the city, county or state in which the Structures are located; then Tenant may immediately cancel this Lease and receive all pre-paid rent for any unexpired term of this Lease.

9. If the Structures or the Property, or any part thereof, are condemned by proper authorities, taken without the exercise of eminent domain, whether permanently or temporarily, or any right-of-way from which the Structures are visible is relocated, Tenant shall have the right to terminate this Lease upon not less than thirty (30) days' notice and to receive all pre-paid rent for any unexpired term of this Lease. Tenant shall be entitled to claim compensation from the condemning authority and other remedies provided by law, including, without limitation, just compensation for the taking of the Structures and Tenant's leasehold interest in this Lease, and/or relocation assistance, all solely from the condemning authority. Landlord shall assert no rights in such interests. If condemnation proceedings are initiated, Landlord shall use its best efforts to include Tenant as a party thereto. No right of termination set forth anywhere in this Lease, except for the default of the Tenant, may be exercised prior to the sale to any entity with the power of eminent domain or by or for the benefit of any entity with the power of eminent domain.

10. Landlord represents that it is the owner (or owner's authorized agent) of the Property and has the authority to enter into this Lease.

11. If the Property is currently encumbered by a deed of trust or mortgage, ground lease or other similar encumbrance, Landlord shall deliver to Tenant on or before the commencement date hereof a non-disturbance agreement in a form reasonably acceptable to Tenant.

12. Tenant shall defend, indemnify and hold Landlord harmless from all injuries to the Property, Structures or third persons caused by Tenant, Tenant's employees, agents, licensees and contractors. Landlord shall indemnify and hold Tenant harmless from all injuries to Structures or third persons caused by Landlord and Landlord's employees, subject to the limitations of liability for tort claims set forth in s. 768.28,(5)(a), F.S.. Tenant shall carry hazard, liability and workers compensation insurance during the full term of this Lease in respect to the Property and Structures, with policy limits of each not less than one million dollars, and shall name Landlord as an additional insured on such hazard and liability policies.

13. This Lease is binding upon the assigns and successors of both Landlord and Tenant. Either Party shall have the absolute right to assign or sublet this Lease.

14. Any notice to any party under this Lease shall be in writing by certified or registered mail, to the addressed shown above, and shall be effective on the earlier of (a) the date when delivered and receipted for by a person at the address specified within this Lease, or (b) the date which is three (3) days after mailing (postage prepaid) by certified or registered mail, return receipt requested, to such address; provided that in either case notices shall be delivered to such other address as shall have been specified in writing by such party to all parties hereto prior to the notice being delivered.

15. Neither Landlord nor Tenant shall be bound by any terms, conditions or oral representations that are not set forth in this Lease. This Lease represents the entire agreement of Tenant and Landlord with respect to the Structures and the Property and supersedes any previous agreement. Landlord hereby grants Tenant all rights necessary to record a memorandum of this Lease executed by Landlord.

[SIGNATURE PAGE TO FOLLOW]

This Amended and Restated Lease Agreement for Panel **3209** is executed the date and year set forth hereinafter.

TENANT:

CLEAR CHANNEL OUTDOOR, LLC, a Delaware limited liability company

By: _____
Name: Joe Garner
Title: SVP of Real Estate and Public Affairs

Signature of Witness

Name of Witness

Signature of Witness

Name of Witness

STATE OF _____)
COUNTY OF _____) ss.

The foregoing instrument was acknowledged before me this ____ day of _____, 20____
by _____, the _____ of
_____, a _____,
_____, on behalf of said corporation.

Notary Public

My commission expires:

LANDLORD:

THE CITY OF PORT ORANGE, a chartered municipal corporation

By: _____

Name: _____

Title: _____

Signature of Witness

Name of Witness

Signature of Witness

Name of Witness

STATE OF _____)
COUNTY OF _____) ss.

The foregoing instrument was acknowledged before me this _____ day of _____, 20__ by _____, the _____ of _____, a _____, on behalf of said corporation.

Notary Public

My commission expires:

CLEAR CHANNEL OUTDOOR, INC.

2890 Harper Road
Melbourne, Florida 32904
321-726-6611 phone 321-726-1565 fax

RECEIVED

AUG 30 2002



LEASE # 13820
STRUCTURE _____
COUNTY Volusia

Lease Agreement

1. This Lease Agreement ("Lease") is effective **July 30, 2002** and entered into between **Elizabeth Zuber** ("Landlord") and Clear Channel Outdoor, Inc., a Delaware Corporation registered in Florida as CC Outdoor, Inc., and doing business in Florida as Clear Channel Outdoor, Inc. ("Tenant"). Landlord hereby leases to Tenant the real estate commonly known as **I-4 S/S 4 mi W/O US 92 CCO Display 3209** in the County of **Volusia** in the State of **Florida**. The Property is leased for the purpose of erecting, maintaining, operating, improving, supplementing, posting, painting, illuminating, repairing, repositioning and/or removing outdoor advertising structures, including, without limitation, fixture connections, electrical supply and connections, panels, signs, copy and any equipment and accessories as Tenant may place thereon (collectively, the "Structures"). This Lease includes all necessary rights of ingress and egress. Tenant may license the use of the Structures, or any portion thereof, for any lawful purpose.
2. This Lease shall be in effect for an initial term of ten (10) years, commencing on **July 1, 2003**. If a government or quasi-government entity acquires the Property, then the lease shall be extended to the date which is 30 years from the date of acquisition.
3. ~~Tenant shall pay Landlord rent in the amount of One Hundred Dollars (\$100.00) for the period of time prior to complete construction of the Structures. On the date construction is completed (or if this Lease is a renewal of an existing lease, then upon the commencement date above) rent shall commence at the rate of \$~~ **1200.00 per year for years 1-5 and \$1500.00 per year for years 6-10.**
4. This Lease shall continue in full force and effect for its initial terms and thereafter for subsequent like terms, unless not less than ninety (90) days before the end of any such initial or subsequent successive like term Landlord or Tenant gives notice of termination. During any term of this Lease and for a period of ninety (90) days following any termination of this Lease, Landlord grants Tenant the right of first refusal to match any offer acceptable to Landlord for the use or purchase of all or any portion of the Property. A copy of any such third party offer received by Landlord shall be delivered to Tenant. Tenant shall then have ten (10) business days in which to match such offer by giving notice of acceptance to Landlord. If ownership of the Property changes, Landlord shall promptly notify Tenant of such change. Prior to transferring ownership of the Property, Landlord shall furnish the new owner with a copy of this Lease.
5. Tenant is the owner of the Structures and has the right to remove the Structures at any time or within one hundred twenty (120) days following the termination of this Lease. If for any reason, Tenant's Structures are removed, materially damaged or destroyed, all rent payments shall cease until the Structures are rebuilt. If the Structures are removed for any reason, only the above-ground portions of the Structures need be removed. Tenant has the sole right to make any necessary applications with, and obtain permits from, governmental entities for the construction, use and maintenance of the Structures, and Landlord hereby grants Tenant a limited power of attorney for this purpose. All such permits shall remain the property of Tenant. Tenant shall have no obligation to pursue any zoning matter or to continue to maintain any permit. Any such action shall be at Tenant's option.
6. Landlord and Landlord's tenants, agents, employees or other persons acting on Landlord's behalf, shall not place or maintain any object on the Property or any neighboring property owned or controlled by Landlord which, in Tenant's sole opinion, would obstruct the view of the advertising copy on the Structures. If Landlord fails to remove the obstruction within five (5) days after notice from Tenant, Tenant may in its sole discretion: (a) remove the obstruction at Landlord's expense; (b) cancel this Lease, remove any or all of the Structures, and receive all pre-paid rent for any unexpired term of this Lease; or (c) reduce the rent to One Hundred Dollars (\$100.00) per year while the obstruction continues. Tenant may trim any trees and vegetation currently on the Property and on any neighboring property owned or controlled by the Landlord as often as Tenant in its sole discretion deems appropriate to prevent obstructions. Without limiting the foregoing, Landlord shall not permit the Property or any neighboring property owned or controlled by Landlord to be used for off-premise advertising.
7. If, in Tenant's sole opinion: (a) the view of the Structures' advertising copy becomes entirely or partially obstructed; (b) electrical service is unavailable; (c) the Property cannot safely be used for the erection or maintenance of the Structures for any reason; (d) the Property becomes unsightly; (e) there is a diversion, reduction or change in directional flow of traffic from the street or streets currently adjacent to or leading to or past the Property; (f) the Structures' value for advertising purposes is diminished; (g) Tenant is unable to obtain or maintain any necessary permit for the erection, use and/or maintenance of the Structures; or (h) the Structures' use is prevented or restricted by law, or Tenant is required by any governmental entity to reduce the number of billboards operated by it in the city, county or state in which the Structures are located; then Tenant may immediately at its option either: (i) reduce rent in direct proportion to the loss suffered; or (ii) cancel this Lease and receive all pre-paid rent for any unexpired term of this Lease. In addition, if Tenant is prevented from illuminating its signs by law, or other cause beyond Tenant's control, the rent shall be reduced by one-third for such period of non-illumination.

Continued on Reverse

8. If the Structures or the Property or any part thereof, are condemned by proper authorities; taken without the exercise of eminent domain, whether permanently or temporarily; or any right-of-way from which the Structures are visible is relocated, Tenant shall have the right to relocate the Structures on Landlord's remaining property or to terminate this Lease upon not less than thirty (30) days' notice and to receive all pre-paid rent for any unexpired term of this Lease. Tenant shall be entitled to all compensation and other remedies provided by law, including, without limitation, just compensation for the taking of the Structures and Tenant's leasehold interest in this Lease, and/or relocation assistance. Landlord shall assert no rights in such interests. If condemnation proceedings are initiated, Landlord shall use its best efforts to include Tenant as a party thereto. No right of termination set forth anywhere in this Lease may be exercised prior to the sale to any entity with the power of eminent domain or by or for the benefit of any entity with the power of eminent domain.

9. Landlord represents that it is the owner (or owner's authorized agent) of the Property and has the authority to enter into this Lease.

10. If the Property is currently encumbered by a deed of trust or mortgage, ground lease or other similar encumbrance, Landlord shall deliver to Tenant on or before the commencement date hereof a non-disturbance agreement in a form reasonably acceptable to Tenant.

11. If (a) Tenant has not been informed of the current address of Landlord or its authorized agent, or (b) two or more of the monthly payments sent by Tenant are not deposited by Landlord within ninety (90) days after the last such payment is sent by Tenant, then no further rent shall be payable hereunder for the period commencing with the due date of the first such payment not deposited and continuing until Landlord (i) gives Tenant notice of its business address or that of its authorized agent or (ii) deposits all previous payments. In either case, Tenant's rent obligations shall be reinstated retroactively as if neither event described in (a) or (b) of this section had occurred.

12. Tenant shall indemnify and hold Landlord harmless from all injuries to the Property or third persons caused by Tenant, Tenant's employees, agents, licensees and contractors. Landlord shall indemnify and hold Tenant harmless from all injuries to Structures or third persons caused by Landlord, Landlord's employees, agents, licensees and contractors.

13. This Lease is binding upon the heirs, assigns and successors of both Landlord and Tenant. Landlord agrees not to assign this Lease to any competitor of Tenant without Tenant's written permission. Tenant shall have the absolute right to assign or sublet.

14. Any notice to any party under this Lease shall be in writing by certified or registered mail, and shall be effective on the earlier of (a) the date when delivered and receipted for by a person at the address specified within this Lease, or (b) the date which is three (3) days after mailing (postage prepaid) by certified or registered mail, return receipt requested, to such address; provided that in either case notices shall be delivered to such other address as shall have been specified in writing by such party to all parties hereto prior to the notice being delivered.

15. If suit is brought (or arbitration instituted) or an attorney is retained by any party to this Lease because the other party breached this Lease, the prevailing party shall be entitled to reimbursement for reasonable attorneys' fees and all related costs and expenses.

16. Neither Landlord nor Tenant shall be bound by any terms, conditions or oral representations that are not set forth in this Lease. This Lease represents the entire agreement of Tenant and Landlord with respect to the Structures and the Property and supercedes any previous agreement. Landlord hereby grants Tenant all rights necessary to record a memorandum of this Lease without Landlord's signature, including a limited power of attorney for such purpose. Landlord understands that the terms of this Lease are proprietary and confidential and Tenant would be damaged by the unauthorized disclosure of the terms. Therefore, Landlord agrees not to disclose the terms to any third party. Such agreement shall survive the termination of this Lease.

CLEAR CHANNEL OUTDOOR, INC. (Tenant)

By: [Signature]
Harry McIntyre
Its: President/General Manager Atlantic Coast Division

Witness: [Signature]
(print name) Bob McIntyre

Witness: [Signature]
(print name) Melissa Preibers

Elizabeth Zuber (Landlord)

By: [Signature]
(signature) ELIZABETH L ZUBER
Its: [Signature]
(Print Name of Signatory) OWNER

Address: 551 Commonwealth Blvd
Port Orange, FL 32127
Telephone: (386) 761-5214

Witness: [Signature]
(print name) OWNER
Witness: [Signature]
(print name) ROBYN Z WELCH
(print name) OWNER

ASSIGNMENT OF LEASES

For and in consideration of the sum of Ten Dollars (\$10.00) and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Cecelia Anne Buckles and Robyn Zuber Welch as Assignors, hereby transfer to The City of Port Orange, a chartered municipal corporation, as Assignee, and its successors and assigns forever, the following rights, interest and property:

All of Assignors' right, title and interest in and to any and all tenant leases, rental agreements and any other leases of any nature whatsoever (the "Leases") relating to those parcels of real property legally described in Exhibit "A" attached hereto and incorporated herein which Leases are more particularly described in Exhibit "B" attached hereto and incorporated herein by reference.

Assignee hereby accepts such assignment and assumes and agrees to perform all of Assignors' duties and obligations as lessor under the Leases from and after the effective date hereof.

IN WITNESS WHEREOF, Assignors and Assignee have caused this Assignment to be executed by their duly authorized representative as of December 19, 2003.

ASSIGNORS:

Cecelia Anne Buckles
Cecelia Anne Buckles

Robyn Zuber Welch
Robyn Zuber Welch

ASSIGNEE:

The City of Port Orange, a chartered
municipal corporation

By:

Dorothy L. Hukill
Dorothy L. Hukill, Mayor

By:

Kenneth W. Parker
Kenneth W. Parker, City Manager

ACKNOWLEDGMENT AND ACCEPTANCE OF LEASE

I, as [Signature] of Clear Channel Outdoor, Inc. hereby acknowledge and accept the assignment of the above referenced lease to the City of Port Orange. Dated this 17th day of MAY, 2004.

MAY 05 2004

RECEIVED

HERE



CITY COUNCIL AGENDA ITEM

COUNCIL MEETING DATE 2/6/2024

SUBJECT: (C9d) Ratification of the Approval of FDOT State-Funded Grant Agreement Time Extension No. 2 to Contract G1X03 for the St. John's River to Sea (SJR2C) Loop Trail SUN Trail design

DEPARTMENT: Community Development

GOAL: 1 - Public Safety

2 - Infrastructure

3 - Quality of Life

RECOMMENDED MOTION: Move to ratify the approval of the FDOT State-Funded Grant Agreement - Time Extension No. 2 for the SJR2C Loop Trail SUN Trail.

SUMMARY: The FDOT State-Funded Grant Agreement (FDOT Contract G1X03), for the design of St. John's River to Sea (SJR2C) Loop Trail was executed on May 21, 2021, and expired on January 31, 2024. Staff spoke to FDOT and requested an extension of the Agreement, until July 31, 2024, to allow the design consultant to complete the required permitting with St. John's River Water Management District (SJRWMD) and coordinate with FPL on any final comments on the design, so the design consultant can complete the 100% construction plans and bid documents to submit to FDOT for their final review. FDOT has granted the city a 120-day extension (to July 31, 2024) of the Agreement. The time extension only extends the completion date and does not require additional funds.

In meeting with the design consultant earlier in January, staff received the updates on the SJRWMD permitting submittal and FPL coordination. Due to the FDOT State-Funded Grant Agreement due to expire on January 31, 2024, staff requested FDOT to consider a time extension. The time extension until July 31, 2024 was granted on January 16th, and FDOT required the City's execution of the Time Extension by January 25th to accommodate FDOT's processing prior to the 1/31/24 expiration. With only one City Council meeting in January (1/9/24), staff worked with the City Attorney's office and Community Development staff moved forward with securing the City Manager's signature in order to keep the FDOT grant funding viable for this project. The Time Extension was signed on January 19, 2024, and put on the next available meeting agenda (2/6/24). Approval of this item will be a ratification of the City Manager's approval of the Time Extension.

Additionally, FDOT has approved this project for their FY24 work program instead of the FY26-28 work program as originally anticipated; therefore, bid documents are required to be submitted in March 2024 for FDOT's final approval in May 2024. The

extension of the FDOT State-Funded Grant Agreement for 120 days, or to July 31, 2024, will facilitate the completion of the construction contract bid phase (100% construction plans and bid documents). Staff anticipates bidding on the project in late summer/fall 2024 and starting construction by the end of 2024.

PRESENTER: Tim Burman

ATTACHMENTS:

1.	EXECUTED-439865-3-34-01 (G1X03)-TE #2	EXECUTED-439865-3-34-01 (G1X03)-TE #2.pdf
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Margaret Tomlinson	Created/Initiated - 1/16/2024
Tim Burman	Approved - 1/18/2024
John McKinney	Approved - 1/18/2024
Matthew Jones	Approved - 1/19/2024
Wayne Clark	Approved - 1/25/2024
Tracee Cody	Final Approval - 1/26/2024



Florida Department of Transportation

RON DESANTIS
GOVERNOR

719 S. Woodland Boulevard
DeLand, Florida 32720-6834

JARED W. PERDUE, P.E.
SECRETARY

DATE: January 16, 2024

TO: Florida Department of Transportation
District Five SunTrail Program

FROM: City of Port Orange

SUBJECT: Time Extension #2
State-Funded Grant Agreement
Financial Project No.: 439865-3-34-01
Contract No.: G1X03
Project Description: St. Johns River to Sea Loop Trail (Spruce Creek Road) from South of Selin Circle to Herbert Street

The State-Funded Grant Agreement (SFGA) for the subject project will expire on January 31, 2024.

In accordance with Section 3.00 of the SFGA, it is hereby requested by the local agency that the term for the Agreement of the subject project be extended until **July 31, 2024**, for the following reason(s):

Delays due to approval of permitting from SJRWMD and utility coordination with FPL. This extension will provide time for completion of design and project close out.

Recipient: City of Port Orange

By: _____

Name: Wayne Clark
Title: City Manager - Port Orange

Date: _____

1/19/24

APPROVED:

The Department approves a time extension for the subject State-Funded Grant Agreement to **July 31, 2024**.

DocuSigned by:

C. Jack Adkins

By: _____

1752524EC337485

01/22/2024 | 10:13 AM EST

Date: _____

Name: C. Jack Adkins

Title: Director of Transportation Development

DocuSigned by:

Daniel McDermott

Legal Review: _____

585E81E26BBA46C...

Certificate Of Completion

Envelope Id: A87C966B60A64913A195702AFB1BC76A		Status: Completed
Subject: Complete with DocuSign: 439865-3-34-01 FDOT Grant Agmt Time Extension #2 Signed.pdf		
Contract Number (ex. C9A12, optional): G1X03		
Document Contains Confidential Information?: No		
Fin Proj Num (ex.123456-1-32-01, Optional): 439865-3-34-01		
Office (contact Procurement if add is needed):		
Modal		
HR Action?: No		
Source Envelope:		
Document Pages: 1	Signatures: 2	Envelope Originator: Aishwarya Sandineni 605 Suwannee Street MS 20 Tallahassee, FL 32399-0450 Aishwarya.Sandineni@dot.state.fl.us IP Address: 156.75.193.3
Certificate Pages: 2	Initials: 0	
AutoNav: Enabled		
Envelopeld Stamping: Enabled		
Time Zone: (UTC-05:00) Eastern Time (US & Canada)		

Record Tracking

Status: Original	Holder: Aishwarya Sandineni	Location: DocuSign
1/22/2024 9:41:29 AM	Aishwarya.Sandineni@dot.state.fl.us	

Signer Events	Signature	Timestamp
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Daniel McDermott	DocuSigned by: Daniel McDermott 585E81E26BBA45C...	Sent: 1/22/2024 9:52:08 AM
Daniel.McDermott@dot.state.fl.us		Viewed: 1/22/2024 10:06:46 AM
District Chief Counsel		Signed: 1/22/2024 10:07:02 AM
FL DOT		
Signing Group: D5 General Law Legal Group		Signature Adoption: Pre-selected Style
Security Level: Email, Account Authentication (None)	Using IP Address: 156.75.252.6	
Electronic Record and Signature Disclosure:		
Not Offered via DocuSign		

C. Jack Adkins jack.adkins@dot.state.fl.us Director of Transportation Development FDOT Security Level: Email, Account Authentication (None)	DocuSigned by: <i>C. Jack Adkins</i> 1752524FC337485... Signature Adoption: Pre-selected Style Using IP Address: 156.75.252.6	Sent: 1/22/2024 10:07:05 AM Viewed: 1/22/2024 10:13:15 AM Signed: 1/22/2024 10:13:38 AM
Electronic Record and Signature Disclosure: Not Offered via DocuSign		

In Person Signer Events	Signature	Timestamp
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Editor Delivery Events	Status	Timestamp
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Agent Delivery Events	Status	Timestamp
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Intermediary Delivery Events	Status	Timestamp
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Certified Delivery Events	Status	Timestamp
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Carbon Copy Events	Status	Timestamp
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Carbon Copy Events	Status	Timestamp
Kim Kipp Kim.Kipp@dot.state.fl.us Paralegal Specialist Florida Department of Transportation Security Level: Email, Account Authentication (None) Electronic Record and Signature Disclosure: Not Offered via DocuSign	COPIED	Sent: 1/22/2024 10:07:03 AM
Linda Lee Linda.Lee@dot.state.fl.us FDOT Security Level: Email, Account Authentication (None) Electronic Record and Signature Disclosure: Not Offered via DocuSign	COPIED	Sent: 1/22/2024 10:07:04 AM
Paul Schoelzel Paul.Schoelzel@dot.state.fl.us Florida Department of Transportation Security Level: Email, Account Authentication (None) Electronic Record and Signature Disclosure: Not Offered via DocuSign	COPIED	Sent: 1/22/2024 10:13:39 AM
Witness Events	Signature	Timestamp
Notary Events	Signature	Timestamp
Envelope Summary Events	Status	Timestamps
Envelope Sent	Hashed/Encrypted	1/22/2024 9:52:09 AM
Certified Delivered	Security Checked	1/22/2024 10:13:15 AM
Signing Complete	Security Checked	1/22/2024 10:13:38 AM
Completed	Security Checked	1/22/2024 10:13:39 AM
Payment Events	Status	Timestamps



CITY COUNCIL AGENDA ITEM

COUNCIL MEETING DATE 2/6/2024

SUBJECT: (C9e) Approval of Change Order No. 4 for Task Authorization No. 9 to TEDS/Stanley Consultants (SUN Trail design)

DEPARTMENT: Community Development

GOAL: 1 - Public Safety 2 - Infrastructure 3 - Quality of Life

RECOMMENDED MOTION: Move to approve Change Order No. 4 for Task Authorization No. 9 with TEDS/Stanley Consultants for extension of time to complete the design of the SJR2C Loop Trail (SUN Trail) and authorizing the Mayor and City Clerk to execute the Change Order.

SUMMARY: At their September 19, 2023, meeting, the City Council approved Change Order No. 3 to Traffic Data Engineering Solutions (aka TEDS, Stanley Consultants) to Task Authorization No. 9 for additional time to complete design work associated with two (2) mid-block crossings and safety lighting on Spruce Creek Road, between Selin Court and Oak Street for the St. Johns River-to-Sea (SJR2C) Loop Trail (SUN Trail - Spruce Creek Road).

Over the last twelve months, the FDOT right-of-way acquisition specialist has made numerous attempts (phone calls, visits to the property, and mailings) requesting to meet with the property owner at 820 Oak Street to discuss the SUN Trail project and the possibility of acquiring an easement, so the trail can extend along the east side of Spruce Creek Road from the current terminus to Oak Street and not require the two (2) mid-block crossings on Spruce Creek Road. Due to the non-response from the property owner at 820 Oak Street to complete the design plan for the trail, it has been designed to include two (2) mid-block crossings and safety lighting on Spruce Creek Road, between Selin Court and Oak Street.

For over a year, the design consultant made numerous attempts to contact St Johns River Water Management District (SJRWMD) to set up a Pre-Application, including submittal of preliminary information via the District's information exchange portal in September 2022. In May 2023, SJRWMD contacted the design consultant to schedule a Pre-Application Meeting. In August 2023, the Pre-Application Meeting was held, and SJRWMD determined that a full permit application would be required. The design consultant began work to complete the application. A permit application submittal meeting was held with SJRWMD in October, and the final preparation of the permit application was completed in December, and the permit application and payment were submitted to SJRWMD in January 2024. SJRWMD typically has a 30-day time period for review and comment or approval. According to the design consultant, approval from

the SJRWMD is anticipated in mid-February.

In addition, the design consultant began utility coordination early in the project, and in June 2022, 60% of plans were distributed to FPL, and the majority of the utility coordination review was completed. The design consultant was notified that FPL had recently forwarded the plans to their field engineering personnel, and the design consultant is currently following up with the assigned FPL Construction Project Lead to determine if there are any additional comments or concerns. If there are additional comments, this would require modifications to the construction plans.

Therefore, staff requested a 120-day time extension to the FDOT Grant Funding Agreement until July 31, 2024, to allow for SJRWMD and FPL to complete their reviews of the 100% construction plans, address any comments and prepare Bid Documents (Task Authorization No. 11) for construction. Currently, this project is scheduled in FDOT's FY 24 work program, and, therefore, construction contract documents are to be finalized by March 2024 for FDOT's authorization by May 2024. Staff anticipates bidding on the project in late summer/fall 2024 and construction starting by the end of 2024.

The proposed Change Order No. 4 extends the completion date for the trail design plans and Task Authorization No. 11 to July 31, 2024, and does not require additional funds.

PRESENTER: Tim Burman

ATTACHMENTS:

1.	TEDS Change Order 4 - SUN Trail SJR2C Loop Trail Project XSG200	TEDS Change Order 4 - SUN Trail SJR2C Loop Trail Project XSG200.pdf
2.	TEDS Change Order 4 - Proposal for Contract Time	TEDS Change Order 4 - Proposal for Contract Time.pdf
3.	TRAFFIC ENGINEERING TA 9 SJR2C LOOP TRAIL	TRAFFIC ENGINEERING TA 9 SJR2C LOOP TRAIL.pdf
4.	TEDS Change Order 1 fully executed	TEDS Change Order 1 fully executed.pdf
5.	TEDS Change Order 2 - Fully Executed	TEDS Change Order 2 - Fully Executed.pdf
6.	TEDS Change Order 3 - Fully Executed	TEDS Change Order 3 - Fully Executed.pdf

Margaret Tomlinson
Tim Burman
John McKinney
Matthew Jones
Wayne Clark

Created/Initiated - 1/16/2024
Approved - 1/18/2024
Approved - 1/18/2024
Approved - 1/19/2024
Approved - 1/25/2024

Tracee Cody

Final Approval - 1/26/2024

CHANGE ORDER NO. 4
To Construction Contract dated 2/14/2017
Task Authorization #9 dated 6/15/2021
TRAFFIC ENGINEERING DATA SOLUTIONS, INC, Contractor

Project: FPN 439865-3-34-01 SUN Trail SJR2C Loop Trail
Project XSG200

The following changes are hereby made to the Contract Documents:

CHANGE IN CONTRACT PRICE: Original Contract Price: \$190,317.08	CHANGE IN CONTRACT TIMES: Original Contract Times: Final Completion for Tasks 1-10 of Task Authorization No. 9: June 20, 2022 (NTP issued on July 6, 2021) Final Completion for Tasks 11 & 12 of Task Authorization No.9: September 30, 2023 (NTP for Task 11 issued 1/16/24; NTP for Task 12 not issued yet) Final Completion for Tasks 13-18 of Task Authorization No. 9: September 30, 2023 (NTP issued on 1/19/2023)
Net changes from previous Change Order: No.1: \$2,000.00 No.2: \$96,700.00	Changes in contract time from previous Change Orders: No.1: No extension of time requested No.2: Requested Final Completion for Tasks 11-18 of Task Authorization No. 9: September 30, 2023 No.3: Requested Final Completion for Tasks 11-18 of Task Authorization No. 9: January 31, 2024
Contract Price prior to this Change Order: \$289,017.08	Contract Completion Date prior to this Change Order: Final Completion: Tasks 11-18 of Task Authorization No. 9: January 31, 2024
Net Increase (decrease) of this Change Order No. 4: N/A	Changes in contract time requested this Change Order No.4: (Requires Council Approval) Final Completion for Tasks 11 -18 of Task Authorization No.9: July 31, 2024
Contract Price with all approved Change Orders: \$289,017.08	Contract Times with all approved Change Orders: Final Completion for Tasks 1-10 of Task Authorization No. 9: June 20, 2022 Final Completion for Tasks 11-18 of Task Authorization No. 9: July 31, 2024 (NTP issued on 1/19/2023 & 1/16/24) (NTP not yet issued for Task 12)

CHANGES ORDERED:

- I. GENERAL: This Change Order is necessary to cover changes in the work to be performed under the Master Contract entered into by and between the parties on February 14, 2017 and Task Authorization No. 9 dated June 15, 2021.

II. REQUIRED CHANGES:

To provide for additional time to complete the coordination of permitting with St Johns River Water Management District (SJRWMD) and utility providers (specifically, FPL).

No goods shall be delivered, nor services commenced hereunder until this Change Order has been fully executed by all parties.

III. JUSTIFICATION:

Due to the length of time expired in efforts to coordinate with St. John's River Water Management District (SJRWMD) and FPL, TEDS/Stamley Consultants requests a 4-month extension to complete the 100% plans and specs, SJRWMD permitting, and bid phase documents, including typical SJRWMD and FDOT reviews and response time frames. The requested completion date of July 31, 2024, is in compliance with the current FDOT State-Funded Grant Agreement expiration date. This Change Order does not require additional funds.

- IV. PAYMENT: Payment for this Change Order shall be made in accordance with the terms of the Contract subject to a limit not to exceed a total Contract price of \$289,017.08. All payments shall be governed by the Local Government Prompt Payment Act as set forth in Florida Statutes Section 218.70 through 218.79, as amended.

- V. This Change Order 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 Change Order shall be deemed valid as if an original signature was delivered. No contract shall be formed between the Contractor and the City until the City signs this Change Order.

Acknowledgments:

The aforementioned change, and work affected thereby, is subject to all provisions of the original contract not specifically changed by this Change Order;

It is expressly understood and agreed that the approval of the Change Order shall have no effect on the original contract other than matters expressly provided herein;

The prices quoted are fair and reasonable and in proper ratio to the cost of the original work contracted for under competitive bidding; and,

The change in price and/or delivery date described is considered to be fair and reasonable and has been mutually agreed upon. This modification shall not extinguish the right of either party to bring a claim under the original contract as modified hereby.

RECOMMENDED BY:
COMMUNITY DEVELOPMENT
Department Project Manager

ACCEPTED BY:
TRAFFIC ENGINEERING DATA SOLUTIONS, INC.
DBA STANLEY CONSULTANTS
Contractor

By: _____
Printed Name: Lisa Epstein
Title: Project Manager

By: _____
Printed Name: Rick Morrow
Title: Client Services Manager

Date Signed: _____

Date Signed: _____

APPROVED BY:
CITY OF PORT ORANGE
Department Head

By: _____
Printed Name: Tim Burman
Title: Community Development Director

Date Signed: _____

City Manager

By: _____
Printed Name: Wayne Clark
Title: City Manager

Date Signed: _____

If Council approval is required:

By: _____
Donald O., Burnette, Mayor

Date Signed: _____

Affirmed:

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

Date Signed: _____



PROPOSAL
CHANGE ORDER No. 4
to Task Authorization No. 09

Contract: Master Contract for Engineering Services dated February 14, 2017
Task Authorization No.: 09
Project Name: SJR2C Loop Trail (Spruce Creek Rd)
from South of Selin Circle to Herbert St
(FPN 439865-3-34-01)
TEDS Project Number: 10962
Date: January 18, 2024
Subject: Time Extension

The State-Funded Grant Agreement (SFGA) for the subject project will expire on January 31, 2024. The TEDS/Stanley Task Authorization for Tasks 1-18 will also expire on January 31, 2024.

St. Johns River Water Management District (SJRWMD) Permit – It was originally believed this project would qualify for an exemption from full review/permitting under rule FAC 62-330.051 (10) – *exempt activities for the construction of recreational paths for pedestrians*. TEDS/Stanley requested a Pre-Application Meeting for further guidance in September 2022; however, SJRWMD did not respond with confirmation until May 2023, the Pre-App documents were prepared in August 2022, but the Pre-Application Meeting was not held until August 22, 2023. Determination was made that an exemption would not be viable, and a full application would be required. A permit submittal meeting was completed in November 2023. The permit package was completed; however, due to holiday schedules, the City's signature on the application and payment wasn't completed until after the holidays. The permit application was submitted on January 16, 2024, and now SJRWMD has 30 days to complete their review.

Florida Power and Light (FPL) Coordination – Utility coordination began early in the project. 60% plans were distributed in June 2022 and the utility coordination has been completed. However, we recently learned that FPL only recently forwarded the plans to their Transmission division, which does not show up on Sunshine 811 tickets. We are currently following up with the assigned FPL Construction Project Leads for distributions and transmissions for any additional comments or concerns.

For completion of final coordination with SJRWMD on the Environmental Resource Permit (ERP) application submitted on January 16, 2024, and further coordination with FPL, it is anticipated that the design schedule should be extended for an additional six (6) months with a completion date of July 31, 2024.

TASK AUTHORIZATION NO. 9
Master Contract for Engineering Services dated February 14, 2017
Between the City of Port Orange, Florida and Traffic Engineering Data Solutions, Inc.

THIS Task Authorization is entered into by and between the **CITY OF PORT ORANGE, FLORIDA**, a chartered municipal corporation with its principal place of business at 1000 City Center Circle, Port Orange, Florida 32129 (the "City") and **TRAFFIC ENGINEERING DATA SOLUTIONS, INC.**, a Florida corporation with its principal place of business at 80 Spring Vista Drive, DeBary Florida 32713-1821 ("Contractor"), and hereinafter collectively referred to as the "Parties," and is to that certain Master Contract for Engineering Services dated February 14, 2017, and any amendments thereto, hereinafter collectively referred to as the "Contract." The Parties, in exchange for the mutual covenants contained herein and in the Contract, agree as follows:

1. This Task Authorization expressly modifies the Contract and in the event of a conflict, the terms and conditions of this Task Authorization shall prevail.
2. The Engineering Specialist, Lisa Epstein, shall perform contract administration for this Task Authorization No. 9 and can be reached at (386) 506-5667.
3. In addition to all other terms and conditions contained in the Contract, Contractor shall provide services relating to preparing design plans and permitting for two unbuilt portions of the SUNTrail St. Johns River-to-Sea Loop in Port Orange - SJR2C Loop Trail (Spruce Creek Rd) from South of Selin Circle to Herbert St. (FPN 439865-3-34-01), as more particularly described in the Scope of Services attached hereto and incorporated herein as Task Authorization Exhibit "A."
4. Upon written Notice to Proceed from the City to the Contractor, the Contractor shall complete Task 1 through Task 10 as described in the attached Exhibit "A," no later than June 30, 2022. Upon written Notice to Proceed from the City to the Contractor, the Contractor shall complete Task 11 and Task 12 as described in the attached Exhibit "A," no later than September 30, 2023.
5. In return for the services identified above, the City agrees to compensate Contractor at the prices set forth in Exhibit "A" attached hereto and made a part hereof for all purposes, subject to a limit not to exceed \$190,317.08. 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.
6. This Task Authorization may be executed in one or more counterparts, each of which shall be deemed to be an original but all of which together shall constitute one and the same instrument. The delivery by facsimile or e-mail of an executed copy of this Task Authorization shall be deemed valid as if an original signature was delivered. No contract shall be formed between the Contractor and the City until the City signs this Task Authorization.

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

Witnesses:

TRAFFIC ENGINEERING DATA SOLUTIONS, INC.

Sandy Council
Printed Name: Sandy Council

Eileen Wright
Printed Name: Eileen Wright

By: 

Chris J. Walsh, PE Sr. VP of Engineering

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.

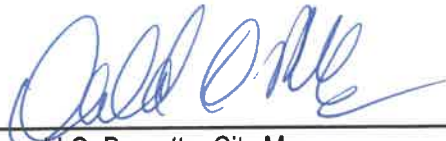
Date: June 7, 2021

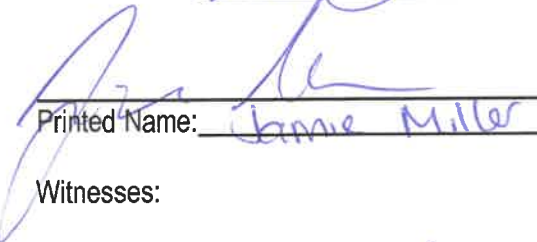
Witnesses:

CITY OF PORT ORANGE


Printed Name: Matt Jones

By:


Donald O. Burnette, City Mayor

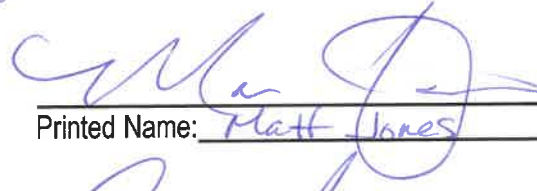

Printed Name: Jamie Miller

Date:

6/15/2021

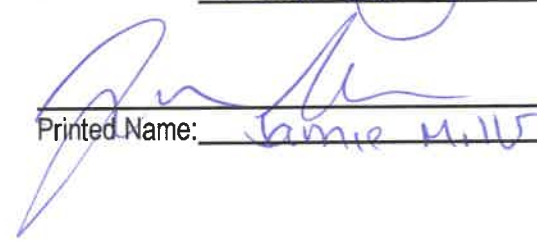
Witnesses:

ATTEST:


Printed Name: Matt Jones

By:


Robin L. Fenwick, MMC, City Clerk


Printed Name: Jamie Miller

Date:

6/15/2021



EXHIBIT A
SCOPE OF SERVICES

Contract: Master Contract for Engineering Services dated February 14, 2017
Task Authorization No.: 09
Project Name: SJR2C Loop Trail (Spruce Creek Rd) from South of Selin Circle to Herbert St
(FPN 439865-3-34-01)
TEDS Project Number: 10962
Date: April 26, 2021
Revised May 19, 2021

Traffic Engineering Data Solutions, Inc. (TEDS) is pleased to offer this scope of services to the City of Port Orange (CITY) for providing professional engineering services for the above referenced project.

PROJECT UNDERSTANDING

- The CITY furnished a copy of the Scope & Schedule for this trail project being completed through the Shared Use Nonmotorized (SUN) Trail Program, with state funding allocated under FPID 439865-3-34-01 to be administered by the Florida Department of Transportation (FDOT). Federal funding requirements do not apply.
- The CITY also furnished a copy of the Preliminary Engineering Report (PER) for FPID 439865-1-22-01, as prepared by FDOT's consultant in conducting the preceding Project Development & Environment (PD&E) study. The PER was finalized as of April 6, 2020.
- While the PER addresses a much longer corridor spanning through other cities, this proposal is being provided for design and permitting of a shared use path over a ± 0.65 miles corridor alongside the Halifax Canal / Spruce Creek Road, extending from Selin Circle north to Herbert Street, within the City of Port Orange, Volusia County, Florida.
- The Spruce Creek Road Right-of-Way (R/W) is maintained by the CITY, though the Halifax Canal is maintained by Volusia County Public Works. There are no formal easement(s) or agreement(s) in place between the CITY and County related to maintenance of the canal. A R/W Use Permit will be required for the County's review and approval of the proposed trail improvements.
- As shown on the Concept Plans within the PER, several portions of the design segment corridor already contain existing trails (< 12' in width) that will remain in place, and no new trail facilities are required within these areas.
- FDOT is the maintenance authority for SR 421 (Dunlawton Avenue). Upgrades to the existing curb ramps may be necessary if determined to be non-compliant with current accessibility criteria, or if FDOT requires the existing shared curb ramps to be separated, thereby warranting relocation of existing crosswalks. Traffic signalization design is required for modification of the existing pedestrian signalization system. The CITY will provide copies of the plans to FDOT for review of proposed improvements, and it is anticipated that Driveway / Drainage Connection permits will not be required.
- The CITY provided copies of the Utility and Access Easement (ORB 5920, pgs 2088-2091) previously obtained over parcel Volusia County 631019000170 (presently owned by BLEDSOE & COLEMAN GENERAL) that provides the right to construct additional pedestrian facilities and perpetual use on the property. In addition, the CITY would like to explore the dedication of proposed R/W and/or easement(s) on the adjacent parcel 630901010080 (presently owned by JENZANO GROUP LLC), such that the trail could be maintained entirely on the east side of the Halifax Canal, in which case the proposed crossing of Spruce Creek Road just south of Selin Circle could be eliminated. The City will conduct all negotiations with existing private property owners required for dedication of proposed R/W and/or easements required to host the new trail, and the R/W support services included within this proposal are limited to basic surveying services intended to support the CITY's negotiations. A separate proposal will be provided for any additional R/W support services that may later be

determined to be desired, such as records research, abstracting, title opinions, legal, noticing, certified mailings, valuations, certified appraisals, assistance with negotiations, eminent domain, expert witness testimony, etc.

- FEMA FIRM Map 12127C0388J (effective September 29, 2017) indicates that that majority of the proposed trail corridor is located entirely within the Special Flood Hazard Area (SFHA) with a Base Flood Elevation (BFE) determined to be at elevation 5.00' NAVD 88 on the south of Dunlawton Ave. (SR 421), and at elevation 6.00' NAVD 88 on the north side of this roadway. Design will be based on constructing the proposed trail at or below existing grade in order to minimize impacts to existing flood plain, though compensating storage calculations will likely be required in areas where minimal amounts of fill is required.
- The proposed trail is routed across parcels 63040600008A and 630406000091, which are controlled by the CITY. The preferred alternative from the PD&E prescribes approximately 300' of boardwalk on these parcels in order to minimize impacts to existing wetlands located on these parcels. For maintenance reasons, the CITY desires the use of wood decking on boardwalks.
- Based on preliminary review, it is anticipated that the subject wetland would be non-jurisdictional under Section 404 of the Clean Water Act, such that required permitting includes only submitting a No Permit Required Verification Request to the Florida Department of Environmental Protection (FDEP). In the event the wetlands are deemed jurisdictional under this regulation, and federal authorization is necessary, a separate proposal will be provided for any such services required.
- Multi-use recreational paths less than 14' in width typically qualify for exemption from Environmental Resource Permit from the St. Johns River Water Management District (SJRWMD), unless there is work in, on, or over wetlands or other surface waters other than drainage ditches constructed in uplands, or unless they are located with previously permitted area(s). The PER did not contain any discussion of historical ERP's affected by the proposed trail construction, but under ERP Series 29869, it appears an original ERP and five (5) subsequent modifications were issued to the CITY for roadway drainage projects located within close proximity to the project, such that at least one (1) ERP modification will be required. There are numerous documents of record on file with SJRWMD which have not been fully reviewed at the time of preparation of this proposal, so the full extent of modification that may be required to the previous permit(s) is not presently known. However, given that the trail is to be constructed at existing grade in all locations other than boardwalk, it is presently anticipated that no drainage analysis will be required for this project, including but not limited to pollutant loading, treatment, attenuation, HGL analysis, spread calculations, etc.
- Based on the PER, protected species impacts are not anticipated. A review of the proposed trail corridor will be conducted with preliminary mapping of encountered protected species or habitats, but surveying, agency coordination, and/or permitting of protected species is not included in this proposal, as those services are not anticipated to be required.
- The two (2) parcels controlled by the CITY contain numerous existing trees. Tree survey information is necessary in these areas to ensure the proposed trail alignment minimizes impacts to existing trees, while at same time adhering to required design criteria as set forth in the PER. The CITY will be responsible for confirming tree species surveyed and evaluating the quality and/or health of trees as it relates to their removal or preservation.
- Given the shallow nature of excavation required for proposed trail construction, only minor adjustment of existing utilities is anticipated to be required. Obtaining Utility Work Schedule (UWS) information from the UAO's is not anticipated to be required. Subsurface Utility Engineering (SUE) including utility locates is not included in this proposal as it is not expected to be required, and the CITY will provide any such services that may later be determined to be required.
- Geotechnical and structural engineering services included in this agreement are limited to that required for the proposed trail and boardwalk. However, no other geotechnical or structural engineering design services are expected to be required for other project elements, such as retaining walls or box culverts, and therefore those services are not included in this agreement at this time.
- Pursuant to the CITY's prior coordination with FDOT, cultural resources assessment and contamination screening services are not included in this agreement, as they are not expected to be required.
- Landscape architecture, hardscape design, and irrigation design are not required in this project.

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- The PER vaguely indicated that lighting along the trails should be given consideration, and lighting improvements were also referenced in the Scope & Schedule. However, lighting design services are not included in this proposal at this time.

SCOPE OF SERVICES

Task 1 – Project Management & Administration

TEDS will complete administrative procedures intended to aid in the successful management of the project, including the following services:

- Schedule, prepare for and attend a kickoff meeting with the CITY, FDOT and the County present, with preparation of meeting minutes
- Preparation of project schedule, as well as update(s) thereto
- General coordination with the CITY to discuss project issues or provide status updates on current progress
- Administration of the design contract through completion of the project, including monthly invoicing
- Initial setup of sub-consultant contracts and administration, including monthly invoicing
- Prepare for and attend a City Council meeting to address questions regarding the project design

Task 2 – Surveying

TEDS will retain PEC Surveying and Mapping, LLC (PEC) to provide the surveying services as described in their letter proposal No. PS16805r-TEDS dated April 26, 2021, a copy of which has been attached to this proposal.

Task 3 – Environmental Resources & Permitting

TEDS will retain Terracon Consultants, Inc. (Terracon) to provide the environmental services described in their letter proposal No. PEQ217222 dated May 6, 2021, a copy of which has been attached to this proposal. More specifically, this includes the work described in the following sections of the proposal:

- 2.0 ENVIRONMENTAL RESOURCES REPORT
- 3.0 ENVIRONMENTAL PERMITTING

Task 4 – Geotechnical Engineering

TEDS will retain Terracon Consultants, Inc. (Terracon) to provide the geotechnical engineering services described in their letter proposal No. PEQ217222 dated April 16, 2021, a copy of which has been attached to this proposal. More specifically, this includes the work described in the following section of the proposal:

- 4.0 GEOTECHNICAL SERVICES

Task 5 – Design Development

TEDS will provide the following services to address the critical roadway design elements for the proposed trail improvements:

- Obtain and review record plan information that may be on file with the CITY, Volusia County, or SJRWMD, and reference to project CAD files for analyses relevant to project design
- Process aerial photographs or other supporting base map files or imagery, such as GIS data, quad maps, FEMA maps, etc., such that it can be referenced to project CAD files for analyses relevant to project design
- Conduct field review of project corridor and obtain photographs of existing conditions
- Review the completed survey
- Develop an alignment for the proposed trail improvements and typical section(s) based on avoidance and/or minimization of impacts to existing elements, such as trees, utilities, etc.

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- Assess profile along centerline of trail to ensure accessible slopes (*not to be presented in plans*)
- Assess existing drainage basinology and proposed grading needed to maintain existing drainage patterns
- Assess minor adjustments to existing drainage structures that may be required
- Calculate and report earthwork by section using average end area method (*in addition to 3-D earthwork completed via grading models*)
- Assess relocation and/or modification of existing signage and pavement markings within the right of way, as well as any proposed signage / pavement markings that may be necessary

Task 6 – Roadway Plans - Approximately 0.65 mile corridor

TEDS will prepare the following roadway construction plans for the project:

- Key Sheet (1 sheet)
- Summary of Pay Items (1 sheet)
- Signature Sheet (1 sheet)
- Drainage Map (1"=200' scale) (1 sheet)
- General Notes (1 sheet)
- Project Layout (1 sheet)
- Project Control (1 sheet) – based on information provided by surveyor
- Typical Section (2 sheets)
- Roadway Plan (1"=40' scale) (6 sheets) – minor utility adjustments to be shown on these sheets
- Bridge Plan & Profile (1"=40' scale) (1 sheet)
- Cross-Sections (10 sheets) – 100' intervals with roadway borings depicted (assume 20 cross-sections)
- Construction Details (1 sheet)
- Traffic Control Plans (2 sheets) – FDOT Standard Plans only
- Stormwater Pollution Prevention Plan (SWPPP) Notes (1 sheet) – with notes to describe erosion control measures necessary for the CITY's contractor to maintain compliance with the National Pollutant Discharge Elimination System (NPDES) program during construction
- Erosion Control Plans (1"=40' scale) (3 sheets) – double plan windows
- Signing & Pavement Marking Plans (1"=40' scale) (3 sheets) – double plan windows

Design provided by TEDS will be based on the standard practices and publications utilized by the FDOT, including the FDOT Design Manual (FDM), the Florida Greenbook, Standard Plans, Standard Specifications, the Utility Accommodation Manual (UAM), etc. Preliminary roadway plans will be prepared and provided to the CITY for their initial negotiation(s) of proposed R/W and/or easements with private property owners, as necessary to maintain the trail east of the Halifax Canal. The roadway plans will be updated based on the outcome of those negotiations and will be formally prepared for progress review by the CITY and FDOT at 60%, and 90% levels of completion, along with an Engineer's Opinion of Probable Costs (EOPC).

Task 7 – Traffic Signal Design

TEDS shall prepare a signed and sealed set of traffic signal plans for the modification of the traffic signal at the intersection of SR 421 (Dunlawton Avenue) and Spruce Creek Road suitable for permitting, bidding and construction. The plans shall be prepared to Volusia County/FDOT standards. The tasks involved in this process include design of the traffic signal modifications, submission of the preliminary design for review and finalization of design plans including the incorporation of appropriate design review comments. Final plans will be prepared at a scale of 1" = 40'. It is understood that the plans will be a component set of the overall roadway plans for the trail project. The design tasks are detailed on the following page:

Task 7.1 – Data Collection

TEDS shall obtain a surveyed base plan, signed and sealed by a surveyor duly registered in the State of Florida, depicting existing and proposed conditions, including above ground and below ground utilities, suitable for preparing

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the traffic signal design. Survey coverage shall include the turn lanes and tapers for the intersecting roadways but shall not be less than 150 feet along each leg of the intersection. The base plan shall be transmitted to TEDS in both hard copy and electronic format at a scale of 1" = 40'. The base plan shall indicate the edge of pavement, lane utilization including pavement markings, any medians or sidewalks within the intersection, drainage appurtenances (inlets, ditches, storm drain pipes showing size and direction of run), manholes and the presence of any known above or below ground utilities.

Task 7.2 – Initial Plan Preparation

TEDS shall prepare a traffic signalization base plan from this data. TEDS' design shall include sufficient vehicular detection modifications as required for semi-actuated control as well as pedestrian feature modifications. TEDS will also conduct one (1) field review to review existing field conditions and discuss preliminary modifications to the signal with the County.

TEDS shall provide the traffic signal plan package to include the following:

- Key Sheet (1 sheet) identifying the project name and location, Engineer of Record, the date of the design plan preparation, appropriate standards and specifications identification, revision block and plan sheet table of contents;
- General Notes Sheet (1 sheet) containing traffic signal design and installation notes standard to The COUNTY;
- Tabulation of Quantities Sheet (1 sheet) identifying the pay item descriptions and quantities of the traffic signal components, identifying appropriate general design notes pertaining to the traffic signal design;
- Traffic Signal Plans (1 sheet) presenting the intersection layout at the intersection in plan view, appropriate traffic signal design components including FDOT Pay Item Numbers, and notes pertaining to the operation of the new traffic signal and removal of the existing traffic signal items;
- Signal Details Sheet (1 sheet) presenting zoomed in view of the details in the quadrants of the intersection.

TEDS shall provide a digital copy of the submittal to the CITY/Volusia County/FDOT for review and comment.

Task 7.3 – Final Design Plan Preparation

Upon receipt of agency comments, TEDS shall address each comment in writing and shall discuss the appropriate revisions to the plans with the agency staff. Once the comments have been addressed, TEDS shall submit a revised draft traffic signal plan package for final review and comment. Once these comments are received, TEDS shall address same and shall provide to the CITY one (1) electronic plan set and five (5) signed and sealed plan sets. TEDS shall repeat the review and response to comments until final resolution with the agencies to obtain final signal plan approval.

Task 8 – Structural Engineering

TEDS will retain Florida Bridge and Transportation, Inc. (FBT) to provide the structural engineering services related to the proposed boardwalk as described in their letter proposal for FBT Project No. 21-31.01 dated April 22, 2021, a copy of which has been attached to this proposal.

Task 9 – Utility Coordination

TEDS will coordinate a Sunshine 811 design ticket for the project in an attempt to identify any Utility Agency Owner's (UAO's) that may currently be using the right of way and reach out to them to confirm the appropriate representatives. Upon completion of 60% plans, TEDS will transmit courtesy copies to the utility companies for their review and comment on the accuracy of utilities shown in the plan, conflicts that may exist between existing utilities and proposed construction, and minor relocation(s) that may be required. Minor adjustments to be designed and constructed by the UAO's will be graphically depicted on the plan sheets.

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Task 10 – Agency Permitting

At 60% and 90% levels of completion, TEDS will submit copies of the plans and other pertinent documents to the CITY for review. Once comments have been received from the CITY and FDOT, TEDS will revise the plans and respond to comments. In addition, TEDS will prepare the following permit application packages for submittal to the agencies listed below:

- A. SJRWMD – Modification for ERP Series 29869
- B. Volusia County – R/W Use Permit

Task 11 – Bid Phase Services

As Engineer of Record for the project, TEDS will provide support to the CITY during the bid phase, including the following services:

- Review of draft bid documents prepared by the CITY's Purchasing Division
- Prepare technical specifications for the project, with support from the sub-consultants as may be necessary, and provide copies for insertion into the CITY's bid documents (through FDOT Specs on the Web)
- Prepare a project description narrative
- Prepare a bid sheet
- Revise documents per comments received from the CITY and/or FDOT
- Prepare for and attend a pre-bid meeting
- Answer questions during the bid process
- Prepare bid tabulation and assist with selection of a contractor

Task 12 – Limited Post-Design Services

As Engineer of Record for the project, TEDS will provide support to the CITY in administering the construction contract through completion of the project construction, including the following limited post-design services:

- Attendance at a pre-construction meeting
- Provide review of civil-related shop drawing submittals for approval
(to be received from the contractor in one (1) single package)
- Attend up to five (5) meetings at the CITY or the project site for general coordination or to complete limited construction observation
- Review and respond to up to five (5) Requests for Information (RFI's) during construction
- Provide up to 20 hours of general construction administration assistance, such as review of change order(s)
- Review As-Built surveys provided by contractor with overlay of CAD files on design
- Prepare certification package for submittal to Volusia County for R/W Use Permit close-out
- Prepare a *MSSW/Stormwater As-Built Certification By A Registered Professional Engineer* for submittal to the SJRWMD for permit closure
- Prepare Engineer's Certification of Completion
(to serve as Exhibit C to State Funded Grant Agreement with FDOT)

Deliverables: Plans for this project will be developed in English units and formatted for printing on 11"x17" sheets at the scales noted in the individual tasks above. TEDS will provide PDF's of the plans throughout progress completion, and up to (10) sets of deliverables once they have been finalized, for bidding or construction.

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FEES

TEDS shall conduct the work in the tasks described above for the lump sum fees indicated below:

<i>Description</i>	<i>Fee</i>
Task 1 – Project Management & Administration	\$9,135.00
Task 2 – Surveying	\$51,200.00
<i>Task 2.1 – Right-of-Way Surveys</i>	<i>\$7,900.00</i>
<i>Task 2.2 – Baseline Survey</i>	<i>\$3,000.00</i>
<i>Task 2.3 – Bench Levels</i>	<i>\$4,000.00</i>
<i>Task 2.4 – Intersection Survey</i>	<i>\$4,500.00</i>
<i>Task 2.5 – Cross-Sections</i>	<i>\$10,300.00</i>
<i>Task 2.6 – City Parcels - Boundary Topographic and Tree Location Surveys</i>	<i>\$9,250.00</i>
<i>Task 2.7 – Jenzano Corridor Topographic Survey</i>	<i>\$4,000.00</i>
<i>Task 2.8 – Sketch of Legal Description of Jenzano Trail Easement</i>	<i>\$750.00</i>
<i>Task 2.9 – Jenzano Parent Parcel Eminent Domain Survey</i>	<i>\$7,500.00</i>
Task 3 – Environmental Resources & Permitting	\$12,000.00
Task 4 – Geotechnical Engineering	\$14,000.00
Task 5 – Design Development	\$14,460.00
Task 6 – Roadway Plans	\$22,480.00
Task 7 – Traffic Signal Design	\$10,460.00
Task 8 – Structural Engineering	\$19,500.00
Task 9 – Utility Coordination	\$4,725.00
Task 10 – Agency Permitting	\$14,625.00
Task 11 – Bid Phase Services	\$4,575.00
Task 12 – Limited Post-Design Services	\$11,285.00
Direct Expenses	\$1,872.08
Total	\$190,317.08

An estimate of man-hours and expenses is provided on the following pages.

Traffic Engineering Data Solutions, Inc.

**CITY OF PORT ORANGE
MAN-HOUR ESTIMATE**

May 19, 2021



TEDS PROJECT No.: 10962
CONTRACT DESCRIPTION: Master Contract for Engineering Services
(February 14, 2017)
PRIME CONSULTANT: Traffic Engineering Data Solutions, Inc.

TASK AUTHORIZATION No.: 09
PROJECT DESCRIPTION: SJR2C Loop Trail (Spruce Creek Rd) from South of Selin Circle to Herbert St
(FPN 439865-3-34-01)
ESTIMATE PREPARED BY: Mikal R. Hale, P.E.

ACTIVITY	Chief Engineer / Vice President		Engineer		Engineer Intern		Sr. Designer		Senior Technician		Admin. Assistant		TOTAL		
	Rate/Hr:	\$180.00	Rate/Hr:	\$115.00	Rate/Hr:	\$85.00	Rate/Hr:	\$100.00	Rate/Hr:	\$60.00	Rate/Hr:	\$65.00	Man-hours By Activity	Activity Cost	Avg. Hourly Rate
	Man Hours	Cost by Pos & Act	Man Hours	Cost by Pos & Act	Man Hours	Cost by Pos & Act	Man Hours	Cost by Pos & Act	Man Hours	Cost by Pos & Act	Man Hours	Cost by Pos & Act			
Task 1 – Project Management & Administration	40.0	7,200.00	0.0	0.00	9.0	765.00	0.0	0.00	0.0	0.00	18.0	1,170.00	67.0	9,135.00	136.34
Prepare for / attend kickoff meeting / minutes	4.0				4.0								8.0		
Prepare project schedule / updates	5.0				2.0								7.0		
General coordination / progress status updates	5.0				3.0								8.0		
Administration of design contract / monthly invoicing	12.0										6.0		18.0		
Initial setup / admin of sub-contracts / monthly invoicing	10.0										12.0		22.0		
Prepare for / attend City Council meeting	4.0												4.0		
Task 5 – Design Development	14.0	2,520.00	41.0	4,715.00	85.0	7,225.00	0.0	0.00	0.0	0.00	0.0	0.00	140.0	14,460.00	103.29
Obtain and review record plans / trace for insertion	2.0		10.0		15.0								27.0		
Process GIS data (aerials, FEMA, LIDAR, parcels, etc.)			5.0		10.0								15.0		
Conduct field review / site photos	3.0				3.0								6.0		
Review completed survey	1.0		1.0		3.0								5.0		
Develop alignment & typical sections	2.0		10.0		20.0								32.0		
Assess trail profile	2.0		5.0		10.0								17.0		
Assess drainage basinology & minor drainage structure mods	2.0		5.0		10.0								17.0		
Earthwork / average end area calcs	1.0		2.0		8.0								11.0		
Assess S&PM modifications	1.0		3.0		6.0								10.0		
Task 6 – Roadway Plans	36.0	6,480.00	50.0	5,750.00	110.0	9,350.00	9.0	900.00	0.0	0.00	0.0	0.00	205.0	22,480.00	109.66
Key Sheet (1 sheet)	1.0				3.0								4.0		
Summary of Pay Items (1 sheet)	1.0				5.0		2.0						8.0		
Signature Sheet (1 sheet)	1.0				1.0								2.0		
Drainage Map (1"=200' scale) (1 sheet)	2.0		2.0		10.0		2.0						16.0		
General Notes (1 sheet)	2.0		2.0										4.0		
Project Layout (1 sheet)					3.0								3.0		
Project Control (1 sheet)	1.0				3.0								4.0		
Typical Section (2 sheets)	2.0		2.0		2.0								6.0		
Roadway Plan (1"=40' scale) (6 sheets)	5.0		20.0		25.0								50.0		
Bridge Plan & Profile (1"=40' scale) (1 sheet)	5.0		5.0		8.0								18.0		
Cross-Sections (10 sheets)	2.0		15.0		10.0								27.0		
Construction Details (1 sheet)	1.0		1.0		2.0								4.0		
Traffic Control Plans (2 sheets) – FDOT Standard Plans			1.0		2.0								3.0		
SWPPP Notes (1 sheet)	1.0		1.0		3.0								5.0		
Erosion Control Plans (1"=40' scale) (3 sheets)			1.0		5.0								6.0		
S&PM Plans (1"=40' scale) (3 sheets)	3.0				10.0		5.0						18.0		
Engineer's Opinion of Probable Costs (60%, 90%, & Final)	3.0				18.0								21.0		
QA/QC (60%, 90%, & Final)	6.0												6.0		
Task 7 – Traffic Signal Design	16.0	2,880.00	12.0	1,380.00	0.0	0.00	62.0	6,200.00	0.0	0.00	0.0	0.00	90.0	10,460.00	116.22
Initial Plans Package	8.0		8.0				50.0						66.0		
Field Meeting	4.0						4.0						8.0		
Final Plans Package	4.0		4.0				8.0						16.0		

TEDS →

TASK AUTHORIZATION No.: 09

PROJECT DESCRIPTION: SJR2C Loop Trail (Spruce Creek Rd) from South of Selin Circle to Herbert St
(FPN 439865-3-34-01)

ESTIMATE PREPARED BY: Mikal R. Hale, P.E.

[illegible]

**CITY OF PORT ORANGE
MAN-HOUR ESTIMATE**

FEDS

May 19, 2021

TEDS PROJECT No.: 10962
CONTRACT DESCRIPTION: Master Contract for Engineering Services
(February 14, 2017)
PRIME CONSULTANT: Traffic Engineering Data Solutions, Inc.

TASK AUTHORIZATION No.: 09
PROJECT DESCRIPTION: SJR2C Loop Trail (Spruce Creek Rd) from South of Sclm Circle to Herbert St
(FPN 439865-3-34-01)
ESTIMATE PREPARED BY: Mikal R. Hale, P.E.

ACTIVITY	Chief Engineer / Vice President		Engineer		Engineer Intern		Sr. Designer		Senior Technician		Admin. Assistant		TOTAL		
	Rate/Hr:	\$180.00	Rate/Hr:	\$115.00	Rate/Hr:	\$85.00	Rate/Hr:	\$100.00	Rate/Hr:	\$60.00	Rate/Hr:	\$65.00	Man-hours By Activity	Activity Cost	Avg. Hourly Rate
	Man Hours	Cost by Pos & Act	Man Hours	Cost by Pos & Act	Man Hours	Cost by Pos & Act	Man Hours	Cost by Pos & Act	Man Hours	Cost by Pos & Act	Man Hours	Cost by Pos & Act			
Task 12 – Limited Post-Design Services	31.0	5,580.00	40.0	4,600.00	13.0	1,105.00	0.0	0.00	0.0	0.00	0.0	0.00	84.0	11,285.00	134.35
Attend pre-con meeting	3.0												3.0		
Shop drawing review	2.0		8.0										10.0		
Attend (5) meetings at City	10.0		5.0										15.0		
Review and respond to (5) RAI's	2.0		3.0		5.0								10.0		
General construction administration	10.0		20.0										30.0		
Review As-Builts / overlay CAD files on design	1.0		1.0		2.0								4.0		
Certification package for Volusia County R/W Use	1.0		1.0		2.0								4.0		
Certification package for SJRWMD ERP Mod	1.0		1.0		2.0								4.0		
Engineer's Certification of Completion for FDOT	1.0		1.0		2.0								4.0		
TOTALS	169.0	30,420.00	213.0	24,495.00	336.0	28,560.00	71.0	7,100.00	0.0	0.00	18.0	1,170.00	586.0	91,745.00	156.56

TEDS LABOR **\$91,745.00**

EXPENSES (Refer to backup provided on the following page)

Sub-Consultant Fees	
I. SUB-CONSULTANT FEES	\$96,700.00
Direct Expenses	
II. REPRODUCTION	\$52.80
III. MILEAGE / TRAVEL	\$629.28
IV. PERMIT REVIEW FEES	\$1,190.00
V. SHIPPING / POSTAGE	\$0.00
Sub-Total Direct Expenses	\$1,872.08
SUB-TOTAL EXPENSES	\$98,572.08

TOTAL LUMP SUM CONTRACT AMOUNT **\$190,317.08**

CITY OF PORT ORANGE
EXPENSES
May 19, 2021



TEDS PROJECT No.: 10962		TASK AUTHORIZATION No.: 09	
CONTRACT DESCRIPTION: Master Contract for Engineering Services (February 14, 2017)		PROJECT DESCRIPTION: SJR2C Loop Trail (Spruce Creek Rd) from South of Selin Circle to Herbert St (FPN 439865-3-34-01)	
PRIME CONSULTANT: Traffic Engineering Data Solutions, Inc.		ESTIMATE PREPARED BY: Mikal R. Hale, P.E.	

I. SUB-CONSULTANT FEES			
Sub-Consultant	Description of Services	Fee	
a) PEC Surveying and Mapping, LLC	Task 2.1 – Right-of-Way Surveys	\$7,900.00	
b) PEC Surveying and Mapping, LLC	Task 2.2 – Baseline Survey	\$3,000.00	
c) PEC Surveying and Mapping, LLC	Task 2.3 – Bench Levels	\$4,000.00	
d) PEC Surveying and Mapping, LLC	Task 2.4 – Intersection Surveys	\$4,500.00	
e) PEC Surveying and Mapping, LLC	Task 2.5 – Cross-Sections	\$10,900.00	
f) PEC Surveying and Mapping, LLC	Task 2.6 – C&G Parcels - Boundary, Topographic, and Tree Location Surveys	\$9,250.00	
g) PEC Surveying and Mapping, LLC	Task 2.7 – Janssio Corridor Topographic Survey	\$4,000.00	
h) PEC Surveying and Mapping, LLC	Task 2.8 – Sketch of Legal Description of Janssio Trail Easement	\$750.00	
i) PEC Surveying and Mapping, LLC	Task 2.9 – Janssio Parcel Parcel Easement Domain Survey	\$7,900.00	
j) Terracon Consulting, Inc.	Task 3 – Environmental Resources & Permitting	\$12,000.00	
k) Terracon Consulting, Inc.	Task 4 – Geotechnical Engineering	\$14,000.00	
l) Florida Bridge and Transportation, Inc.	Task 8 – Structural Engineering	\$19,500.00	
Total:		\$96,700.00	

II. REPRODUCTION							
Contract Rate	Black / White:	8.5" x 11"	\$0.10 / sheet	Color:	8.5" x 11"	\$1.20 / sheet	
		11" x 17"	\$0.20 / sheet		11" x 17"	\$2.00 / sheet	
		24" x 36"	\$3.00 / sheet		24" x 36"	\$20.00 / sheet	
Job Estimate	Number of Sheets						
	Black / White			Color			
Document Description	8.5" x 11"	11" x 17"	24" x 36"	8.5" x 11"	11" x 17"	24" x 36"	Number of Sets
a) Construction Plans - PDAL Submittal	56	1	1	1	1	1	4
Total Reproduction Costs							\$52.80

III. MILEAGE / TRAVEL			
Contract Rate	0.57 / mile (Current Federal Rate)		
Reason for Trip / Destination	Distance / Mileage (round trip)	Number of Trips	Cost
a) Kickoff meeting / City Hall	64	1	\$36.48
b) City Council / City Hall	64	1	\$36.48
c) Coordination meeting / City Hall	64	3	\$109.44
d) Field review / project site	66	1	\$75.24
e) Pre-bid meeting / City Hall	64	1	\$72.96
f) Pre-con meeting / City Hall	64	1	\$72.96
g) Construction observation / project site	66	2	\$150.48
h) Final walk-through / project site	66	1	\$75.24
Total Mileage / Travel Costs			\$629.28

IV. PERMIT REVIEW FEES	
Contract Rate	Cost
Description	Estimated Cost
a) SJRWMD Major Mod to ERP	\$1,190.00
b) Volusia County R/W Use Permit	\$0.00
Total Permit Review Fees	
	\$1,190.00

V. SHIPPING / POSTAGE	
Contract Rate	Cost
Description	Estimated Cost
a) N/A	
b)	
Total Shipping / Postage Costs	
	\$0.00



Surveying and Mapping

May 13, 2021

Transportation Engineering Data Solutions
Mr. Mikal Hale P.E., Vice President
80 Spring Vista Drive
DeBary, Florida 32713

PS16805r-TED

**Re: Port Orange Sea Loop Trail - Surveying and Mapping Services
City of Port Orange, Florida**

Dear Mr. Hale:

PEC-Surveying and Mapping (PEC) is pleased to submit our proposal for surveying and mapping services in connection with the above-referenced Project.

DESIGN SURVEY: We propose to perform a Design Survey to support the Engineering of the City of Port Orange Sea Loop Trail Segment. The Project Corridor is depicted on the attached portions of the Preliminary Engineering Report (PER) of the Florida Department of Transportation St Johns River to Sea (SJR2C) Loop Project Development and Environmental (PD&E) Study Dated April of 2020.

The Project Limits are that portion of the Corridor being the entire right-of-way width of Spruce Creek Road together with the Halifax Canal, lying east of the Road Spruce Creek Road, from Station 164 to Station 171; the Spruce Creek Road – Dunlawton Avenue Intersection, north, along Spruce Creek Road through the City Owned Parcels, to 50 feet north of the Herbert Street 6th Street Intersection, as shown in the PD&E Study. This represents a total length of approximately 2,300 feet of corridor.

Right-of-way Surveys: The right-of-way of Spruce Creek Road and the Halifax Canal shall be determined by field Survey.

Baseline: A Baseline will be established in the field and referenced for future use during construction, at 1,000-foot intervals.

Bench Levels: A 4 Mile - Closed Bench Loop will be performed incorporating two Volusia County Published Benchmarks. Elevations will be established along the Project Baseline. Elevations will be relative to the North American Vertical Datum of 1988.

Spruce Creek Road – Dunlawton Avenue Intersection Survey: The Intersection of Spruce Creek Road – Dunlawton Avenue will be Surveyed 150 feet, in all directions from the radius returns. All above ground improvements will be located relative to the roadway right-of-ways. All pavement markings will also be located. Elevations will be obtained on 50-foot cross sections.

Transportation Engineering Data Solutions - Mr. Mikal Hale P.E., Vice President
Port Orange Sea Loop Trail - Surveying and Mapping Services
PS16805r-TED
May 13, 2021
Page Two

Cross-Sections: Cross-sections will be performed of the Project Limits at 50-foot intervals.

City of Port Orange Parcels (CAD only): The Project Alignment traverses the two City owned Parcels: Volusia County Property Appraiser's Alykey Numbers 5080030 and 5578518, between the Spruce Creek Road Northern Terminus and the 6th Street – Herbert Street Intersection. A Boundary and Topographic and Tree Location Survey, of these two parcels will be performed.

Jenzano Corridor Topographic Survey: A Topographic Survey of the westerly 100 feet of the Jenzano Parcel will be performed to include the Halifax Canal.

Sketch of Legal Description of Jenzano Trail Easement: A Sketch of Legal Description for the proposed Trail corridor through the Jenzano ownership will be prepared if required.

Eminent Domain Survey – Jenzano Parent Parcel: If requested the Jenzano ownership will be Surveyed with all above ground improvements located relative to the Boundaries.

Fees: We propose to perform the work for the following Fees:

Right-of-way Surveys:	\$ 7,900.00
Baseline Survey:	\$ 3,000.00
Bench Levels (4 miles):	\$ 4,000.00
Intersection Survey: Spruce Creek Road – Dunlawton Avenue:	\$ 4,500.00
Cross Sections:	\$ 10,300.00
City Owned Parcels (2)	
Boundary Topographic and Tree Location Surveys (CAD Only): ...	\$ 9,250.00
Jenzano Corridor Topographic Survey:	\$ 4,000.00
Sketch of Legal Description of Jenzano Trail Easement:	\$ 750.00
Jenzano Parent Parcel Eminent Domain Survey:	\$ 7,500.00

Thank you for the opportunity of submitting this proposal to you. Should you have any questions or comments please advise.

Sincerely

PEC Surveying and Mapping



David A. White P.S.M.

May 6, 2021



Mr. Mikal Hale, P.E.
Traffic Engineering Data Solutions, Inc.
80 Spring Vista Drive
Debary, Florida 32713

Telephone: (386) 753-0558
E-mail: mhale@teds-fl.com

RE: Proposal for Environmental and Geotechnical Services
City of Port Orange – SUN Trail
Port Orange, Volusia County, Florida
Terracon Proposal No. PEQ217222

Dear Mr. Hale:

Terracon Consultants, Inc. (Terracon) appreciates the opportunity to submit this proposal to Traffic Engineering Data Solutions, Inc. (Client) to provide environmental, cultural resource, and geotechnical services for the above referenced project in Port Orange, Florida. This proposal outlines our understanding of the project, our planned work scope and associated fee, and our terms and conditions associated with the performance of this work.

If this proposal meets with your approval, work may be initiated by returning a fully executed copy of the attached Agreement for Services. Please provide the land owner contact information or access information with the signed agreement. The terms, conditions, and limitations stated in the Agreement for Services and sections of this proposal incorporated therein, shall constitute the exclusive terms and conditions and services to be performed for this project.

We appreciate the opportunity to provide this proposal. If you have questions or comments regarding this proposal or require additional services, please give us a call.

Sincerely,
Terracon Consultants, Inc.

Brett Anderson
Senior Project Manager

Gary K. Howalt, PWS
Senior Principal/Department Manager

Attachments: Detailed Scope of Services
Agreement for Services



Terracon Consultants, Inc. 8001 Baymeadows Way, Suite 1 Jacksonville, FL 32256
P [904] 900-6494 F [904] 268-5255 terracon.com

Environmental



Facilities



Geotechnical



Materials

DETAILED SCOPE OF SERVICES

1.0 PROJECT INFORMATION

The site is located within the City of Port Orange and is part of the St. Johns River to Sea Loop Trail system. This segment, of the much larger trail system, begins south of the intersection of Spruce Creek Road and Selin Circle. The trail will extend northerly along the east side of Spruce Creek Road towards Oak Street. The trail will then continue along Spruce Creek Road from Dunlawton Avenue to Canal View Boulevard. The trail continues through a vacant parcel to Herbert Street, connection to the existing Trail Segment. The total project length is approximately 0.65 miles. If this is not accurate, or if you have additional useful information, please inform us as soon as possible.

Based on Terracon's understanding of the project, TEDS will need support to design the proposed section of trail within the City of Port Orange. Specifically, services to be provided include a natural resource review (wetlands, protected species, essential fish habitat), wetland permitting assistance, and geotechnical services. The following sections outline Terracon's scope and fees to conduct associated environmental and geotechnical services to support permitting efforts.

2.0 ENVIRONMENTAL RESOURCES REPORT

Terracon will perform a detailed natural resource review of the proposed ± 0.65 -mile section of SUNTrail proposed within the city of Port Orange, Florida. Specifically, Terracon will delineate wetlands within the trail corridor pursuant to the current methodologies of the U.S. Army Corps of Engineers [(USACE) 2010 Regional Supplement to the Corps of Engineers Wetland Delineation Manual: Atlantic and Gulf Coastal Plain Region (Version 2.0)], Florida Department of Environmental Protection (FDEP) and St. Johns River Water Management District [(SJRWMD) Florida Unified Wetland Delineation Methodology, Chapter 62-340, F.A.C.]. Upon completion of the delineation effort, Terracon will provide the project surveyor with a flagging key map showing the approximate location of the wetland line.

In addition, Terracon will perform a protected species review of the proposed trail corridor. This investigation will survey the proposed corridor for the presence of any state or federally protected wildlife species and their habitat. If protected species or habitats are encountered, Terracon will perform preliminary mapping of the potential habitat area.

Implications to development associated with any identified wetlands and/or protected species will be addressed in an Environmental Resources Report to be provided at the completion of the field investigation efforts.

**Based on the Preliminary Engineering Report (PER) prepared by Scalar Consulting Group, Inc. (Scalar), it is anticipated that wetlands will be found within the project corridor. However, protected*

Proposal for Environmental and Geotechnical Assessment Services

Traffic Engineering Data Solutions, Inc. ■ Port Orange, Florida

May 6, 2021 ■ Terracon Project No. PEQ217222



species impacts are not anticipated based on the Scalar PER. Should Terracon identify any protected species concerns, a supplemental change order may need to be requested to address any necessary surveying, agency coordination, and/or permitting efforts associated with those findings.

3.0 ENVIRONMENTAL PERMITTING

Based on the PER prepared by Scalar on behalf of FDOT, it is anticipated that wetland permitting efforts will be required to address the portion of the trail south of Herbert Street. It is Terracon's understanding that a portion of this section of trail will be an elevated boardwalk within the wetland. Terracon will acquire the necessary wetland authorization from SJRWMD to allow for the proposed wetland impact.

Based on a preliminary review, it is anticipated that the subject wetland would be non-jurisdictional under Section 404 of the Clean Water Act. Therefore, Terracon will submit a No Permit Required Verification Request to the Florida Department of Environmental Protection (jointly with the SJRWMD submittal). Should the wetland be deemed jurisdictional under Section 404 of the Clean Water Act, federal authorization may be necessary, and a supplemental change order may be required.

This fee does not include any application fees charged by the regulatory agencies or any mitigation fees associated with proposed wetland impacts.

4.0 GEOTECHNICAL SERVICES

The following summarizes our assumptions regarding the project:

- We will be granted access by our drill rig and crew to perform the required soil borings for the project elements.
- No roadway lane or shoulder closures are anticipated in order to perform the soil borings. Any necessary Maintenance of Traffic (MOT) will be performed in accordance with the Florida Department of Transportation (FDOT) Standard Plans.
- Survey support will be provided by others.

The following presents the number and depth of soil borings proposed for the project elements described above. Survey control in the field will be needed, as necessary, to assist our crews locate borings.

Boardwalk

Based on provided information, our field program includes performing a total of four Standard Penetration Test (SPT) borings to a depth of 40 feet each. Perform soil probing along the boardwalk alignment.

Following completion of the drilling services described above, the following geotechnical services are proposed for this project:

- Perform visual classification and limited laboratory testing of the soil samples obtained from the borings described above.
- Laboratory testing will include grain size analysis, organic content tests, moisture content tests, and/or Atterberg limits analysis, as appropriate, to aid visual classification of soil types. Laboratory testing will also include limited corrosion series testing.
- Engineering services will include coordination and supervision of all field and laboratory testing as well as engineering analysis of the field and laboratory test results. Specifically, geotechnical analysis and recommendations will be made for the following:
 - Boardwalk: Davisson capacity curves based on SPT boring results, observed groundwater tables, results of soil probing, timber pile driving recommendations, vibration recommendations, as needed, and soil parameters for lateral stability analysis (to be performed by others), if necessary.
- After completion of the field phase of the project, a preliminary report will be prepared for review and comment. After appropriate review, a final report will be prepared.

5.0 ADDITIONAL SERVICES NOT INCLUDED

Should it be necessary to expand our services beyond those outlined in this proposal, we will notify you and send a supplemental proposal stating the additional services and fee. We will not proceed without your authorization.

6.0 SCOPE AND REPORT LIMITATIONS

Client shall secure all necessary site related approvals, permits, licenses, and consents necessary to commence and complete the Services and will execute any necessary site access agreement. Consultant will be responsible for supervision and site safety measures for its own employees but shall not be responsible for the supervision or health and safety precautions for any third parties, including Client's contractors, subcontractors, or other parties present at the site. In addition, Consultant retains the right to stop work without penalty at any time Consultant

believes it is in the best interests of Consultant's employees or subcontractors to do so in order to reduce the risk of exposure to the coronavirus. Client agrees it will respond quickly to all requests for information made by Consultant related to Consultant's pre-task planning and risk assessment processes. Client acknowledges its responsibility for notifying Consultant of any circumstances that present a risk of exposure to the coronavirus or individuals who have tested positive for COVID-19 or are self-quarantining due to exhibiting symptoms associated with the coronavirus.

The findings and conclusions presented in the final report will be based on the site's current utilization, the anticipated future use of the site, if provided to Terracon, and the information collected as discussed in this proposal. Please note that we do not warrant database or third-party information (such as from interviewees) or regulatory agency information used in the compilation of plans or reports. No warranties, express or implied, are intended or made.

7.0 SCHEDULE

Terracon is prepared to begin upon receipt of written notice to proceed. It is anticipated that preliminary efforts (desktop background research, initial planning) will begin within five business days of NTP, while initial field efforts will begin within 10 business days of NTP, weather dependent.

8.0 COMPENSATION

Task	Fees
Environmental Resources Report	\$6,000.00
Environmental Permitting	\$6,000.00
Geotechnical Services	\$14,000.00

The project will be invoiced on a percent complete basis monthly. Payments on invoices will be due in full within 30 days from the date of the invoice.

9.0 OUR COMMITMENT TO SAFETY

Safety is one of Terracon's core values and our commitment to an Incident and Injury-Free® philosophy is one of the pillars of our current Strategic Plan. Incident and Injury-Free (IIF) is about care and concern for our people. It is our personal and organizational commitment at all levels of the company to everyone going home safe to their family every day. It is where safety is held as a core value as well as an operational priority. Working safely is an inseparable part of working correctly, just as much as other operational priorities, in particular quality, profitability and

Proposal for Environmental and Geotechnical Assessment Services

Traffic Engineering Data Solutions, Inc. ■ Port Orange, Florida

May 6, 2021 ■ Terracon Project No. PEQ217222



schedule. IIF is our commitment to our people, who we value for who they are and what they do. We strive to build health and safety into all aspects of our business and into the thinking of our employees.

AGREEMENT FOR SERVICES

This **AGREEMENT** is between Traffic Engineering Data Solutions, Inc. ("Client") and Terracon Consultants, Inc. ("Consultant") for Services to be provided by Consultant for Client on the City of Port Orange - SUN Trail project ("Project"), as described in Consultant's Proposal dated 05/06/2021 ("Proposal"), including but not limited to the Project Information section, unless the Project is otherwise described in Exhibit A to this Agreement (which section or Exhibit is incorporated into this Agreement).

1. **Scope of Services.** The scope of Consultant's services is described in the Proposal, including but not limited to the Scope of Services section ("Services"), unless Services are otherwise described in Exhibit B to this Agreement (which section or exhibit is incorporated into this Agreement). Portions of the Services may be subcontracted. Consultant's Services do not include the investigation or detection of, nor do recommendations in Consultant's reports address the presence or prevention of biological pollutants (e.g., mold, fungi, bacteria, viruses, or their byproducts) or occupant safety issues, such as vulnerability to natural disasters, terrorism, or violence. If Services include purchase of software, Client will execute a separate software license agreement. Consultant's findings, opinions, and recommendations are based solely upon data and information obtained by and furnished to Consultant at the time of the Services.
2. **Acceptance/ Termination.** Client agrees that execution of this Agreement is a material element of the consideration Consultant requires to execute the Services, and if Services are initiated by Consultant prior to execution of this Agreement as an accommodation for Client at Client's request, both parties shall consider that commencement of Services constitutes formal acceptance of all terms and conditions of this Agreement. Additional terms and conditions may be added or changed only by written amendment to this Agreement signed by both parties. In the event Client uses a purchase order or other form to administer this Agreement, the use of such form shall be for convenience purposes only and any additional or conflicting terms it contains are stricken. This Agreement shall not be assigned by either party without prior written consent of the other party. Either party may terminate this Agreement or the Services upon written notice to the other. In such case, Consultant shall be paid costs incurred and fees earned to the date of termination plus reasonable costs of closing the Project.
3. **Change Orders.** Client may request changes to the scope of Services by altering or adding to the Services to be performed. If Client so requests, Consultant will return to Client a statement (or supplemental proposal) of the change setting forth an adjustment to the Services and fees for the requested changes. Following Client's review, Client shall provide written acceptance. If Client does not follow these procedures, but instead directs, authorizes, or permits Consultant to perform changed or additional work, the Services are changed accordingly and Consultant will be paid for this work according to the fees stated or its current fee schedule. If project conditions change materially from those observed at the site or described to Consultant at the time of proposal, Consultant is entitled to a change order equitably adjusting its Services and fee.
4. **Compensation and Terms of Payment.** Client shall pay compensation for the Services performed at the fees stated in the Proposal, including but not limited to the Compensation section, unless fees are otherwise stated in Exhibit C to this Agreement (which section or Exhibit is incorporated into this Agreement). If not stated in either, fees will be according to Consultant's current fee schedule. Fee schedules are valid for the calendar year in which they are issued. Fees do not include sales tax. Client will pay applicable sales tax as required by law. Consultant may invoice Client at least monthly and payment is due upon receipt of invoice. Client shall notify Consultant in writing, at the address below, within 15 days of the date of the invoice if Client objects to any portion of the charges on the invoice, and shall promptly pay the undisputed portion. Client shall pay a finance fee of 1.5% per month, but not exceeding the maximum rate allowed by law, for all unpaid amounts 30 days or older. Client agrees to pay all collection-related costs that Consultant incurs, including attorney fees. Consultant may suspend Services for lack of timely payment. It is the responsibility of Client to determine whether federal, state, or local prevailing wage requirements apply and to notify Consultant if prevailing wages apply. If it is later determined that prevailing wages apply, and Consultant was not previously notified by Client, Client agrees to pay the prevailing wage from that point forward, as well as a retroactive payment adjustment to bring previously paid amounts in line with prevailing wages. Client also agrees to defend, indemnify, and hold harmless Consultant from any alleged violations made by any governmental agency regulating prevailing wage activity for failing to pay prevailing wages, including the payment of any fines or penalties.
5. **Third Party Reliance.** This Agreement and the Services provided are for Consultant and Client's sole benefit and exclusive use with no third party beneficiaries intended. Reliance upon the Services and any work product is limited to Client, and is not intended for third parties other than those who have executed Consultant's reliance agreement, subject to the prior approval of Consultant and Client.
6. **LIMITATION OF LIABILITY.** CLIENT AND CONSULTANT HAVE EVALUATED THE RISKS AND REWARDS ASSOCIATED WITH THIS PROJECT, INCLUDING CONSULTANT'S FEE RELATIVE TO THE RISKS ASSUMED, AND AGREE TO ALLOCATE CERTAIN OF THE ASSOCIATED RISKS. TO THE FULLEST EXTENT PERMITTED BY LAW, THE TOTAL AGGREGATE LIABILITY OF CONSULTANT (AND ITS RELATED CORPORATIONS AND EMPLOYEES) TO CLIENT AND THIRD PARTIES GRANTED RELIANCE IS LIMITED TO THE GREATER OF \$50,000 OR CONSULTANT'S FEE, FOR ANY AND ALL INJURIES, DAMAGES, CLAIMS, LOSSES, OR EXPENSES (INCLUDING ATTORNEY AND EXPERT FEES) ARISING OUT OF CONSULTANT'S SERVICES OR THIS AGREEMENT. PRIOR TO ACCEPTANCE OF THIS AGREEMENT AND UPON WRITTEN REQUEST FROM CLIENT, CONSULTANT MAY NEGOTIATE A HIGHER LIMITATION FOR ADDITIONAL CONSIDERATION IN THE FORM OF A SURCHARGE TO BE ADDED TO THE AMOUNT STATED IN THE COMPENSATION SECTION OF THE PROPOSAL. THIS LIMITATION SHALL APPLY REGARDLESS OF AVAILABLE PROFESSIONAL LIABILITY INSURANCE COVERAGE, CAUSE(S), OR THE THEORY OF LIABILITY, INCLUDING NEGLIGENCE, INDEMNITY, OR OTHER RECOVERY. THIS LIMITATION SHALL NOT APPLY TO THE EXTENT THE DAMAGE IS PAID UNDER CONSULTANT'S COMMERCIAL GENERAL LIABILITY POLICY.
7. **Indemnity/Statute of Limitations.** Consultant and Client shall indemnify and hold harmless the other and their respective employees from and against legal liability for claims, losses, damages, and expenses to the extent such claims, losses, damages, or expenses are legally determined to be caused by their negligent acts, errors, or omissions. In the event such claims, losses, damages, or expenses are legally determined to be caused by the joint or concurrent negligence of Consultant and Client, they shall be borne by each party in proportion to its own negligence under comparative fault principles. Neither party shall have a duty to defend the other party, and no duty to defend is hereby created by this indemnity provision and such duty is explicitly waived under this Agreement. Causes of action arising out of Consultant's Services or this Agreement regardless of cause(s) or the theory of liability, including negligence, indemnity or other recovery shall be deemed to have accrued and the applicable statute of limitations shall commence to run not later than the date of Consultant's substantial completion of Services on the project.
8. **Warranty.** Consultant will perform the Services in a manner consistent with that level of care and skill ordinarily exercised by members of the profession currently practicing under similar conditions in the same locale. EXCEPT FOR THE STANDARD OF CARE PREVIOUSLY STATED, CONSULTANT MAKES NO WARRANTIES OR GUARANTEES, EXPRESS OR IMPLIED, RELATING TO CONSULTANT'S SERVICES AND CONSULTANT DISCLAIMS ANY IMPLIED WARRANTIES OR WARRANTIES IMPOSED BY LAW, INCLUDING WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.
9. **Insurance.** Consultant represents that it now carries, and will continue to carry: (i) workers' compensation insurance in accordance with the laws of the states having jurisdiction over Consultant's employees who are engaged in the Services, and employer's liability insurance (\$1,000,000); (ii) commercial general liability insurance (\$1,000,000 occ / \$2,000,000 agg); (iii) automobile liability insurance (\$1,000,000 B.I. and P.D. combined single limit); and (iv) professional liability insurance (\$1,000,000 claim / agg). Certificates of insurance will be provided upon request. Client and Consultant shall waive subrogation against the other party on all general liability and property coverage.

- 10. CONSEQUENTIAL DAMAGES.** NEITHER PARTY SHALL BE LIABLE TO THE OTHER FOR LOSS OF PROFITS OR REVENUE; LOSS OF USE OR OPPORTUNITY; LOSS OF GOOD WILL; COST OF SUBSTITUTE FACILITIES, GOODS, OR SERVICES; COST OF CAPITAL; OR FOR ANY SPECIAL, CONSEQUENTIAL, INDIRECT, PUNITIVE, OR EXEMPLARY DAMAGES.
- 11. Dispute Resolution.** Client shall not be entitled to assert a Claim against Consultant based on any theory of professional negligence unless and until Client has obtained the written opinion from a registered, independent, and reputable engineer, architect, or geologist that Consultant has violated the standard of care applicable to Consultant's performance of the Services. Client shall provide this opinion to Consultant and the parties shall endeavor to resolve the dispute within 30 days, after which Client may pursue its remedies at law. This Agreement shall be governed by and construed according to Florida law.
- 12. Subsurface Explorations.** Subsurface conditions throughout the site may vary from those depicted on logs of discrete borings, test pits, or other exploratory services. Client understands Consultant's layout of boring and test locations is approximate and that Consultant may deviate a reasonable distance from those locations. Consultant will take reasonable precautions to reduce damage to the site when performing Services; however, Client accepts that invasive services such as drilling or sampling may damage or alter the site. Site restoration is not provided unless specifically included in the Services.
- 13. Testing and Observations.** Client understands that testing and observation are discrete sampling procedures, and that such procedures indicate conditions only at the depths, locations, and times the procedures were performed. Consultant will provide test results and opinions based on tests and field observations only for the work tested. Client understands that testing and observation are not continuous or exhaustive, and are conducted to reduce - not eliminate - project risk. Client shall cause all tests and inspections of the site, materials, and Services performed by Consultant to be timely and properly scheduled in order for the Services to be performed in accordance with the plans, specifications, contract documents, and Consultant's recommendations. No claims for loss or damage or injury shall be brought against Consultant by Client or any third party unless all tests and inspections have been so performed and Consultant's recommendations have been followed. Unless otherwise stated in the Proposal, Client assumes sole responsibility for determining whether the quantity and the nature of Services ordered by Client is adequate and sufficient for Client's intended purpose. Client is responsible (even if delegated to contractor) for requesting services, and notifying and scheduling Consultant so Consultant can perform these Services. Consultant is not responsible for damages caused by Services not performed due to a failure to request or schedule Consultant's Services. Consultant shall not be responsible for the quality and completeness of Client's contractor's work or their adherence to the project documents, and Consultant's performance of testing and observation services shall not relieve Client's contractor in any way from its responsibility for defects discovered in its work, or create a warranty or guarantee. Consultant will not supervise or direct the work performed by Client's contractor or its subcontractors and is not responsible for their means and methods. The extension of unit prices with quantities to establish a total estimated cost does not guarantee a maximum cost to complete the Services. The quantities, when given, are estimates based on contract documents and schedules made available at the time of the Proposal. Since schedule, performance, production, and charges are directed and/or controlled by others, any quantity extensions must be considered as estimated and not a guarantee of maximum cost.
- 14. Sample Disposition, Affected Materials, and Indemnity.** Samples are consumed in testing or disposed of upon completion of the testing procedures (unless stated otherwise in the Services). Client shall furnish or cause to be furnished to Consultant all documents and information known or available to Client that relate to the identity, location, quantity, nature, or characteristic of any hazardous waste, toxic, radioactive, or contaminated materials ("Affected Materials") at or near the site, and shall immediately transmit new, updated, or revised information as it becomes available. Client agrees that Consultant is not responsible for the disposition of Affected Materials unless specifically provided in the Services, and that Client is responsible for directing such disposition. In no event shall Consultant be required to sign a hazardous waste manifest or take title to any Affected Materials. Client shall have the obligation to make all spill or release notifications to appropriate governmental agencies. The Client agrees that Consultant neither created nor contributed to the creation or existence of any Affected Materials conditions at the site and Consultant shall not be responsible for any claims, losses, or damages allegedly arising out of Consultant's performance of Services hereunder, or for any claims against Consultant as a generator, disposer, or arranger of Affected Materials under federal, state, or local law or ordinance.
- 15. Ownership of Documents.** Work product, such as reports, logs, data, notes, or calculations, prepared by Consultant shall remain Consultant's property. Proprietary concepts, systems, and ideas developed during performance of the Services shall remain the sole property of Consultant. Files shall be maintained in general accordance with Consultant's document retention policies and practices.
- 16. Utilities.** Unless otherwise stated in the Proposal, Client shall provide the location and/or arrange for the marking of private utilities and subterranean structures. Consultant shall take reasonable precautions to avoid damage or injury to subterranean structures or utilities. Consultant shall not be responsible for damage to subterranean structures or utilities that are not called to Consultant's attention, are not correctly marked, including by a utility locate service, or are incorrectly shown on the plans furnished to Consultant.
- 17. Site Access and Safety.** Client shall secure all necessary site related approvals, permits, licenses, and consents necessary to commence and complete the Services and will execute any necessary site access agreement. Consultant will be responsible for supervision and site safety measures for its own employees, but shall not be responsible for the supervision or health and safety precautions for any other parties, including Client, Client's contractors, subcontractors, or other parties present at the site. In addition, Consultant retains the right to stop work without penalty at any time Consultant believes it is in the best interests of Consultant's employees or subcontractors to do so in order to reduce the risk of exposure to the coronavirus. Client agrees it will respond quickly to all requests for information made by Consultant related to Consultant's pre-task planning and risk assessment processes. Client acknowledges its responsibility for notifying Consultant of any circumstances that present a risk of exposure to the coronavirus or individuals who have tested positive for COVID-19 or are self-quarantining due to exhibiting symptoms associated with the coronavirus.

PURSUANT TO SECTION 558.0035 OF FLORIDA STATUTES, AN INDIVIDUAL EMPLOYEE OR AGENT OF CONSULTANT MAY NOT BE HELD INDIVIDUALLY LIABLE.

Consultant:	Terracon Consultants, Inc.	Client:	Traffic Engineering Data Solutions, Inc.
By:	Date: 5/6/2021	By:	Date:
Name/Title:	Gary K Howalt / Principal/Department Manager I	Name/Title:	Mikal R. Hale, P.E. /
Address:	8001 Baymeadows Way Ste 1 Jacksonville, FL 32256-7521	Address:	80 Spring Vista Dr Debary, FL 32713-1821
Phone:	(904) 900-6494	Fax:	(904) 268-5255
Email:	Gary.Howalt@terracon.com	Phone:	(386) 753-0558
		Fax:	
		Email:	mhale@teds-fl.com



Florida Bridge and Transportation, Inc.
Structural Engineers

April 22, 2021

Mr. Mikal Hale, PE
Traffic Engineering Data Solutions, Inc.
80 Spring Vista Drive
DeBary, Florida 32713
386.753.0558 (o) 386.547.4535 (c)

RE: SJR2C SunTrail
Timber Boardwalk
Proposal for Structural Analysis
FBT Project #21-31.01

Dear Mikal:

Florida Bridge and Transportation, Inc. (FBT) is pleased to submit this proposal to Traffic Engineering Data Solutions, Inc. (TEDS) for engineering services for the above referenced project. The scope of design services for this project includes the following:

- 1) FBT will provide the structural design calculations and plan sheets for a 12-ft wide by approximately 250-ft long timber boardwalk with wood decking as part of the SunTrail Pathway project within a wetland area. The pedestrian walkway will be designed in accordance with AASHTO's LRFD Guide Specifications for Design of Pedestrian Bridges.
- 2) Prepare drawings showing the one typical span for the pedestrian walkway in section, elevation, and plan with accompanying necessary details. The overall bridge plan and profile of the walkway will be shown on the trail plans to be prepared by others.
- 3) Gravity wall abutments will be detailed for each abutment. The gravity walls will reference FDOT design standards for design.
- 4) Respond to review comments from the client regarding the structural design of the boardwalk. This proposal has an allotment of up to eight (8) hours for responding to comments.
- 5) The final project deliverables will consist of signed and sealed calculations and plan sheets detailing the boardwalk.

We propose a lump sum fee of \$19,500.00 for the basic structural engineering services indicated above.

The scope and fee indicated above does not include the following services:

- A plan and elevation sheet showing the overall boardwalk and geometry. This will be provided on overall trail plans by others.
- Field Reviews or attendance at meetings beyond the allotment shown above
- Construction Inspection/Observation of installation and on-going construction
- Specifications - FDOT standard specifications will be referenced
- Preparation of as-built or record drawings

- Post design services

The items indicated above, or any other services not included in the basic scope of design services described above, may be provided for an additional fee. A supplemental agreement must be negotiated prior to the additional work being performed by FBT. Additional services required for this project may be provided based on an addendum to this agreement. Fees for additional services will be addressed on a case by case basis.

In order for FBT to perform these services, we will need the following information from others:

- Trail plans (plan and profile)
- Soil borings (SPT) with Davisson Capacity Curves, groundwater elevations, muck probing along the alignment, timber pile/post driving recommendations, vibration recommendations, and related geotechnical property recommendations

TEDS shall indemnify and hold harmless FBT and all of its personnel from and against any and all claims, damages, losses and expenses (including reasonable attorneys fees) arising out of or resulting from the performance of the services, provided that any such claims, damage, loss or expense is caused in whole or in part by the negligent act or omission and/or strict liability of TEDS, anyone directly or indirectly employed by TEDS (except FBT) or anyone for whose acts any of them may be liable.

This agreement is intended to benefit TEDS and FBT exclusive. Any benefit conferred upon a third party is incidental to this agreement.

This proposal will become invalid if not executed within 90 days. We are prepared to commence the structural design services upon receipt of a written notice to proceed.

We appreciate this opportunity to be of service to Traffic Engineering Data Solutions, Inc.

Very truly yours,

Florida Bridge and Transportation, Inc.



Bassel Kassem, P.E.
Vice President



Traffic Engineering Data Solutions, Inc.

MEMORANDUM

DATE: January 4, 2021
SUBJECT: Signature Authority
Traffic Engineering Data Solutions, Inc.

I, Deanna F. Ferrell, as the President of Traffic Engineering Data Solutions, Inc., am the only person in the firm authorized to sign contracts. However, the following Sr. Vice Presidents, Chris J. Walsh, PE; Richard B. Morrow, PE; and P. Halley Ferrell may sign the following documents for the firm:

- Sub-consultant agreements;
- Invoices;
- Proposal forms;
- Local government contracts; and
- Private development contracts.

This authorization is effective immediately and remains in place until modified at a future date by similar memorandum signed by me, Deanna F. Ferrell.

TRAFFIC ENGINEERING DATA SOLUTIONS, INC.



Deanna F. Ferrell, MBA
President

CHANGE ORDER NO. 1
To Master Contract dated 2/14/2017
Task Authorization #9 (6/15/2021)
TRAFFIC ENGINEERING DATA SOLUTIONS, INC. (TEDS), Contractor

Project: FPN 439865-3-34-01 SUN Trail SJR2C Loop Trail
Project XSG200

The following changes are hereby made to the Contract Documents:

CHANGE IN CONTRACT PRICE:	CHANGE IN CONTRACT TIMES:
Original Contract Price: \$190,317.08	Original Contract Times Final Completion for Tasks 1 – 10 of Task Authorization No. 9: June 30, 2022 (NTP issued on July 6, 2021) Final Completion for Tasks 11 – 12 of Task Authorization No. 9: September 30, 2023 (NTP not issued yet)
Net changes from previous Change Order: N/A	Changes in contract time from previous Change Orders: N/A
Contract Price prior to this Change Order: \$190,317.08	Contract Completion Date prior to this Change Order: Final Completion: No change
Net Increase (decrease) of this Change Order No. 1: \$2,000.00	Changes in contract time requested this Change Order No. 1: (Requires Council Approval) N/A
Contract Price with all approved Change Orders: \$192,317.08	Contract Times with all approved Change Orders: Final Completion for Tasks 1 – 10 of Task Authorization No. 9: June 30, 2022 Final Completion for Tasks 11 – 12 of Task Authorization No. 9: September 30, 2023

CHANGES ORDERED:

- I. **GENERAL:** This Change Order is necessary to cover changes in the work to be performed under the Master Contract entered into by and between the parties on February 14, 2017 and Task Authorization No. 9 dated June 15, 2021.

II. **REQUIRED CHANGES:**

To provide for additional professional services to file for a General Permit with the Federal Department of Environmental Protection (FDEP).

No goods shall be delivered, nor services commenced hereunder until this Change Order has been fully executed by all parties.

III. **JUSTIFICATION:**

Although it was known that wetlands exist on the City-owned parcel (#6304-06-00-008A) located to the north of the intersection of Spruce Creek Road and Canalview Boulevard, it was previously anticipated that filing a No Permit Required (NPR) with the FDEP would be sufficient. However, once surveying and field verification began, a drainage ditch was revealed running along the western boundary of the City-owned parcel. This ditch connects to the Halifax Canal and, therefore, in accordance with current FDEP regulations, it is necessary to file for a General Permit with FDEP.

- IV. **PAYMENT:** Payment for this Change Order shall be made in accordance with the terms of the Contract subject to a limit not to exceed \$2,000.00 per TEDS change order proposal dated October 13, 2021. All payments shall be governed by the Local Government Prompt Payment Act as set forth in Florida Statutes Section 218.70 through 218.79, as amended.

- V. This Change Order 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 Change Order shall be deemed valid as if an original signature was delivered. No contract shall be formed between the Contractor and the City until the City signs this Change Order.

Acknowledgments:

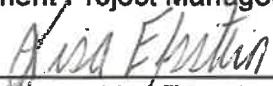
The aforementioned change, and work affected thereby, is subject to all provisions of the original contract not specifically changed by this Change Order;

It is expressly understood and agreed that the approval of the Change Order shall have no effect on the original contract other than matters expressly provided herein;

The prices quoted are fair and reasonable and in proper ratio to the cost of the original work contracted for under competitive bidding; and

The change in price and/or delivery date described is considered to be fair and reasonable and has been mutually agreed upon in full agreement and final settlement of all claims arising out of this modification including all claims for delays and disruptions resulting from, caused by, or incident to such modifications and change orders.

RECOMMENDED BY:
COMMUNITY DEVELOPMENT
Department Project Manager

By: 

Printed Name: Lisa Epstein

Title: Project Manager

Date Signed: 12/10/2021

ACCEPTED BY:
TRAFFIC DATA ENGINEERING SOLUTIONS, INC.
Contractor

By: 

Printed Name: Deanna F. Ferrell

Title: President

Date Signed: 12/3/2021

RECOMMENDED BY:
COMMUNITY DEVELOPMENT
Division Manager

By: 

Printed Name: Margaret Tomlinson

Title: Construction & Engineering Manager

Date Signed: 12/10/2021

APPROVED BY:
CITY OF PORT ORANGE
Department Head

By: Tim Burman

Printed Name: Tim Burman

Title: Community Development Director

Date Signed: 12-10-2021

City Manager

By: Wayne Clark

Printed Name: Wayne Clark

Title: City Manager

Date Signed: 12/15/2021

Affirmed

Robin L. Fenwick

Robin L. Fenwick, MMC, City Clerk

Date Signed: 12/15/2021

If Council approval is required:

By: N/A

Printed Name: Donald O. Burnette

Title: Mayor

Date Signed: _____

EXHIBIT “1”

Contractor's Quote

Consisting of 1 Page

Traffic Engineering Data Solutions, Inc.

PROPOSAL CHANGE ORDER No. 1 to Task Authorization No. 09

Contract: Master Contract for Engineering Services dated February 14, 2017
Task Authorization No.: 09
Project Name: SJR2C Loop Trail (Spruce Creek Rd)
from South of Selin Circle to Herbert St
(FPN 439865-3-34-01)
TEDS Project Number: 10962
Date: October 13, 2021
Revised December 2, 2021

Traffic Engineering Data Solutions, Inc. (TEDS) is pleased to offer this proposal to the City of Port Orange (City) for providing additional design services on the above referenced project.

PROJECT UNDERSTANDING

- As of July 6, 2021, TEDS received Purchase Order #001376 to provide roadway design services for this project, which is to be constructed through the Shared Use Nonmotorized (SUN) Trail Program, with state funding allocated under FPID 439865-3-34-01 to be administered by the Florida Department of Transportation (FDOT).
- As referenced within the original Exhibit A – Scope of Services, based on preliminary review it was previously anticipated that the subject wetland would be non-jurisdictional under Section 404 of the Clean Water Act, such that required permitting would've only included a No Permit Required Verification Request to the Florida Department of Environmental Protection (FDEP). However, after completing their field review, Terracon Consultants, Inc. (Terracon) discovered a ditch alongside the wetlands that contained a pipe connection to the Halifax Canal, suggesting the wetlands would be jurisdictional to FDEP under the State 404 program, thereby requiring further permitting. Further the guiding jurisdictional framework (Navigable Waters Protection Rule [NWPR]) was recently vacated and remanded in federal court. Therefore, wetlands were instead evaluated under the previous jurisdictional framework known as the "Waters of the United States" (WOTUS). Based on field reviews, the wetlands within the project area meet the jurisdictional definition under WOTUS and therefore require a permit from FDEP under the State 404 program.

SUPPLEMENTAL SERVICES

Task 3 – Supplemental Environmental Services

TEDS will retain Terracon Consultants, Inc. (Terracon) to prepare and submit a Notice of Intent to Use a General Permit to FDEP.

FEES

TEDS shall conduct the work in the tasks described above for the lump sum fees indicated below:

Task	Fee
Task 3 – Supplemental Environmental Services	\$2,000.00
Net Additional Fee	\$2,000.00

CHANGE ORDER NO. 2
To Construction Contract dated 2/14/2017
Task Authorization #9 (6/15/2021)
TRAFFIC ENGINEERING DATA SOLUTIONS, INC., Contractor

Project: FPN 439865-3-34-01 SUN Trail SJR2C Loop Trail
Project XSG200

The following changes are hereby made to the Contract Documents:

CHANGE IN CONTRACT PRICE:	CHANGE IN CONTRACT TIMES:
Original Contract Price: \$190,317.08	Original Contract Times: Final Completion for Tasks 1-10 of Task Authorization No. 9: June 30, 2022 (NTP issued on July 6, 2021) Final Completion for Tasks 11-12 of Task Authorization No. 9: September 30, 2023 (NTP not issued yet)
Net changes from previous Change Order: No.1: \$2,000.00	Changes in contract time from previous Change Orders: No.1: 0 days
Contract Price prior to this Change Order: \$192,317.08	Contract Completion Date prior to this Change Order: Final Completion: No change
Net Increase (decrease) of this Change Order No. 2: \$96,700.00	Changes in contract time requested this Change Order No.2: (Requires Council Approval) Final Completion for Tasks 11-18 of Task Authorization No.9: September 30, 2023
Contract Price with all approved Change Orders: \$289,017.08	Contract Times with all approved Change Orders: Final Completion for Tasks 1-10 of Task Authorization No. 9: June 30, 2022 Final Completion for Tasks 11-18 of Task Authorization No. 9: September 30, 2023 (NTP not issued yet)

CHANGES ORDERED:

- I. **GENERAL:** This Change Order is necessary to cover changes in the work to be performed under the Master Contract entered into by and between the parties on February 14, 2017 and Task Authorization No. 9 dated June 15, 2021.

II. **REQUIRED CHANGES:**

To provide for additional professional services for the design of safety lighting and right-of-way or easement acquisition services.

No goods shall be delivered, nor services commenced hereunder until this Change Order has been fully executed by all parties.

III. **JUSTIFICATION:**

In follow up to approval of Resolutions 22-33 and 22-34 accepting State Funded Grants totaling \$111,065 in additional FDOT funding for safety lighting design (\$33,075) and right-of-way acquisition services (\$77,990), (no City match(es) required), Community Development staff have negotiated terms of a change order with Traffic Engineering Data Solutions, Inc. (TEDS) for the related design services.

The additional lighting design services covered by the proposed change order include:

- (1) The boardwalk section of the trail on the city-owned parcel from Canal View Blvd and Herbert Street,
- (2) At the proposed crosswalk across Herbert Street at 6th Street,
- (3) At the proposed crosswalk across Spruce Creek Road near Selin Circle, and
- (4) At the proposed crosswalk across Spruce Creek Road at Oak Street.

As noted in TEDS' original proposal for the design project, right-of-way and/or an easement is required across a privately-owned parcel in order to maintain the trail entirely on the east side of the Halifax Canal. In order to comply with all FDOT guidelines and US Federal Highway Administration's Uniform Act property acquisition policy process, and in view of the ROW Agent's retirement, City staff requested additional financial funding from FDOT for consultant services to assist and provide assurances of compliance.

In the event negotiations are not able to continue to facilitate the trail to be constructed completely on the east side of the Halifax Canal, the proposed change order includes "Additional Lighting Design (if required)" for the proposed crosswalks across Spruce Creek Road (Locations 3 & 4 listed above).

- IV. **PAYMENT:** Payment for this Change Order shall be made in accordance with the terms of the Contract subject to a limit not to exceed \$96,700.00. All payments shall be governed by the Local Government Prompt Payment Act as set forth in Florida Statutes Section 218.70 through 218.79, as amended.

- V. This Change Order 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 Change Order shall be deemed valid as if an original signature was delivered. No contract shall be formed between the Contractor and the City until the City signs this Change Order.

Acknowledgments:

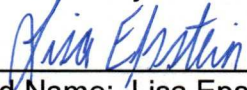
The aforementioned change, and work affected thereby, is subject to all provisions of the original contract not specifically changed by this Change Order;

It is expressly understood and agreed that the approval of the Change Order shall have no effect on the original contract other than matters expressly provided herein;

The prices quoted are fair and reasonable and in proper ratio to the cost of the original work contracted for under competitive bidding; and,

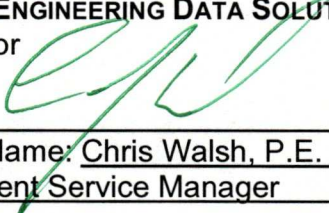
The change in price and/or delivery date described is considered to be fair and reasonable and has been mutually agreed upon. This modification shall not extinguish the right of either party to bring a claim under the original contract as modified hereby.

RECOMMENDED BY:
COMMUNITY DEVELOPMENT
Department Project Manager

By: 
Printed Name: Lisa Epstein
Title: Project Manager

Date Signed: 10-25-2022

ACCEPTED BY:
TRAFFIC ENGINEERING DATA SOLUTIONS, INC.
Contractor

By: 
Printed Name: Chris Walsh, P.E.
Title: Client Service Manager

Date Signed: 10-24-22

APPROVED BY:
CITY OF PORT ORANGE
Department Head

By: 
Printed Name: Tim Burman
Title: Community Development Director

Date Signed: 10-25-2022

City Manager

By: W/A

Printed Name: Wayne Clark

Title: City Manager

Date Signed: _____

Affirmed:

By: Robin L. Fenwick

Robin L. Fenwick, MMC, City Clerk

Date Signed: 11/1/2022

If Council approval is required:

By: Donald O. Burnette

Printed Name: Donald O. Burnette

Title: Mayor

Date Signed: 11/1/2022

CHANGE ORDER NO. 3
To Construction Contract dated 2/14/2017
Task Authorization #9 (6/15/2021)
TRAFFIC ENGINEERING DATA SOLUTIONS, INC, Contractor

Project: FPN 439865-3-34-01 SUN Trail SJR2C Loop Trail
Project XSG200

The following changes are hereby made to the Contract Documents:

CHANGE IN CONTRACT PRICE:	CHANGE IN CONTRACT TIMES:
Original Contract Price: \$190,317.08	Original Contract Times: Final Completion for Tasks 1-10 of Task Authorization No. 9: June 30, 2022 (NTP issued on July 6, 2021) Final Completion for Task 11-12 of Task Authorization No. 9 September 30, 2023 (NTP not issued yet) Final Completion for Tasks 13-18 of Task Authorization No. 9: September 30, 2023 (NTP issued January 19, 2023)
Net changes from previous Change Order: No.1: \$ 2,000.00 No.2: \$ 96,700.00	Changes in contract time from previous Change Orders: No.1: No extension of time requested No.2: Requested Final Completion for Tasks 11-18 of Task Authorization No.9: September 30, 2023
Contract Price prior to this Change Order: \$ 289,017.08	Contract Completion Date prior to this Change Order: Final Completion: Tasks 11-18 of Task Authorization No. 9 September 30, 2023
Net Increase (decrease) of this Change Order No. 3: N/A	Changes in contract time requested this Change Order No.3: (Requires Council Approval) Final Completion for Tasks 11-18 of Task Authorization No.9: January 31, 2024
Contract Price with all approved Change Orders: \$289,017.08	Contract Times with all approved Change Orders: Final Completion for Tasks 1-10 of Task Authorization No. 9: June 30, 2022 Final Completion for Tasks 11-18 of Task Authorization No. 9: January 31, 2024 (NTP not issued yet for Task 11-12 NTP issued January 19, 2023 for Tasks 13-18)

CHANGES ORDERED:

I. **GENERAL:** This Change Order is necessary to cover changes in the work to be performed under the Master Contract entered into by and between the parties on February 14, 2017 and Task Authorization No. 9 dated June 15, 2021.

II. REQUIRED CHANGES:

To provide for an extension of time to allow for the ongoing efforts for the acquisition of an easement located at 820 Oak Street. This will allow the City to remain in compliance with the terms of the FDOT Funding Agreement. During this time the Department will continue to move forward with the completion of design plans for the trail, which will require an extension of time through January 31, 2024, with no additional funding required.

No goods shall be delivered, nor services commenced hereunder until this Change Order has been fully executed by all parties.

III. JUSTIFICATION:

To provide for an extension of time to allow for the ongoing efforts for the acquisition of an easement located at 820 Oak Street. This will allow the City to remain in compliance with the terms of the FDOT Funding Agreement. During this time the Department will continue to move forward with the completion of design plans for the trail, which will require an extension of time through January 31, 2024, with no additional funding required.

IV. **PAYMENT:** Payment for this Change Order shall be made in accordance with the terms of the Contract subject to a limit not to exceed a total Contract price of \$289,017.08. All payments shall be governed by the Local Government Prompt Payment Act as set forth in Florida Statutes Section 218.70 through 218.79, as amended.

V. This Change Order 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 Change Order shall be deemed valid as if an original signature was delivered. No contract shall be formed between the Contractor and the City until the City signs this Change Order.

Acknowledgments:

The aforementioned change, and work affected thereby, is subject to all provisions of the original contract not specifically changed by this Change Order;

It is expressly understood and agreed that the approval of the Change Order shall have no effect on the original contract other than matters expressly provided herein;

The prices quoted are fair and reasonable and in proper ratio to the cost of the original work contracted for under competitive bidding; and,

The change in price and/or delivery date described is considered to be fair and reasonable and has been mutually agreed upon. This modification shall not extinguish the right of either party to bring a claim under the original contract as modified hereby.

RECOMMENDED BY:
COMMUNITY DEVELOPMENT
Department Project Manager

By: 
Printed Name: Lisa Epstein
Title: Project Manager

Date Signed: September 13, 2023

ACCEPTED BY:
TRAFFIC ENGINEERING DATA SOLUTIONS, INC.
Contractor

By: 
Printed Name: Richard B. Morrow, PE
Title: Senior Engineering Manager

Date Signed: September 12, 2023

APPROVED BY:
CITY OF PORT ORANGE
Department Head

By: 
Printed Name: Tim Burman
Title: Community Development Director

Date Signed: September 13, 2023

City Manager

By: 
Printed Name: Wayne Clark
Title: City Manager

Date Signed: _____

Attest:
Affirmed:

By: 
Robin L. Fenwick, MMC, City Clerk

Date Signed: 9/19/2023



If Council approval is required:

By: 
Printed Name: Donald O. Burnette
Title: Mayor

Date Signed: 9/19/2023



CITY COUNCIL AGENDA ITEM

COUNCIL MEETING DATE 2/6/2024

SUBJECT: (C9f) Approval of Task Authorization No. 6 with Mead & Hunt for Wellfield Consumptive Use Permit Monitoring

DEPARTMENT: Public Utilities

GOAL: 2 - Infrastructure 3 - Quality of Life 6 - Organizational Excellence

RECOMMENDED MOTION: Move to approve Task Authorization No. 6 with Mead & Hunt for compliance monitoring of the City wellfields, as outlined in the Consumptive Use Permit No. 8595-7, in an amount not to exceed \$32,214.00, and authorize Mayor and City Clerk to sign all necessary documents.

SUMMARY: As a requirement of the City of Port Orange's Consumptive Use Permit #8595-7 (CUP), the City is required to monitor the wetlands at the City's wellfield. This Task Authorization is in conformance with the Master Contract for Engineering Services RFSQ# 21-03 Water, Wastewater and Reclaimed Water Continuing Engineering Consultant Rate Study, between the City of Port Orange (OWNER) and Mead & Hunt, Inc. CA 7761. The contract term is for 365 days.

PRESENTER: Steve Parnell

ATTACHMENTS:

1.	Mead and Hunt, Inc. Task Authorization No. 6 - Wellfield Consumptive Use Permit (CUP) Monitoring	Mead and Hunt, Inc. Task Authorization No. 6 - Wellfield Consumptive Use Permit (CUP) Monitoring.pdf
2.	PO Wellfield CUP Monitoring Proposal	PO Wellfield CUP Monitoring Proposal.pdf

Steve Parnell
Chris Wall
Steve Parnell
John McKinney
Matthew Jones
Wayne Clark
Tracee Cody

Created/Initiated - 1/16/2024
Approved - 1/17/2024
Approved - 1/17/2024
Approved - 1/18/2024
Approved - 1/19/2024
Approved - 1/25/2024
Final Approval - 1/26/2024

TASK AUTHORIZATION NO. 6
Master Contract for Professional Engineering Services for
Public Works, Utilities and Environmental Services
dated January 18, 2022,
Between the City of Port Orange, Florida and Mead and Hunt, Inc.

THIS Task Authorization is entered into by and between the **CITY OF PORT ORANGE, FLORIDA**, a chartered municipal corporation with its principal place of business at 1000 City Center Circle, Port Orange, Florida 32129 (the "City") and **Mead and Hunt, Inc.**, Florida corporation, with its principal place of business at 2440 Deming Way, Middleton, Wisconsin 53562-1562 ("Engineer"), and hereinafter collectively referred to as the "Parties," and is to that certain Master Contract relating to Professional Engineering Services for Public Works, Utilities and Environmental Services, as dated above, and any amendments thereto, hereinafter collectively referred to as the "Contract." The Parties, in exchange for the mutual covenants contained herein and in the Contract, agree as follows:

1. This Task Authorization expressly modifies the Contract and in the event of a conflict, the terms and conditions of this Task Authorization shall prevail.

2. In addition to all other terms and conditions contained in the Contract, Engineer shall provide environmental monitoring and reporting services required for compliance with the City's Wellfield Consumptive Use Permit #8595-7 ("CUP"), and as more particularly described in the Scope of Services attached hereto and incorporated herein as **Task Authorization Exhibit "1."**

3. Engineer shall complete the services to be provided herein and the Compliance Plan shall be completed no later than **365 days** from the date of issuance of a written Notice to Proceed by the City to the Engineer.

4. In return for the services identified above, the City agrees to compensate Engineer at the prices set forth in Exhibit "1," attached hereto and made a part hereof, subject to a limit not to exceed **\$32,214.00**. All payments shall be governed by the Local Government Prompt Payment Act as Set forth in Sections 218.70 through 218.79, Florida Statutes, as amended.

5. **Truth-in-Negotiations**

(a) For any fixed fee, cost-plus-a-fixed-fee or guaranteed maximum-not-to-exceed compensation professional service contract or compensation in a Task Authorization over \$150,000.00, Engineer shall execute a truth-in-negotiation certificate stating that wage rates and other factual unit costs supporting the compensation are accurate, complete, and current at the time of contracting. Any professional service contractor Task Authorization under which such certificate is required must contain a provision that the original contract price or compensation and any additions thereto will be adjusted to exclude any significant sums by which the City determines the contract price or compensation was increased due to inaccurate, incomplete, or noncurrent wage rates and other factual unit costs. All such contract or compensation adjustments must be made within one (1) year following the end of the Contract. Otherwise, such adjustments shall be deemed waived by the Engineer and null and void for the purposes of this Contract or Task Authorization. The signature on this Contract by the Engineer shall act as the execution of a truth-in-negotiation certificate stating that the wage rates and other factual unit costs supporting the compensation of this Contract are accurate, complete, and current at the time of contracting.

(b) Engineer's signature on this Contract or a Task Authorization shall act as execution of a truth-in-negotiation certificate stating that wage rates and other factual unit costs supporting the compensation set forth in this Contract or a Task Authorization are accurate, complete, and current at the time of contract. The certification shall also constitute an affirmation that Engineer has disclosed all debts or fees owed to or that are pending before the City prior to the execution of this Contract of Task Authorization

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

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

Witnesses:

MEAD AND HUNT, INC.

Printed Name: _____

By: _____
Brad Blais, Vice President

Printed Name: _____

Date: _____

CITY OF PORT ORANGE

By: _____
Donald O. Burnette, Mayor

Date: _____

ATTEST:

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

Date: _____
Printed Name: _____

EXHIBIT “1”

Contractor's Quote

Consisting of 5 Pages



January 9, 2024

Steve Parnell
Public Utility Director
City of Port Orange
1000 City Center Circle
Port Orange, FL 32129

Email: sparnell@port-orange.org

Subject: Port Orange Wellfield Consumptive Use Permit (CUP) Monitoring

Dear Mr. Parnell,

Our firm is pleased to present the enclosed proposal for professional services associated with environmental monitoring and reporting services required for compliance with the City's Consumptive Use Permit. The proposal includes a project description, scope of services, and estimated fees. Thank you for this opportunity to continue to be of service.

Sincerely,
MEAD & HUNT, Inc.

A blue ink signature of Brad T. Blais.

Brad T. Blais, P.E.
Vice President/Market Leader

A blue ink signature of Cassandra Cissell.

Cassandra "Casey" Cissell, P.E. ENV SP
Project Manager

BTB/CMC; cc

Enclosure Scope of Services
Biological Consulting Services Inc. Proposal

**CITY OF PORT ORANGE
SCOPE OF SERVICES
FOR
WELLFIELD CONSUMPTIVE USE PERMIT (CUP) MONITORING**

This Task Order is in conformance with the Master Contract for Engineering Services RFQ #14-23 Water, Wastewater and Reclaimed Water Continuing Engineering Consultant Rate Study dated March 17, 2015, between the City of Port Orange (OWNER) and Mead & Hunt, Inc. (MEAD & HUNT) and is referred to herein as the Contract.

GENERAL

As a requirement of the City of Port Orange's Consumptive Use Permit (CUP), the City is required to monitor the wetlands at the City's wellfield.

SCOPE OF SERVICES

After receipt of authorization to proceed, MEAD & HUNT will provide the following services:

PHASE 1 – PROJECT MANAGEMENT

Project Coordination

MEAD & HUNT'S Project Manager (PM) will monitor and manage the project budget, schedule, and scope throughout the estimated 12-month project duration. The PM will manage the development of project work and subconsultant efforts.

PHASE 2 – SUBCONSULTANTS AND REIMBURSABLES

Items under this phase include out-of-pocket direct job expenses such as subconsultants, reproductions, postage, etc. Items included in this phase will be billed at actual cost plus 15%.

Monitoring and Reporting – Wetlands monitoring and reporting to be performed by Biological Consulting Services, Inc. The scope of work included is detailed in their proposal and is included herein.

EXCLUSIONS

This scope of services excludes all items not specifically described herein.

SCHEDULE

Mead & Hunt estimates the work included in this task order will be completed in accordance with the following schedule:

Phase/Task	Duration to Complete (calendar days)	Commencing Upon
<i>Phase 1 – Project Management</i>	<i>365 days</i>	<i>Receipt of notice to proceed</i>

COMPENSATION

The not-to-exceed cost for this Scope of Services is \$32,214.

The above fee is based on the following breakdown:

Phase/Task	Fee/Cost	Basis
Phase 1 – Project Management	\$3,464	Lump Sum
Subtotal	\$3,464	
Phase 2 – Subconsultants/Reimbursables	\$28,750	Actual cost plus 15%
TOTAL	\$32,214	

AUTHORIZATION:

The scope of services and compensation stated in this proposal are valid for a period of thirty (30) days from date of submission. If authorization to proceed is not received during this period, this proposal may be withdrawn or modified by MEAD & HUNT.

Accepted by: CITY OF PORT ORANGE

Approved by: MEAD & HUNT, INC.

By: See Page 4 of Task Authorization No. 6

By:

Name:

Name:

Title:

Title:

The above person is authorized to sign for Owner and bind the Owner to the terms hereof.

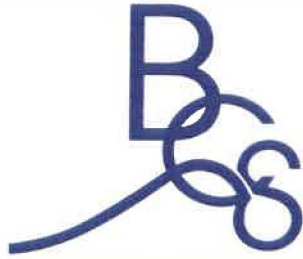
Date:

Date

January 9, 2024

PURSUANT TO FLORIDA STATUTE SECTION 558.0035, AN INDIVIDUAL EMPLOYEE OR AGENT OF MEAD & HUNT INC. MAY NOT BE HELD INDIVIDUALLY LIABLE FOR NEGLIGENCE.

IF THE CONTRACTOR (MEAD & HUNT, INC.) HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONTRACTOR'S (MEAD & HUNT, INC.'s) DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT (PROPOSAL), CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT CITY HALL, CITY OF PORT ORANGE, 1000 CITY CENTER CIRCLE, PORT ORANGE, FL 32129 City Clerk, Robin Fenwick, (386) 506-5566, rphenwick@port-orange.org



BIOLOGICAL CONSULTING SERVICES, INC.

December 24, 2023

Mr. Brad Blais, P.E.
Mead & Hunt
4401 Eastport Parkway
Port Orange, Florida 32127
Brad.blais@meadhunt.com

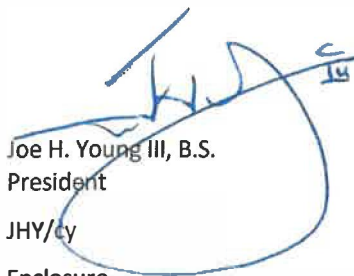
Project: Port Orange Wellfield CUP – Baseline Wetlands Monitoring per CUP 8597-7

Dear Brad,

I have attached a Scope of Services for your review and preparation of a Work Order for the Baseline Wetlands Monitoring required by the Port Orange Wellfield CUP 8597-7 for the above referenced project.

If you should have any questions or concerns, please feel free to contact me.

Sincerely,



Joe H. Young III, B.S.
President
JHY/cy

Enclosure

xc: File

SCOPE OF WORK

BCS's scope of work for providing wetlands monitoring to Mead & Hunt Inc. for the Port Orange Wellfield shall include the following tasks as outlined below:

1.0 Quarterly Water Level Monitoring

- 1.1 Conduct quarterly reviews to download data from the water level data loggers at each of the monitoring stations.
- 1.2 Conduct semi-annual maintenance events during the 1st and 3rd quarters to inspect loggers, change batteries, clean probes.
- 1.3 Prepare semiannual water level data reports for submittal to the St. Johns River Water Management District (SJRWMD).

2.0 Data Logger Repair/Replacement - Four (4) Stations

- 2.1 BCS staff will remove data logger from monitoring station if not working correctly and ship to manufacturer for inspection and repair. **Repair/refurbishment costs and new data logger purchase costs are not included.** The City of Port Orange will be responsible for payment to the manufacturer for the repair or refurbishment costs. BCS will provide coordination with the manufacturer and City staff for the repair/refurbishment.
- 2.2 BCS will install a temporary data logger (if available) at the monitoring station for continued water level data collection.
- 2.3 BCS will test the repaired data logger in house prior to installation in the field. BCS will install the repaired water level data logger.

3.0 Baseline Monitoring – New CUP Monitoring Protocol

- 3.1 BCS will conduct the Baseline Monitoring per the Wetland Monitoring Plan submitted to the District on December 8, 2022. BCS staff will coordinate with the project surveyor for the survey work required by the monitoring plan. **BCS does not provide boundary or other land survey; therefore, survey costs are not included in this scope.**

This agreement does not include costs for new surficial aquifer ground water monitoring wells or installation at new locations at Stations PO-7 and PO-8.

DELIVERABLES

BCS shall provide copies of all correspondence and exhibits produced in the above scope of work to Mead & Hunt.

COMPENSATION

Compensation for all services, material, supplies, any other items or requirements necessary to complete the work as described herein, except as noted, shall be for a fixed fee grand total amount of **TWENTY-FIVE THOUSAND DOLLARS and 00/100 (\$25,000.00).**

TASK 1: \$4,400.00

TASK 2: \$2,400.00

TASK 3: \$18,200.00



January 9, 2024

Steve Parnell
Public Utility Director
City of Port Orange
1000 City Center Circle
Port Orange, FL 32129

Email: sparnell@port-orange.org

Subject: Port Orange Wellfield Consumptive Use Permit (CUP) Monitoring

Dear Mr. Parnell,

Our firm is pleased to present the enclosed proposal for professional services associated with environmental monitoring and reporting services required for compliance with the City's Consumptive Use Permit. The proposal includes a project description, scope of services, and estimated fees. Thank you for this opportunity to continue to be of service.

Sincerely,
MEAD & HUNT, Inc.

A blue ink signature of Brad T. Blais.

Brad T. Blais, P.E.
Vice President/Market Leader

A blue ink signature of Cassandra Cissell.

Cassandra "Casey" Cissell, P.E. ENV SP
Project Manager

BTB/CMC; cc

Enclosure Scope of Services
 Biological Consulting Services Inc. Proposal

**CITY OF PORT ORANGE
SCOPE OF SERVICES
FOR
WELLFIELD CONSUMPTIVE USE PERMIT (CUP) MONITORING**

This Task Order is in conformance with the Master Contract for Engineering Services RFQ #14-23 Water, Wastewater and Reclaimed Water Continuing Engineering Consultant Rate Study dated March 17, 2015, between the City of Port Orange (OWNER) and Mead & Hunt, Inc. (MEAD & HUNT) and is referred to herein as the Contract.

GENERAL

As a requirement of the City of Port Orange's Consumptive Use Permit (CUP), the City is required to monitor the wetlands at the City's wellfield.

SCOPE OF SERVICES

After receipt of authorization to proceed, MEAD & HUNT will provide the following services:

PHASE 1 – PROJECT MANAGEMENT

Project Coordination

MEAD & HUNT'S Project Manager (PM) will monitor and manage the project budget, schedule, and scope throughout the estimated 12-month project duration. The PM will manage the development of project work and subconsultant efforts.

PHASE 2 – SUBCONSULTANTS AND REIMBURSABLES

Items under this phase include out-of-pocket direct job expenses such as subconsultants, reproductions, postage, etc. Items included in this phase will be billed at actual cost plus 15%.

Monitoring and Reporting – Wetlands monitoring and reporting to be performed by Biological Consulting Services, Inc. The scope of work included is detailed in their proposal and is included herein.

EXCLUSIONS

This scope of services excludes all items not specifically described herein.

SCHEDULE

Mead & Hunt estimates the work included in this task order will be completed in accordance with the following schedule:

Phase/Task	Duration to Complete (calendar days)	Commencing Upon
<i>Phase 1 – Project Management</i>	<i>365 days</i>	<i>Receipt of notice to proceed</i>

COMPENSATION

The not-to-exceed cost for this Scope of Services is \$32,214.

The above fee is based on the following breakdown:

Phase/Task	Fee/Cost	Basis
Phase 1 – Project Management	\$3,464	Lump Sum
Subtotal	\$3,464	
Phase 2 – Subconsultants/Reimbursables	\$28,750	Actual cost plus 15%
TOTAL	\$32,214	

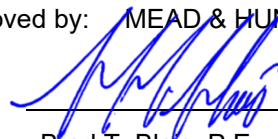
AUTHORIZATION:

The scope of services and compensation stated in this proposal are valid for a period of thirty (30) days from date of submission. If authorization to proceed is not received during this period, this proposal may be withdrawn or modified by MEAD & HUNT.

Accepted by: CITY OF PORT ORANGE

Approved by: MEAD & HUNT, INC.

By: _____

By:  _____

Name: _____

Name: Brad T. Blais, P.E.

Title: _____

Title: Vice President/Client Manager

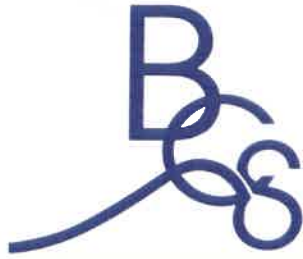
The above person is authorized to sign for Owner and bind the Owner to the terms hereof.

Date: _____

Date January 9, 2024

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BIOLOGICAL CONSULTING SERVICES, INC.

December 24, 2023

Mr. Brad Blais, P.E.
Mead & Hunt
4401 Eastport Parkway
Port Orange, Florida 32127
Brad.blais@meadhunt.com

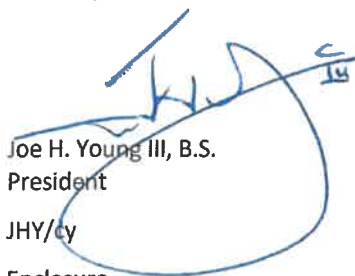
Project: Port Orange Wellfield CUP – Baseline Wetlands Monitoring per CUP 8597-7

Dear Brad,

I have attached a Scope of Services for your review and preparation of a Work Order for the Baseline Wetlands Monitoring required by the Port Orange Wellfield CUP 8597-7 for the above referenced project.

If you should have any questions or concerns, please feel free to contact me.

Sincerely,



Joe H. Young III, B.S.
President
JHY/cy

Enclosure

xc: File

SCOPE OF WORK

BCS's scope of work for providing wetlands monitoring to Mead & Hunt Inc. for the Port Orange Wellfield shall include the following tasks as outlined below:

1.0 Quarterly Water Level Monitoring

- 1.1 Conduct quarterly reviews to download data from the water level data loggers at each of the monitoring stations.
- 1.2 Conduct semi-annual maintenance events during the 1st and 3rd quarters to inspect loggers, change batteries, clean probes.
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3.0 Baseline Monitoring – New CUP Monitoring Protocol

- 3.1 BCS will conduct the Baseline Monitoring per the Wetland Monitoring Plan submitted to the District on December 8, 2022. BCS staff will coordinate with the project surveyor for the survey work required by the monitoring plan. **BCS does not provide boundary or other land survey; therefore, survey costs are not included in this scope.**

This agreement does not include costs for new surficial aquifer ground water monitoring wells or installation at new locations at Stations PO-7 and PO-8.

DELIVERABLES

BCS shall provide copies of all correspondence and exhibits produced in the above scope of work to Mead & Hunt.

COMPENSATION

Compensation for all services, material, supplies, any other items or requirements necessary to complete the work as described herein, except as noted, shall be for a fixed fee grand total amount of **TWENTY-FIVE THOUSAND DOLLARS and 00/100 (\$25,000.00).**

TASK 1: \$4,400.00

TASK 2: \$2,400.00

TASK 3: \$18,200.00



CITY COUNCIL AGENDA ITEM

COUNCIL MEETING DATE 2/6/2024

SUBJECT: (C9g) Approval for Standard Contract for Services with Danus Utilities, Inc. for Lift Station Repairs

DEPARTMENT: Public Utilities

GOAL: 2 - Infrastructure 1 - Public Safety 6 - Organizational Excellence

RECOMMENDED MOTION: Move to approve the Standard Contract for Services with Danus Utilities, Inc. for Lift Station 2 Repairs for an amount not to exceed \$66,771.00, and authorize the Mayor and City Clerk to sign all necessary documents.

SUMMARY: While analyzing the impacts of the 2022 hurricanes and several recent high rain events, Staff has identified improvements to make the wastewater system more resilient. The Isabelle lift station discharge line starts out as a 4" line and then 900 feet later is upsized to a 6" line. The current sewer system was constructed in the early 1970s and after extensive testing, it was determined that this smaller line for the discharge from the station causes high back pressure on the pumps. This back pressure causes backups of raw sewage during high rain events and causes excessive wear and tear on the pumps and parts of the station. This project will upsize the discharge pipe to 6". This will alleviate sewer backups and excessive maintenance requirements. The project cost is \$66,771.00.

PRESENTER: Steve Parnell

ATTACHMENTS:

1.	Danus Utilities, Inc. Standard Contract for Services	Danus Utilities, Inc. Standard Contract for Services.pdf
2.	Memo - LS 2 Force Main Repair	Memo - LS 2 Force Main Repair.pdf
3.	Danus Utilities - Quote	Danus Utilities - Quote.pdf

Steve Parnell
Chris Wall
Steve Parnell
John McKinney
Matthew Jones
Wayne Clark
Tracee Cody

Created/Initiated - 1/18/2024
Approved - 1/18/2024
Approved - 1/19/2024
Approved - 1/19/2024
Approved - 1/19/2024
Approved - 1/25/2024
Final Approval - 1/26/2024



CITY OF PORT ORANGE STANDARD CONTRACT FOR SERVICES

This Standard Contract for Services ("Contract") is entered into this ____ day of _____, 2024, 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 **DANUS UTILITIES, INC.** ("Contractor"), a Florida corporation whose principal address is 2320 Beardall Avenue, Sanford, Florida 32771. The City and Contractor are collectively referred to herein as the "Parties."

1. Provision of Services

(a) The Contractor hereby agrees to provide Isabelle Avenue Lift Station No. 2 repairs, and as more specifically described in Contractor's signed Quote dated November 7, 2023, attached hereto as Exhibit "1" and made a part hereof by reference shall constitute the formal written contract between the City and Contractor.

(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 continue for a period of one hundred eighty (180) days ("Term").

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 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 Sixty-Six Thousand Seven Hundred Seventy-One and 00/100 Dollars (\$66,771.00). 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 Administration. The Public Utilities Director, Steve Parnell, 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.	<u>Contract Amount</u> Up to \$10 million <u>Limits</u> 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.
☒	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	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 \$200,000.00.		
☐	Unless otherwise required by law, City Manager waives Insurance for FOB goods.		

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. E-Verify. Contractor 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 Contractor during the term of this Contract and shall expressly require any sub-contractors performing services pursuant to this 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 sub-contractor during the term of this Contract.

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

25. Additional Provisions. 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.

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

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

City:	City of Port Orange Attention: City Manager 1000 City Center Circle Port Orange, Florida 32129 (386) 506-5501
Copy to:	City of Port Orange Attention: Steve Parnell, Public Utilities Director 1000 City Center Circle Port Orange, Florida 32129 (386) 506-5592
Contractor:	Danus Utilities, Inc. Attention: Dan J. Pardus, President 2320 Beardall Avenue Sanford, Florida 32771 (386) 882-6200 – Telephone Raymond@danusutilities.com P.O. Box 291671 Port Orange, Florida 32129

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

28. Contract Construction

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

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

[Remainder of this page intentionally left blank]

Witnesses:

DANUS UTILITIES, INC.

Printed Name: _____

Printed Name: _____

By: _____

Dan J. Pardus, President

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

Date: _____

CITY OF PORT ORANGE

By: _____
Donald O. Burnette, Mayor

Date: _____

ATTEST:

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

Date: _____

EXHIBIT “1”

Contractor's Quote

Consisting of 2 Pages



CITY OF PORT ORANGE

1000 CITY CENTER CIRCLE
PORT ORANGE, FLORIDA 32129
TELEPHONE 386-506-5500
FAX 386-756-5290
www.Port-Orange.org

October 23rd, 2023

Isabelle Lift Station #2 Force main Repair.

The City of Port Orange would like to request a competitive quote to upsize the 4-inch force main from the six-inch isolation valve outside the station through the wet well wall and connect to the discharge pipe under the station. The intent is to sawcut the pavement, excavate the valve and piping and upsize the 4" line to match the 6" force main. Clean 900 feet of 6" force main either by jetting or pigging.

I. Upsize 4" to 6" Force main discharge line.

1. Perform mobilization.
2. Provide approved MOT if required.
3. Sawcut and remove pavement.
4. Excavate approximately 4 feet deep.
5. Clean 900 feet of force main.
6. Install approximately 15 LF of 6" PVC.
7. Remove and replace all disturbed sod (match existing type).
8. Backfill and compaction.
9. Install 12 inches min. of crushed concrete road base material.
10. Install 1 ½ inches of FDOT SP-9.5 asphalt patch.

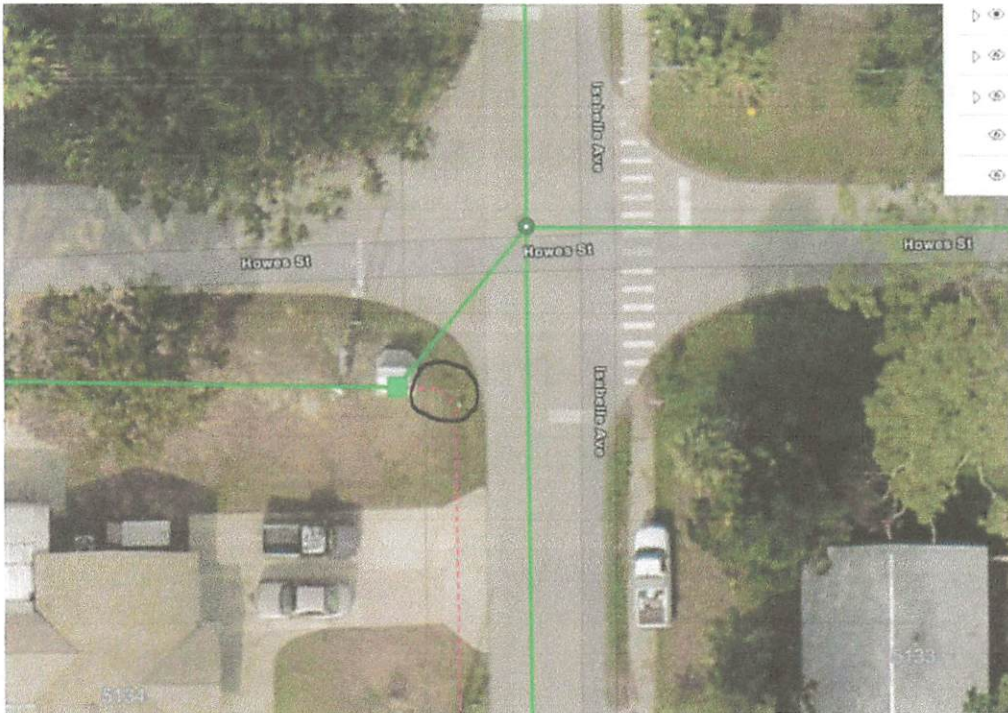
Lump sum price quote \$ 66,771

Contractor Name: Danus Utilities Inc.

Date November 7, 2023

Signature of Contractor

Email ggardiner@port-orange.org





City of Port Orange Public Utilities Department

TO: Wayne Clark, City Manager

FROM: Steve Parnell, Public Utilities Director
Chris Wall, Deputy Director of Public Utilities

DATE: December 4, 2023

SUBJECT: **Danus Utilities** – Isabelle Lift Station #2 Force Main Repair

REQUEST:

The Public Utilities Department requests approval for Danus Utilities, Inc., 2320 Beardall Avenue, Sanford, FL 32771, for \$66,771.00.

PURPOSE:

The purpose of this request is to upsize the discharge force main for the Isabelle Liftstation.

CONSIDERATION:

The Isabelle Liftstation, Liftstation #2, discharge line starts out as a 4" line and then 900 feet later is upsized to a 6" line. After extensive testing it was determined that this smaller line for the discharge of the station causes high back pressure on the pumps. This back pressure causes backups of raw sewage during high rain events and causes excessive wear and tear on the pumps and parts for the station.

This project will upsize the discharge pipe to 6". This will alleviate the backups and excessive maintenance requirements.

The Project Manager for the Public Utilities Department solicited quotes for this repair from outside contractors. We received the following:

- | | |
|--------------------------------------|-------------|
| • Danus Utilities, Inc. | \$66,771.00 |
| • Atlantic Development of Cocoa, LLC | \$75,225.00 |
| • RCM Utilities | No Quote |

RCM Utilities did not quote as they were too busy to provide an estimate for this project. Danus Utilities, Inc. was determined to be the lowest and best equipped contractor for this project.

Funding:

Fund ID:	403
Fund Name:	Water & Sewer System
Cost Center:	Water and Sewer
Program:	Wastewater Treatment
Spend Category:	Sewage-Capital
Project No:	SSP002
Current Budget:	\$610,556

RECOMMENDATION:

The Public Utilities Department recommends approval for Danus Utilities, Inc., 2320 Beardall Avenue, Sanford, FL 32771, for \$66,771.00.

ANTICIPATED SCHEDULE:

- a.) Anticipated Approval – December 12, 2023
- b.) Anticipated Project Completion – September 30, 2024

ATTACHMENTS:

- a.) Requisition
- b.) Quotations
- c.) COI

/cjw



CITY OF PORT ORANGE

1000 CITY CENTER CIRCLE
PORT ORANGE, FLORIDA 32129
TELEPHONE 386-506-5500
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www.Port-Orange.org

October 23rd, 2023

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- I. Upsize 4" to 6" Force main discharge line.
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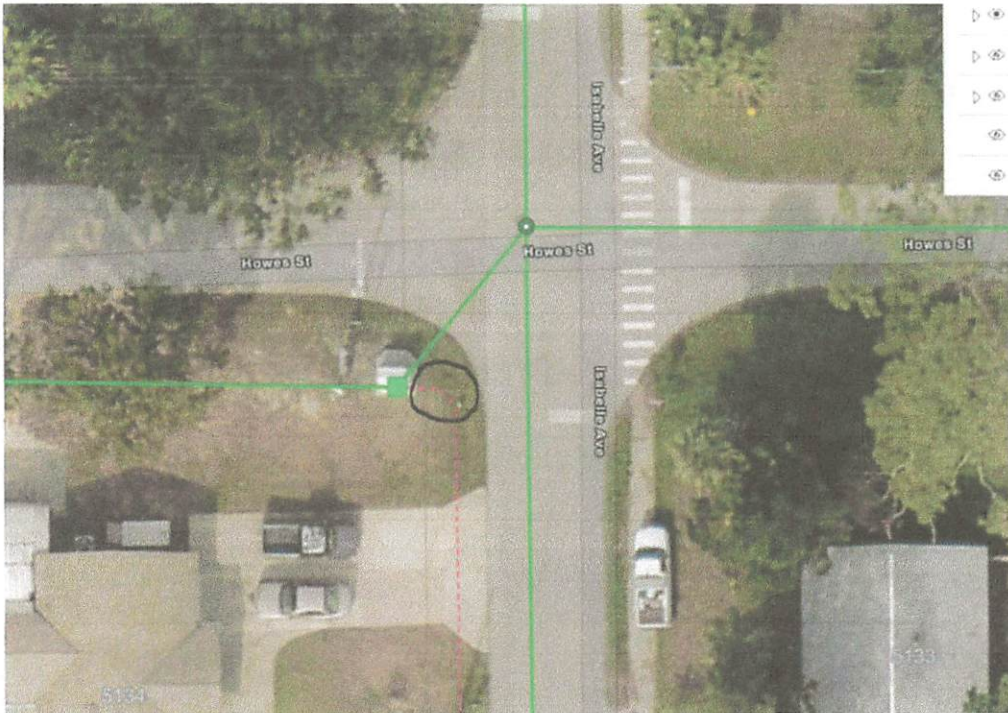
Lump sum price quote \$ 66,771

Contractor Name: Danus Utilities Inc.

Date November 7, 2023

Signature of Contractor

Email ggardiner@port-orange.org





CITY COUNCIL AGENDA ITEM

COUNCIL MEETING DATE 2/6/2024

SUBJECT: (C10) Resolution No. 23-65 - Amending Resolution No. 23-64 - Approval of Grant Agreement for \$1,000,000 with Florida Department of Environmental Protection for the Ridgewood Avenue & North Commonwealth Water Main Replacement

DEPARTMENT: City Attorney

GOAL: 6 - Organizational Excellence

RECOMMENDED MOTION: Move to approve Resolution No. 23-65.

SUMMARY: A request to re-number Resolution No. 23-64 - Approval of Grant Agreement for \$1,000,000 with Florida Department of Environmental Protection for the Ridgewood Avenue & North Commonwealth Water Main Replacement to Resolution No. 23-65. Resolution No. 23-64 was inadvertently duplicated and Resolution No. 23-65 was never used. This would correct the number sequence and differentiate the resolutions.

PRESENTER: Robin Fenwick

ATTACHMENTS:

1.	Resolution No. 23-65	Resolution No. 23-65.pdf
2.	Resolution No. 23-64 relating to grant from FDEP	Resolution No. 23-64.pdf

Tracee Cody	Created/Initiated - 1/18/2024
Matthew Jones	Approved - 1/19/2024
Wayne Clark	Approved - 1/25/2024
Tracee Cody	Final Approval - 1/26/2024

RESOLUTION NO. 23-65

A RESOLUTION OF THE CITY OF PORT ORANGE,
VOLUSIA COUNTY, FLORIDA, RATIFYING AND
RESTATING RESOLUTION NO. 23-64 RELATING TO
ACCEPTING A \$1,000,000 GRANT FROM THE STATE OF
FLORIDA DEPARTMENT OF ENVIRONMENTAL
PROTECTION ("FDEP") IN ORDER TO CORRECT A
RESOLUTION NUMBERING DUPLICATION; PROVIDING
FOR CONFLICTING RESOLUTIONS; PROVIDING FOR
SEVERABILITY AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, on December 5, 2023, the City Council approved Resolution No. 23-64 relating to an award of \$1,000,000.00 grant from the State of Florida Department of Environmental Protection as part of the Fiscal Year 2023-2024 State of Florida legislative appropriations; and

WHEREAS, subsequently staff determined that two resolutions were assigned the same number of Resolution No. 23-64; and

WHEREAS, Resolution No. 23-64 relating to an award of \$1,000,000.00 grant from the State of Florida Department of Environmental Protection as part of the Fiscal Year 2023-2024 State of Florida legislative appropriations has been substantially restated herein and assigned Resolution No. 23-65; and

WHEREAS, the City of Port Orange ("City") anticipated funding the replacement of the water main for Ridgewood Avenue and North Commonwealth Avenue in the FY24-29 Capital Improvement Program; and

WHEREAS, the City has been awarded a \$1,000,000.00 grant from the State of Florida Department of Environmental Protection as part of the Fiscal Year 2023-2024 State of Florida legislative appropriations; and

WHEREAS, in order to receive said grant, the City must approve and enter into a standard grant agreement with the State of Florida Department of Environmental Protection; and

WHEREAS, the City Council of the City of Port Orange desires to accept the grant funding from the State of Florida Department of Environmental Protection and enter into a grant agreement with the State of Florida Department of Environmental Protection.

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

Section 1. The above Recitals are incorporated by reference into the body of this Resolution.

Section 2. The City Council of the City of Port Orange, Florida, hereby restates its approval and acceptance of the State of Florida Department of Environmental Protection Grant in the amount of \$1,000,000.00 and entering into a grant agreement with the State of Florida Department of Environmental Protection for the construction and replacement of the water main for Ridgewood Avenue and North Commonwealth Avenue.

Section 3. All resolutions or parts of resolutions in conflict with the provisions of this resolution are hereby repealed to the extent of such conflict.

Section 4. If any provision of this resolution or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of this resolution which can be given effect without the invalid provision or application, and to this end the provisions of this resolution are declared severable.

Section 5. Resolution No. 23-64 relating to an award of \$1,000,000.00 grant from the State of Florida Department of Environmental Protection as part of the Fiscal Year 2023-2024 State of Florida legislative appropriations is hereby amended and superseded and hereby shall be referred to as Resolution No. 23 -65.

Section 6. Resolution No. 23-65 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

RESOLUTION NO. 23-64

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PORT ORANGE, VOLUSIA COUNTY, FLORIDA; ACCEPTING A \$1,000,000 GRANT FROM THE STATE OF FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION ("FDEP"); APPROVING THE STANDARD GRANT AGREEMENT WITH THE STATE OF FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION (GRANT AGREEMENT LPA0672) FOR THE PURPOSE OF EXPEDITING THE CONSTRUCTION OF AND REPLACEMENT OF THE WATER MAIN FOR RIDGEWOOD AVE AND N COMMONWELATH AVE; AUTHORIZING THE MAYOR AND CITY CLERK TO EXECUTE AND ATTEST ALL NECESSARY DOCUMENTS FOR SAID GRANT; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Port Orange ("City") anticipated funding the replacement of the water main for Ridgewood Avenue and North Commonwealth Avenue in the FY24-29 Capital Improvement Program; and

WHEREAS, the City has been awarded a \$1,000,000.00 grant from the State of Florida Department of Environmental Protection as part of the Fiscal Year 2023-2024 State of Florida legislative appropriations; and

WHEREAS, in order to receive said grant, the City must approve and enter into a standard grant agreement with the State of Florida Department of Environmental Protection; and

WHEREAS, the City Council of the City of Port Orange desires to accept the grant funding from the State of Florida Department of Environmental Protection and enter into a grant agreement with the State of Florida Department of Environmental Protection.

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

Section 1. The above Recitals are incorporated by reference into the body of this Resolution.

Section 2. The City Council of the City of Port Orange, Florida, hereby approves

and accepts the State of Florida Department of Environmental Protection Grant in the amount of \$1,000,000.00 and enter into a grant agreement with the State of Florida Department of Environmental Protection for the construction and replacement of the water main for Ridgewood Avenue and North Commonwealth Avenue.

Section 3. The Mayor and City Clerk are hereby authorized to execute all applicable grant documents and agreements.

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


MAYOR DONALD O. BURNETTE

ATTEST:


Tracee Cody, Deputy City Clerk

Adopted on the 5 day of December, 2023

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

